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Title 3—

The President

Proclamation 6198 of October 10, 1990

United Nations Day, 1990

By the President of the United States of America

A Proclamation

This year, as we commemorate the founding of the United Nations nearly half a century ago, we also celebrate recent progress toward the noble goals set forth in both its Charter and the Universal Declaration of Human Rights, which was adopted by the U.N. General Assembly on December 10, 1948. Those goals are based on principles that have been cherished and defended by the American people for more than 2 centuries.

Noting that "recognition of the dignity of the equal and unalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world," the United Nations General Assembly provided in its Universal Declaration of Human Rights a resounding affirmation of the timeless ideals enshrined in our Constitution. This historic Declaration established a common standard of conduct for all peoples and all governments. Its signatories agreed to respect freedom of thought and freedom of conscience, as well as freedom of religion and belief. They also recognized an individual's right to freedom of movement and assembly, as well as his right to participate in the government of his country and to own property, either alone or in association with others.

During the past several years, efforts to implement internal reforms at the United Nations have helped to bring this body closer to the ideals envisioned by its founders when they adopted the U.N. Charter and "reaffirmed their faith in fundamental human rights, [and] in the dignity and worth of the human person." The United States has welcomed these reforms, as well as the recent decline in ideological confrontation among U.N. members, and we have applauded moves toward consensus and cooperation, in the search for practical solutions to serious global problems.

During the past year alone, prospects for international peace, understanding, and cooperation have improved greatly in regions where they once seemed remote. A significant portion of the credit for these positive developments must be given to the United Nations. Indeed, the United Nations has proved to be helpful in achieving regional peace and stability by promoting constructive dialogue between nations and the nonviolent resolution of conflicts. Through its peacekeeping efforts and monitoring of the electoral process, the United Nations has helped the people of countries such as Namibia and Nicaragua to chart their own course in a genuine exercise of self-determination. The United Nations has also helped to promote the social and economic development of countries beset by strife and poverty. Nevertheless, great challenges lie ahead in places as far-flung as Cambodia, El Salvador, and the Western Sahara.

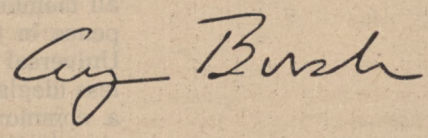
Many of the challenges faced by the United States and other U.N. members transcend national and even regional boundaries. Most recently, for example, the United Nations has played a central role in international efforts to meet the grave threat posed by Iraq's invasion of Kuwait. The United Nations has spoken firmly and without hesitation through eight Security Council Resolutions condemning the invasion, demanding Iraq's immediate and unconditional withdrawal from Kuwait, and mandating economic sanctions against the government of Saddam Hussein.

In addition to efforts designed to help restore peace and stability to the Persian Gulf region, the United Nations agenda includes plans to protect the global environment and to combat the scourge of drug trafficking. We look to the United Nations as a valuable forum for the discussion of such issues, and we welcome the aid of its specialized agencies in developing and implementing specific programs to enhance international cooperation in these and other areas.

The United Nations is also helping to lead a new campaign for the eradication of illiteracy. The U.N. General Assembly has proclaimed 1990 as the "International Year of Literacy," and the United States has enthusiastically joined other member-states in a concerted effort to promote education and learning.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 24, 1990, as United Nations Day. I invite all Americans to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 6

Foreign Agricultural Service

7 CFR Part 1530

Sugar To Be Re-exported in Refined Form, Sugar To Be Re-exported in Sugar Containing Products, and Sugar for Production of Polyhydric Alcohol

AGENCY: Office of the Secretary and Foreign Agricultural Service, USDA.

ACTION: Interim rule.

SUMMARY: Presidential Proclamation No. 6179 of September 13, 1990, 55 FR 38293, converted the U.S. sugar import quota into a tariff-rate quota, effective October 1, 1990. This Proclamation provided for raw cane sugar described in subheading 1701.11.02 of the Harmonized Tariff Schedule of the United States (HTS) to be imported subject to the lower duty rates (or duty free) of the tariff-rate quota, and exempt from the quota limitations otherwise applicable to sugars imported at such lower duty rates, provided that such sugar is used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, or is re-exported in refined form or in sugar containing products and further provided that duties paid at the higher duty rates are not refunded, as drawback, on the basis, or as a result, of the exportation of such polyhydric alcohol, refined sugar or sugar containing products. Accordingly, the Proclamation enables the Department of Agriculture to renew three programs—"Sugar for Production of Polyhydric Alcohol" (7 CFR 1530.300 et seq.), "Sugar to be Re-exported in Refined Form" (7 CFR 6.100 et seq.), and "Sugar To Be Re-exported in Sugar Containing Products" (7 CFR 1530.200 et seq.)—that were in effect under the former absolute import quota.

This interim rule amends the regulations governing these programs primarily in order to conform the regulations to the provisions of the HTS, as modified by Proclamation No. 6179. In addition to the requirements previously applicable, license holders will be required to certify whether or not any drawback refunds of higher rate duties under the tariff-rate quota have or will be claimed on the basis, or as result, of the exportation of polyhydric alcohol, refined sugar, or sugar containing products produced or exported pursuant to these programs. The amendments are necessary to provide additional safeguards in the administration of these programs. In addition, this interim rule makes numerous minor amendments to update or clarify former provisions and transfers the regulations in 7 CFR part 6, "Subpart—Importation of Sugar Free From Quota" to 7 CFR part 1530—"Sugar Import Licensing" in order to consolidate in one part of the CFR all of the regulations governing the programs referred to above.

DATES: Interim rule effective October 9, 1990; comments must be submitted on or before November 13, 1990.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim rule. Comments should be mailed or delivered to the Team Leader, Import Quota Programs, Foreign Agricultural Service, Room 6095, South Building, U.S. Department of Agriculture, Washington, DC 20250. Comments received may also be inspected at Room 6095 between 9 a.m. and 4:30 p.m., Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Cleveland Marsh (Team Leader, Import Quota Programs), 202–447–2916 or Dale McNeil (Attorney), 202–447–3780.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under United States Department of Agriculture (USDA) procedures implementing Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major." It has been determined that the provisions of this interim rule will not result in:

(1) An annual effect of the economy of $100 million or more;

(2) Major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises in domestic or export markets.

The Administrator, Foreign Agricultural Service (FAS), certifies that this interim rule will not have a significant economic impact on a substantial number of small entities. There are not a substantial number of small entity participants in the programs. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601). It has been determined by an environmental evaluation that this action will not have any significant impact on the quality of human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is necessary for this interim rule.

The paperwork and recordkeeping requirements imposed by this interim rule have been submitted to the Office of Management and Budget (OMB) for emergency and expedited processing under the Paperwork Reduction Act of 1980. Pursuant to the provisions of 5 CFR 1320.18, OMB has approved the collection of information and recordkeeping requirements for a period of 90 days, beginning on the effective date of this interim rule, and has assigned OMB approval number 0551–0015. Comments concerning the paperwork and recordkeeping burdens imposed by the provisions of the regulations promulgated by this interim rule may be submitted, during the comment period for this interim rule, to the Desk Officer for the U.S. Department of Agriculture, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503 or to the Chief, Information Management Division, Office of Information Resource Management, Room 404–W, U.S. Department of Agriculture, Washington, DC 20250.

These programs are not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

Soon after Presidential Proclamation No. 4941 of May 5, 1982 (47 FR 19661), established a restrictive, absolute import quota for sugars, syrups and molasses, it became evident that this could have adverse consequences for certain participants in the U.S. sugar market. In particular, domestic refiners and end users of sugar only had access to sugar which was much higher in price than sugar which could be obtained on the world market by foreign competitors. Such domestic entities—for example, refiners of raw sugar and manufacturers of sugar containing products—could not compete on an equal footing in the world market with their foreign counterparts who had access to raw and refined sugar at the lower world prices. If this situation were allowed to continue for a prolonged period of time, the capacity utilization of domestic refining and manufacturing facilities would decline and this would jeopardize the viability of such domestic industries.

These considerations led to the issuance of Presidential Proclamation No. 5002 on November 30, 1982 (47 FR 54269). This proclamation authorized the Secretary of Agriculture to allow entry of sugar exempt from the import quotas, provided that the sugar is re-exported in refined form or in sugar containing products or is used for the production of polyhydric alcohols (except polyhydric alcohols for use as a substitute for sugar in human food consumption). The proclamation further specified that such sugar would be entered under licenses issued pursuant to regulations promulgated by the Secretary of Agriculture.

Presidential Proclamation No. 6179 of September 13, 1990, 55 FR 38293, converted the U.S. sugar import quota into a tariff-rate quota, effective October 1, 1990, and terminated Proclamation No. 5002. As a consequence, the three "quota-exempt" licensing programs that were established under the former absolute import quota—"Sugar for Production of Polyhydric Alcohol" (7 CFR 1530.300 et seq.), "Sugar to be Re-exported in Refined Form" (7 CFR 6.100 et seq.), and "Sugar To Be Re-exported in Sugar Containing Products" (7 CFR 1530.200 et seq.)—terminated effective October 1, 1990. Pursuant to the transitional provisions of this interim rule, all licenses previously issued to participants in these three programs are canceled.

However, Proclamation No. 6179 provided for raw cane sugar described in subheading 1701.11.02 of the HTS to be imported subject to the lower duty rates (or duty free) of the tariff-rate quota, and exempt from the quota limitations otherwise applicable to sugars imported at such duty rates, provided that such sugar is used only for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, or is re-exported in refined form or in sugar containing products.

The provisions of paragraph (c) of additional U.S. note 3 to chapter 17 of the HTS, as modified by the President in Proclamation No. 6179, authorize the Secretary of Agriculture to resume the three licensing programs that were established under the former absolute import quota. However, it is not possible to simply republish the existing regulations, principally because of the need to adapt the programs to a tariff-rate quota, rather than an absolute quota, but also because of completely new conditions that must be placed upon participation in these programs with respect to drawback claims.

Proclamation No. 6179 provided that such sugar could not be entered and liquidated at the low duty rates (or duty free [1]) provided for in subheading 1701.11.02 of the HTS if the exportation of the refined sugar, sugar containing products, or polyhydric alcohol was used as the basis of , or resulted in, the drawback (refund) of duties paid on sugar imported at the higher duty rates of the tariff-rate quota. If drawback of duties at the higher rates is claimed, the U.S. Customs Service is directed to liquidate the corresponding import entries at the higher rates of duty applicable under subheading 1701.22.03 of the HTS. Proclamation No. 6179 also limited the time period for filing all drawback claims for refunds of duties paid on articles subject to the tariff-rate quota to 90 days from the date of the exportation on which the claim is based.

Moreover, the Department of Agriculture will not be able to credit the licenses of refiners and manufacturers participating in the revised programs if the exportation of the refined sugar, sugar containing products, or polyhydric alcohol is used as the basis of, or results in, the drawback of duties paid on sugar imported at the higher duty rates of the tariff-rate quota. To carry out this responsibility and to assist the U.S. Customs Service, I have determined that it is necessary to make numerous changes in the requirements of the Department's programs.

[1] Raw cane sugar entered under subheading 1701.11.02 of the HTS, imported from all beneficiary countries of the Generalized System of Preferences (GSP) and Caribbean Basin Initiative (CBI), will receive duty free treatment.

First, program participants will be required to certify, at the time that they apply to participate, that they will notify the Licensing Authority, within 95 days of the exportation of any refined sugar, sugar containing products, or polyhydric alcohols, if such exportation has resulted in, or has been used as the basis of a claim by the program participant or any other person for, a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses entered subject to the higher duty rates of the tariff-rate quota (i.e., sugars, syrups, and molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS) and the amount of such refund. Second, program participants will be required to make similar certifications when requests are made for credits to their licenses and subsequently if such drawback claims for refunds of higher rate duties are filed. Third, program participants will be required to reserve their rights to claim drawback in order to facilitate the Department's monitoring of such claims. Fourth, if refunds of higher rate duties are claimed by a program participant, the Licensing Authority will deny credit to the participant's license, revoke credits previously granted, draw on the participant's bond, or assess liquidated damages, as appropriate; in addition, civil remedies or criminal sanctions might be appropriate in such circumstances. Fifth, the documentation and record-keeping provisions are enhanced to assure that the Department will have adequate evidence to trace import entries through to drawback claims to verify program participants' certifications.

Finally, the time limits for refining and re-exporting or transferring refined sugar, and for producing sugar containing products and polyhydric alcohols, have been shortened in some respects. Refiners will continue to have 90 days to re-export refined sugar, but they will be required to make transfers to sugar containing product manufacturers within 45 days of the date of entry of the imported sugar. Manufacturers of sugar containing products will have 180 days from the date of transfer of refined sugar, rather than 18 months, to complete their manufacturing processes and export the sugar containing products. Sugar containing product manufacturers will not be issued import licenses. Manufacturers of polyhydric alcohol will have 180 days from the date of entry of imported sugar to complete their manufacturing processes. In all

cases, any drawback claims for refunds of any duties paid on the importation of sugars, syrups, and molasses subject to either the lower or higher rates of duty of the tariff-rate quota must be filed with the U.S. Customs Service's New York City office within 90 days of the date of the exportation on which the claim is based.

Several less substantial amendments to the regulations for the previous programs derive from a need to strengthen administration of these programs, clarify vague provisions, remove obsolete material, update definitions and nomenclature, harmonize the regulations for these three programs, and consolidate them in one Part of the Code of Federal Regulations.

Among the more significant of these changes is a revision of the method for calculating bond amounts and liquidated damages for all three programs. Bond amounts will be a fixed 20 cents per pound of sugar charged to the license. Claims on the bonds and the assessment of liquidated damages will both be based on a formula using the spread between the nearby Number 11 and Number 14 contracts of the New York Coffee, Sugar and Cocoa Exchange. These new formulas will afford a better measure of the actual harm caused to domestic prices when violations of the programs result in the diversion of imported sugar onto the domestic market. In addition, the licenses for producers of polyhydric alcohols will be issued on an indefinite basis, rather than an annual basis, to improve the administration of this program.

Because all licenses have expired and must be canceled, refiners and manufacturers desiring to participate in the new programs will be required to apply for new licenses. New licenses may be issued to those applicants who agree to fully settle the balances, if any, outstanding on their previous licenses, by bringing such balances to zero (i.e., credits equal to charges) and to comply with all the provisions of the new regulations, subheading 1701.11.02 of the HTS, and additional U.S. note 3 to chapter 17 of the HTS and with any terms, conditions and procedures imposed by the Licensing Authority in order to assure an orderly transition. The interim rule provides the Licensing Authority with ample authority to waive minor departures from the regulations in order to facilitate the transition between old and new programs with as little disruption to the affected industries as possible.

It has been determined that serious harm to the refiners and manufacturers who held licenses under the previous programs will result from the disruption of contracts and established marketing relationships if these programs are not resumed on an immediate basis. Accordingly, I am issuing these regulations in the form of an interim rule, pending comments from interested persons.

List of Subjects in 7 CFR Parts 6 and 1530

Imports, Reporting and recordkeeping requirements.

Accordingly, 7 CFR part 1530 is amended as follows:

1. 7 CFR part 1530 is revised to read as follows:

PART 1530—SUGAR IMPORT LICENSING

Subpart A—Sugar To Be Re-exported in Refined Form

Sec.

1530.100 Definitions.
1530.101 Application for a license.
1530.102 Issuance of a license.
1530.103 Bond requirements.
1530.104 Entry of sugar.
1530.105 Proof of export and notice of drawback claims.
1530.106 Transfer of sugar.
1530.107 Charges and credits to licenses.
1530.108 Replacement of sugars; substitution of sugars.
1530.109 Records.
1530.110 Enforcement.
1530.111 Appeals.
1530.112 Waivers.
1530.113 Expiration of licenses.
1530.114 Paperwork Reduction Act Assigned Number.
1530.115 Transitional provisions.

Subpart B—Sugar To Be Re-exported in Sugar Containing Products

1530.200 Definitions.
1530.201 Application for a license.
1530.202 Issuance of a license.
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1530.206 Charges and credits to licenses.
1530.207 Replacement of sugars; substitution of sugars.
1530.208 Records.
1530.209 Enforcement.
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1530.211 Waivers.
1530.212 Expiration of licenses.
1530.213 Paperwork Reduction Act Assigned Number.
1530.214 Transitional provisions.

Subpart C—Sugar for the Production of Polyhydric Alcohol

1530.300 Definitions.
1530.301 Application for a license.
1530.302 Issuance of a license.
1530.303 Bond requirements.
1530.304 Entry of sugar.
1530.305 Proof of production of polyhydric alcohols.
1530.306 Charges and credits to licenses.
1530.307 Replacement of sugars; substitution of sugars.
1530.308 Records.
1530.309 Enforcement
1530.310 Appeals.
1530.311 Waivers.
1530.312 Expiration of licenses.
1530.313 Paperwork Reduction Act Assigned Number.
1530.314 Transitional provisions.

Authority: Presidential Proclamation No. 6179, 55 FR 38293; additional U.S. note 3 to chapter 17 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

Subpart A—Sugar To Be Re-exported in Refined Form

§ 1530.100 Definitions.

For purposes of this subpart, unless the context indicates otherwise, the following words and phrases have the meaning ascribed to them:

(a) *Additional U.S. note 3* means paragraph (c) of additional U.S. note 3 to chapter 17 of the HTS, unless otherwise described.

(b) *Agent* means a licensed customhouse broker, freight forwarder, or other person authorized to act on behalf of the licensee.

(c) *Date of entry* is the date when the U.S. Customs Service entry form is properly executed and deposited, together with any estimated duties and special import fees and any related documents required by law or regulation to be filed with such form at the time of entry with the appropriate customs official.

(d) *Date of export* means the on-board date of an ocean carrier bill of lading or an airway bill or on-board date of an intermodal bill of lading; if exported by rail or truck, the date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of the importing country; or the date of export established by such other proof of export as is acceptable to the Licensing Authority.

(e) *Date of Transfer* means the date of shipment of sugar transferred from a refiner to a manufacturer.

(f) *Department* means the United States Department of Agriculture.

(g) *Drawback* and *drawback entry* have the meanings ascribed to them in 19 CFR part 191.

(h) *Enter* or *entry*, with respect to sugar imported into the customs territory of the United States, refers to sugar that is entered or withdrawn from warehouse for consumption.

(i) *HTS* means the Harmonized Tariff Schedule of the United States.

(j) *License* means a license, issued by the Secretary through the Licensing Authority, which permits the entry, in accordance with the provisions of this subpart, of raw cane sugar described in subheading 1701.11.02 of the HTS for the purpose of being refined and re-exported in refined form or of being transferred to a manufacturer under the provisions of subpart B of this part.

(k) *Licensee* means a refiner to whom a license has been issued pursuant to the provisions of this subpart.

(l) *Licensing Authority* means the Team Leader, import Quota Programs, import Policies and Trade Analysis Division, Foreign Agricultural Service, U.S. Department of Agriculture, or the Team Leader's designee.

(m) *Manufacturer* means a person who is the recipient of a transfer of refined sugar from a refiner, who uses the sugar to produce a sugar containing product within the customs territory of the United States, and who exports or causes to be exported such product under a license issued under the provisions of subpart B of this part.

(n) *Notice of Transfer* means a document, in form and substance satisfactory to the Licensing Authority, that is signed by both the licensee and a manufacturer certifying delivery of a specified quantity of refined sugar, corresponding to sugar imported under the provisions of this subpart, from the licensee to the manufacturer.

(o) *Number 11 contract price* means the daily closing price per pound of raw sugar for the nearby Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange.

(p) *Number 14 contract price* means the daily closing price per pound of raw sugar for the nearby Number 14 contract of the New York Coffee, Sugar and Cocoa Exchange.

(q) *Person* means any individual, partnership, corporation, association, estate, trust or any other business enterprise or legal entity.

(r) *Program* means the licensing program provided for in the regulations in this subpart and includes the requirements and limitations of HTS subheading 1701.11.02 and additional U.S. note 3.

(s) *Raw value* means, for a given quantity of sugar, the equivalent of that quantity of sugar in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury (19 CFR part 151, subpart B).

(t) *Refined sugar* means commercial refined sugar testing 99.7 degrees or above by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury.

(u) *Refiner* means any person in the United States who engages in the processing (refining) of raw sugar into refined sugar by substantially subjecting the raw sugar to the processes of affination or defecation, clarification, and further purification by absorption or crystallization.

(v) *Sugar containing product* means any product (other than articles described in subheadings 1701.11.01, 1701.11.02, 1701.11.03, 1701.12.01, 1701.12.02, 1701.91.21, 1701.91.22, 1701.99.01, 1701.99.02, 1702.90.31, 1702.90.32, 1806.10.41, 1806.10.42, 2106.90.11 and 2106.90.12 of the HTS) to which sugar has been added as an ingredient and which is to be exported without further processing.

§ 1530.101 Application for a license.

(a) An applicant for a license must apply in writing to the Licensing Authority. The letter of application shall contain at a minimum the following information:

(1) The name and address of the applicant and of the refinery or refineries at which the raw cane sugar entered under subheading 1701.11.02 will be processed (refined);

(2) The license amount requested, not to exceed the maximum license amount;

(3) A description of the kind and polarity of refined sugars to be exported or transferred;

(4) The name of the firm that will establish a performance bond in favor of the United States Government on behalf of the applicant; and

(5) A certification that the refiner shall:

(i) Refine a quantity of sugar equal to the quantity of sugar entered under the license;

(ii) Export or transfer such sugar or corresponding sugar within the applicable time limits; and

(iii) Shall not request credit on the refiner's license, if such license is issued, for the exportation or transfer of any refined sugar, or if such credit has been granted, shall promptly (within 5 business days of the filing of a drawback entry) notify the Licensing Authority and request that such credit be revoked, if the exportation of such refined sugar or any sugar containing product manufactured with the use of such transferred sugar has resulted in, or has been used as the basis of a claim by the licensee or any other person for, a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS.

(b) A licensee shall promptly notify the Licensing Authority if any of the information described in paragraph (a) of this section has changed and shall submit an amended application upon the request of the Licensing Authority.

(c) The Licensing Authority may waive any provisions of this section for good cause if it is determined that such a waiver will not adversely affect the purposes of this program.

§ 1530.102 Issuance of a license.

(a) The Secretary of Agriculture, through the Licensing Authority, may issue a license to a refiner under which the refiner may import sugar described in HTS subheading 1701.11.02 in accordance with the provisions of this program. The license may contain such conditions, limitations or restrictions as the Licensing Authority determines to be appropriate for the purposes of this program. The Licensing Authority may add or modify such conditions, limitations or restrictions at such time and in such manner as the Licensing Authority, in his or her discretion, determines to be necessary or appropriate for the purposes of this program. A refiner may hold only one license at any given time.

(b) A quantity of refined sugar equivalent to the quantity of sugar, raw value, imported under a license, adjusted in accordance with § 1530.107 of this subpart, must be exported within 90 days of the date of entry of such sugar or must be transferred to a manufacturer within 45 days of the date of entry of such sugar.

(c) The maximum license amount is 50,000 metric tons of sugar, raw value. Quantities of sugar imported under the license will be charged to the license and quantities of refined sugar exported or transferred will be credited to the license as provided in § 1530.107. At no time may the outstanding balance of charges or credits exceed the maximum license amount except as a result of adjustments for polarization made pursuant to § 1530.107(c).

(d) The licensee shall reserve all rights, if any, to claim drawback refunds with respect to the exportation or transfer of refined sugar under this program. No credit on a license shall be made if any refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS is claimed or received on the basis, or as a result, of the exportation of such refined

sugar or any sugar containing products manufactured with the use of such transferred sugar.

(e) If a licensee has made a full settlement of the balance on a license, the licensee may surrender the license on terms and conditions acceptable to the Licensing Authority. A licensee may, with the written permission of the Licensing Authority, transfer a license to another refiner who does not hold a license, subject to such terms and conditions as the Licensing Authority may impose as he or she determines to be necessary or appropriate to carry out the purposes of this subpart.

(f) The licensee may utilize an agent to import, export or make transfers of sugar, provided that such actions are taken in the name of the licensee. The licensee must provide to the Licensing Authority a written authorization designating such person to act as an agent for the purpose of importing, exporting or transferring sugar. If the licensee uses an agent to export the refined sugar, the licensee shall notify the Licensing Authority in writing of the agent's identity, and the agent shall certify to the Licensing Authority in writing that the refined sugar has been exported from the customs territory of the United States.

§ 1530.103 Bond requirements.

(a) Unless the licensee has posted a performance bond with the U.S. Customs Service which is satisfactory to the Licensing Authority with respect to the requirements of this program, the licensee shall post a performance bond which meets the requirements of this section with the Licensing Authority. However, no bond will be required for the quantity of any sugar imported under license that corresponds to a quantity of sugar that has been exported or transferred prior to the importation of such sugar and credited to the license in accordance with § 1530.107, provided that the Licensing Authority issues a written waiver of the bond requirement.

(b) A bond may cover entries made either during the period of time specified in the bond (term bond) or for a specified entry (single entry bond).

(c) Only the licensee who will process (refine) the sugar may be the principal on a bond to cover such sugar to be re-exported in refined form. The surety or sureties shall be among those listed by the Secretary of the Treasury as acceptable on Federal bonds.

(d) The obligation under the bond shall be made effective as of the date of entry of the imported sugar.

(e) The amount of the bond shall be equal to 20 cents per pound of sugar imported under the license.

(f) The appropriate customs official or the Licensing Authority, as appropriate, will release the obligation under the bond by 20 cents per pound for the quantity of sugar credited to the license in accordance with § 1530.107.

(g) If the licensee fails to qualify for a credit to the license within 95 days of the date of export of corresponding sugar in an amount sufficient to offset the charge to the license for that corresponding sugar or if such a credit initially granted is subsequently revoked, payment will be made to the United States of America under the bond of a monetary amount equal to up to 3 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of raw sugar, in effect on the last market day before the end of the period during which export was required, whichever difference is greater, times the quantity of refined sugar, converted to raw value, that should have been, but was not, exported in timely compliance with the requirements of this subpart. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate such price as he or she deems appropriate.

(h) Within 10 business days of the date of issuance of a license, the licensee shall submit to the Licensing Authority a copy of the performance bond.

§ 1530.104 Entry of sugar.

(a) The licensee shall be permitted to enter imported sugar under subheading 1701.11.02 of the HTS in conformity with the conditions, limitations and restrictions of the license, the provisions of this subpart and additional U.S. note 3, and any other procedures specified by the Licensing Authority.

(b) The licensee must present the license to the appropriate U.S. Customs Service official at the time of entry. Such customs official will mark on the license:

(1) The quantity of sugar entered;

(2) The date of entry; and

(3) The customs entry number.

(c) The licensee shall submit to the Licensing Authority a copy of the license, as marked by the customs official, within 10 business days after each entry of sugar.

(d) The licensee shall submit to the Licensing Authority a statement, certified as true and accurate, of the polarization and weight of the imported sugar to be charged to the license. This statement must adequately identify the imported sugar and state the basis for the determination of the polarization of the sugar. The basis for such determination must be either the settlement polarization or some other means approved by the Licensing Authority.

§ 1530.105 Proof of export and notice of drawback claims.

(a) The proof of export will consist of:

(1) *Certification of export.* The licensee shall provide a written certification that he or she has exported a specified quantity of refined sugar. The certification shall include:

(i) The licensee's name, address, and license number;

(ii) A description of the refined sugar exported, the polarity of such sugar, and its weight;

(iii) An identification of the imported sugar to which the exported sugar corresponds, including the quantity and polarization of the imported sugar;

(iv) The date of export, the port or point from which exported, the bill of lading number(s), and an identification of the vessel or other export carrier and any agent used in connection with the export;

(v) The country of destination and foreign consignee;

(vi) The entry number of a claim, if any, by the licensee or any other person for a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS on the basis, or as a result, of the exportation of the refined sugar and the amount of such refund; and

(vii) A statement that the sugar has been exported from the customs territory of the United States, that the licensee has reserved all rights to claim drawback refunds, and that no refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, of the exportation of the refined sugar.

(2) *Documentation of export.* The licensee shall submit the following documentation:

(i) An original, certified U.S. Customs Service Form 7512; and

(ii) An original bill of lading or copy of a U.S. Customs Service Form 7511.

(b) The certification must accompany the documentation submitted to the Licensing Authority. The certification and documentation must be submitted

to the Licensing Authority within 95 days of the date of export. The Licensing Authority will not credit the license for sugar exported unless satisfactory and timely certification and documentation is received.

(c) Notice of drawback claims. Whenever the licensee knows or has reason to know that any claim has been made, by the licensee or any other person for a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS on the basis, or as a result, of the exportation of refined sugar under this program or of sugar containing products produced from sugar transferred from the licensee to a manufacturer, under the provisions of subpart B of this part, the licensee shall within 5 business days provide a written notification to the Licensing Authority. This notification shall include the following information, if known or reasonably believed to be true by the licensee:

(1) The licensee's name, address, and license number;

(2) A description of the refined sugar or sugar containing products exported, and the weight of such refined sugar or sugar containing products;

(3) An identification of the imported sugar to which the exported sugar or sugar contained in the exported sugar containing products corresponds, including the quantity of the imported sugar;

(4) The date of export, the port or point from which exported, the bill of lading number(s), and an identification of the vessel or other export carrier and any agent used in connection with the export;

(5) The country of destination and foreign consignee;

(6) The entry number of the drawback claim and the amount of such refund of duties; and

(7) The identity of the person who filed such drawback entry.

(d) The Licensing Authority may waive any of the provisions of this section if compliance with the relevant provisions of HTS subheading 1701.11.02, additional U.S. note 3, and all other regulations in this subpart is otherwise established to the Licensing Authority's satisfaction.

§ 1530.106 Transfer of sugar.

(a) Transfers of sugar from a licensee to a manufacturer must conform with the conditions of the license, the provisions of this program and the program provided for in subpart B of this part, and any other procedures specified by the Licensing Authority.

(b) Refined sugar transferred under a license must be shipped by the licensee to the manufacturer within 45 days of the date of entry of the sugar entered under subheading 1701.11.02 of the HTS to which the refined sugar corresponds.

(c) The licensee shall submit to the Licensing Authority, within 10 business days of the transfer of sugar, a Notice of Transfer which must adequately identify the refined sugar transferred by the licensee, including the polarization and weight of the transferred sugar and the date of transfer.

(d) The licensee may make transfers of refined sugar to more than one manufacturer, as specified on the application for a license; however, the combined total of such transfers may not exceed the maximum license amount.

§ 1530.107 Charges and credits to licenses.

(a) Charges will be made to a license, effective as of the date of entry, for quantities of sugar (adjusted on the basis set forth in paragraph (c) of this section to determine raw value) entered under the license, when the licensee submits the information required by § 1530.104 or when the Licensing Authority otherwise determines that the licensee has made an entry under subheading 1701.11.02 of the HTS.

(b) At the request of the licensee and upon satisfactory and timely proof that the licensee has complied with all of the requirements of this program, the Licensing Authority will credit a licensee for:

(1) Quantities of refined sugar, adjusted pursuant to paragraph (c) of this section, for which proof of export has been submitted in accordance with the provisions of § 1530.105 of this subpart, but only if the Licensing Authority is satisfied that no refund, as drawback, of any duties paid on the importation of any sugar, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, of the exportation of the refined sugar; and

(2) Quantities of sugar charged to the license which the Licensing Authority determines have been destroyed, lost in processing the sugar, or otherwise disposed of so as to render the exportation or transfer of a corresponding quantity of sugar impossible or unnecessary.

(c) Adjustments of the quantities of imported sugar charged to the license and refined sugar exports credited to the license will be made as follows:

(1) To obtain the raw value for imported sugar with a polarization of 92 degrees or above, the adjustment will be made by multiplying the polarization times 0.0175, subtracting 0.68 from this product, and multiplying the difference by the weight. Expressed algebraically, this formula is: [(polarization X 0.0175) −0.68] X weight.

(2) To obtain the raw value for imported sugar with a polarization of less than 92 degrees, the adjustment will be made by dividing the total sugar content by 0.972.

(3) To determine the quantity of refined sugar that must be exported to equal a corresponding quantity of imported sugar charged to a license, the adjustment will be made by dividing the quantity of sugar imported, expressed in raw value, by 1.07.

(d) The Licensing Authority may revoke any credit previously made to a license is the Licensing Authority determines, on the basis of evidence obtained after the credit was granted, that the licensee had not complied with all of the requirements of this subpart or if the exported sugar is re-exported or returned to the customs territory of the United States without having undergone a substantial transformation.

§ 1530.108 Replacement of sugars; substitution of sugars.

(a) The sugar exported or transferred does not have to be the same sugar that was entered under subheading 1701.11.02 of the HTS.

(b) Exportation or transfer of sugar for credit to the license may occur any time after the date on which the license was issued by the Licensing Authority. Any quantity of sugar exported or transferred after the date on which the license was issued, but prior to the entry of the corresponding sugar, will be treated as having been exported or transferred within the time limits of § 1530.102(b).

§ 1530.109 Records.

(a) Each licensee requesting credit in accordance with § 1530.107(b) shall keep records to establish for all refined sugar exported under the provisions of this program:

(1) The quantity and identify of the sugar, raw value, entered under subheading 1701.11.02 of the HTS;

(2) The date or inclusive dates of processing (refining);

(3) The quantity and description of the articles produced, and their polarities;

(4) The quantity of sugar, refined basis, exported under the provisions of this subpart;

(5) The quantity of sugar, refined basis, transferred to a manufacturer under the provisions of this subpart, and the identify of such manufacturer;

(6) The country of destination, foreign consignee, date of export, port, export carrier and any agent used in connection with the export and all documents relating to such exportation, including but not limited to any contract, invoice, bill of lading, dock receipt, ship's manifest, or copies thereof; and

(7) Any drawback entry, including all related documents, filed by the licensee or any other person for a refund, as drawback, of any customs duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.01, 1701.11.02, 1701.11.03, 1701.12.01, 1701.12.02, 1701.91.21, 1701.91.22, 1701.99.01, 1701.99.02, 1702.90.31, 1702.90.32, 1806.10.41, 1806.10.42, 2106.90.11 and 2106.90.12 of the HTS on the basis, or as a result, of the exportation of the refined sugar and the amount of any such refund paid.

(b) All records required by this section to be kept by a licensee shall be retained for at least 5 years after a license is credited for the exportation or transfer of the refined sugar.

(c) The licensee must, upon request, make the records covered by this section available for inspection and copying by the Licensing Authority or other appropriate official of the Federal Government.

(d) If, after inspection of the records, the Licensing Authority determines that such records are inadequate to establish that the imported sugar was refined by the licensee, valueless sugar was lost or destroyed, refined sugar was exported, drawback of duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS was not claimed or received on the basis, or as a result, of the exportation of the refined sugar, or any other requirement of this program was complied with, the Licensing Authority may revoke credits granted for the appropriate quantity of sugar.

§ 1530.110 Enforcement.

(a) If at any time after receiving the proof of export described in § 1530.105 of this subpart, the Licensing Authority determines that the export of a quantity of refined sugar corresponding to the quantity of sugar entered under the license did not occur, and if the bond has been released under § 1530.103, the Licensing Authority may hold the licensee liable for up to 3 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of raw sugar, in effect on the last market day before the date of entry of the sugar or the last market day before the end of the period during which export was required, whichever difference is greater, times the quantity of refined sugar, converted to raw value, that should have been, but was not, exported. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate such price as he or she deems appropriate.

(b) If at any time after receiving the licensee's certification that no refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, of the exportation of the refined sugar, the Licensing Authority determines that a refund of such customs duties has been claimed or received by the licensee or any other person, and if the bond has been released under § 1530.103, the Licensing Authority may hold the licensee liable for up to 3 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of raw sugar, in effect on the last market day before the date of entry of the sugar or the last market day before the end of the period during which export was required, whichever difference is greater, times the quantity of sugar, converted to raw value, that should have been, but was not, exported. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate such price as he or she deems appropriate.

(c) If at any time the Licensing Authority determines that a licensee has failed to comply with the requirements of this subpart, including the requirements of HTS subheading 1701.11.02 and of the relevant provisions of additional U.S. note 3, the Licensing Authority may, after notice to the licensee, suspend or revoke the license issued to the licensee under this program and may refuse to issue a license to that refiner. The Licensing Authority may suspend or revoke a license if claims are filed under 19 CFR part 191 for the refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS on the basis, or as a result, of the exportation of refined sugar under this program or if any other claim under 19 CFR part 191 is denied on the basis that the refined sugar was not exported.

§ 1530.111 Appeals.

(a) Any action or determination of the Licensing Authority under this subpart may be appealed to the Director, Import Policies and Trade Analysis Division, Foreign Agricultural Service (FAS), within 30 days from the date of notification. The appeal must be presented in writing and must specifically state any reason as to why such determination should not stand. The Director, Import Policies and Trade Analysis Division, FAS, will provide such person with an opportunity for an informal hearing on such matter.

(b) A further appeal from the final decision of the Director, Import Policies and Trade Analysis Division, FAS, may be made to the Administrator, FAS, within five business days of the notification of the decision of the Director, Import Policies and Trade Analysis Division, FAS.

§ 1530.112 Waivers.

Upon written application of the licensee, the Licensing Authority may extend the period for the export of refined sugar, may temporarily increase the maximum amount of the license, may extend the period for submitting proof of export, or may temporarily waive or modify any other requirement imposed by this subpart if such waiver or modification is necessary or appropriate under unusual, unforeseen or extraordinary circumstances and will not frustrate the purposes of this program and if compliance with the relevant provisions of HTS subheading 1702.11.02, additional U.S. note 3 is established to the Licensing Authority's satisfaction. The Licensing Authority may specify additional requirements or procedures in place of the requirements or procedures waived or modified.

§ 1530.113 Expiration of licenses.

(a) The licenses issued under this program shall expire upon written notice to the licenses by the Licensing Authority. The notice will state the date on which the licensees will expire and any other details applicable to the expiration of the licenses.

(b) If there have been no charges or credits on the License within 12 months of the date on which the license was issued, or any subsequent period of 18

months, the license may be deemed to have expired.

§ 1530.114 Paperwork Reduction Act assigned number.

The Office of Management and Budget has approved the information collection requirements contained in these regulations in accordance with 44 U.S.C. chapter 35 and OMB number 0551–0015 has been assigned.

§ 1530.115 Transitional provisions.

(a) All licenses issued to refiners prior to October 1, 1990, pursuant to the former provisions of 7 CFR 6.101, are canceled effective October 9, 1990.

(b) Any refiner who, on September 30, 1990, held a license which had a balance of charges and credits other than zero and which is canceled pursuant to paragraph (a) of this section may be issued a new license upon such refiner's agreement to:

(1) Fully settle the balance outstanding on such previous license, by bringing such balance to zero;

(2) Comply with all the provisions of this subpart, subheading 1701.11.02 of the HTS, and additional U.S. note 3; and

(3) Comply with any terms, conditions and procedures imposed by the Licensing Authority in order to assure an orderly transition.

(c) During the transitional period between October 1, 1990, and the promulgation of a final rule to replace the interim rule issued on October 9, 1990, the Licensing Authority may modify or waive any requirement of this subpart, including the requirements that a refiner make a written application for a license prior to the issuance of the license and make a written application for a waiver under § 1530.111 of this subpart, if the Licensing Authority determines such modification or waiver is necessary or appropriate to assure an orderly transition and will not frustrate the purposes of this program.

Supbart B—Sugar To Be Re-exported in Sugar Containing Products

§ 1530.200 Definitions.

For purposes of this subpart, unless the context indicates otherwise, the following words and phrases have the meanings ascribed to them:

(a) *Additional U.S. note 3* means paragraph (c) of additional U.S. note 3 to chapter 17 of the HTS.

(b) *Agent* means customs house broker, freight forwarder, sugar refiner, or other person authorized to act on behalf of the licensee.

(c) *Corresponding sugar* means the identical sugar entered under subheading 1701.11.02 of the HTS, such sugar after having been refined, or other sugar substituted for, or in replacement of, such imported or refined sugar in accordance with §§ 1530.108 and 1530.207 of this part.

(d) *Date of entry* is the date when the U.S. Customs Service entry form is properly executed and deposited, together with any estimated duties and special import fees and any related documents required by law or regulation to be filed with such form at the time of entry with the appropriate customs official.

(e) *Date of export* means the on-board date of an ocean carrier bill of lading or an airway bill or on-board date of an intermodal bill of lading; if exported by rail or truck, the date of entry shown on an authenticated landing certificate or similar document issued by an official of the government of the importing country; or the date of export established by such other proof of export as is acceptable to the Licensing Authority.

(f) *Date of Transfer* means the date of shipment of sugar transferred from a refiner to a manufacturer.

(g) *Drawback* and drawback entry have the meanings ascribed to them in 19 CFR part 191.

(h) *Enter* or *entry*, with respect to sugar imported into the customs territory of the United States, refers to sugar that is entered or withdrawn from warehouse for consumption.

(i) *HTS* means the Harmonized Tariff Schedule of the United States.

(j) *License* means a license, issued by the Secretary through the Licensing Authority, which permits the transfer, in accordance with the provisions of this subpart, of refined sugar, corresponding to sugar imported under subpart A of this part, from a refiner to a manufacturer.

(k) *Licensee* means a manufacturer to whom a license has been issued pursuant to the provisions of this subpart.

(l) *Licensing Authority* means the Team Leader, Import Quota Programs, Import Policies and Trade Analysis Division, Foreign Agricultural Service, U.S. Department of Agriculture, or the Team Leader's designee.

(m) *Manufacturer* means a person who is the recipient of a transfer or refined sugar from a refiner, who uses the sugar to produce a sugar containing product within the customs territory of the United States, and who exports or causes to be exported such product.

(n) *Notice of Transfer* means a document, in form and substance satisfactory to the Licensing Authority, that is signed by both a refiner and the licensee certifying delivery of a specified quantity of refined sugar, corresponding to sugar imported under the provisions of subpart A of this part, from the refiner to the licensee.

(o) *Number 11 contract price* means the daily closing price per pound of raw sugar for the nearby Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange.

(p) *Number 14 contract price* means the daily closing price per pound of raw sugar for the nearby Number 14 contract of the New York Coffee, Sugar and Cocoa Exchange.

(q) *Person* means any individual, partnership, corporation, association, estate, trust or any other business entity.

(r) *Program* means the licensing program provided for in the regulations in this subpart and includes the requirements and limitations of HTS subheading 1701.11.02 and additional U.S. note 3.

(s) *Raw value* means, for a given quantity of sugar, the equivalent of that quantity of sugar in terms of ordinary commercial raw sugar testing 96 degrees by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury.

(t) *Refiner* means any person in the United States who engages in the processing (refining) of raw sugar into refined sugar by substantially subjecting the raw sugar to the processes of (1) affination or defecation, (2) clarification, and (3) further purification by absorption or crystallization and who holds a license issued under the regulations in subpart A of this part.

(u) *Sugar* means commercial refined sugar testing 99.7 degrees or above by the polariscope as determined in accordance with regulations issued by the Secretary of the Treasury.

(v) *Sugar containing product* means any product (other than articles described in subheadings 1701.11.01, 1701.11.02, 1701.11.03, 1701.12.01, 1701.12.02, 1701.91.21, 1701.91.22, 1701.99.01, 1701.99.02, 1702.90.31, 1702.90.32, 1806.10.41, 1806.10.42, 2106.90.11 and 2106.90.12 of the HTS) to which sugar has been added as an ingredient and which is to be exported without further processing.

(w) *Valueless sugar* means sugar which has no commercial recovery value.

§ 1530.201 Application for a license.

(a) An applicant for a license must apply in writing to the Licensing Authority. The letter of application shall contain as a minimum the following information:

(1) The name and address of the applicant and of the facility or facilities at which transferred sugar will be used

to manufacture the sugar containing product(s);

(2) The license amount requested, not to exceed the maximum license amount;

(3) A description of the kind and polarity of refined sugar to be received from a refiner(s);

(4) The name of the firm that will establish a performance bond in favor of the United States Government on behalf of the applicant;

(5) A description of the sugar containing product(s) to be exported and estimated sugar content of such product(s); and

(6) A certification that the manufacturer shall:

(i) Use a quantity of sugar equal to the quantity of sugar transferred under the license to manufacture sugar containing products;

(ii) Export such sugar containing products within the applicable time limits; and

(iii) Shall not request credit on the manufacturer's license, if such license is issued, for the exportation of any sugar containing products, or if such credit has been granted, shall promptly (within 5 business days of the filing of a drawback entry) notify the Licensing Authority and request that such credit be revoked, if the exportation of such sugar containing product manufactured with the use of such transferred sugar has resulted in, or has been used as the basis of a claim by the licensee or any other person for, a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS.

(b) A licensee shall promptly notify the Licensing Authority if any of the information described in paragraph (a) of this section has changed and shall submit an amended application upon the request of the Licensing Authority.

(c) The Licensing Authority may waive any provisions of this section for good cause if it is determined that such a waiver will not adversely affect the purposes of this program.

§ 1530.202 Issuance of a license.

(a) The Secretary of Agriculture, through the Licensing Authority, may issue a license to a manufacturer under which the manufacturer, in accordance with the provisions of this program, may receive transfers of sugar from refiners for the purpose of manufacturing sugar containing products to be exported. The license may contain such conditions, limitations, or restrictions as the Licensing Authority determines to be appropriate for the purposes of this program. The Licensing Authority may add or modify such conditions, limitations or restrictions at such time and in such manner as the Licensing Authority, in his or her discretion, determines to be necessary or appropriate for the purposes of this program.

(b) A quantity of sugar equivalent to the quantity of sugar transferred under a license must be exported in a sugar containing product within 180 days of the date of transfer from the refiner. However, the Licensing Authority may credit a license for valueless sugar lost in normal product manufacture.

(c) The maximum license amount is 10,000 short tons (20 million pounds) of sugar. Quantities of sugar transferred under the license will be charged to the license and quantities of sugar contained in sugar containing products exported will be credited to the license as provided in § 1530.206. At no time may the outstanding balance of charges or credits exceed the maximum license amount.

(d) The licensee shall reserve all rights, if any, to claim drawback refunds with respect to the exportation of sugar containing products under this program. No credit on a license shall be made if any refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS is claimed or received on the basis, or as a result, of the exportation of the sugar containing product.

(e) If a licensee has made a full settlement of the balance on a license, the licensee may surrender the license on terms and conditions acceptable to the Licensing Authority. A licensee may, with the written permission of the Licensing Authority, transfer a license to another manufacturer who does not hold a license, subject to such terms and conditions as the Licensing Authority may impose as he or she determines to be necessary or appropriate to carry out the purposes of this subpart.

(f) The licensee may utilize an agent for the transfer of refined sugar or the exportation of sugar containing products. The agent must, upon request, produce for inspection by the Licensing Authority written authorization designating such person to act as an agent for the purpose of receiving transferred sugar. If the licensee uses an agent to export sugar containing products, the licensee shall notify the Licensing Authority in writing of the agent's identity, and the agent shall certify to the Licensing Authority in writing that the sugar containing products have been exported from the customs territory of the United States.

§ 1530.203 Bond requirements.

(a) A licensee shall post a performance bond, which meets the requirements of this section, with the Licensing Authority. However, no bond will be required for the quantity of any sugar transferred under license that corresponds to a quantity of sugar that has been exported in sugar containing products prior to the transfer of such sugar and credited to the license in accordance with § 1530.206, provided that the Licensing Authority issues a written waiver of the bond requirement.

(b) A bond may cover transfers made either during the period of time specified in the bond (term bond) or for a specified transfer (single entry bond).

(c) Only the licensee who will use the sugar may be the principal on a bond to cover such sugar to be transferred. The surety or sureties shall be among those listed by the Secretary of the Treasury as acceptable on Federal bonds.

(d) The obligation under the bond shall be made effective as of the date of transfer of the corresponding sugar.

(e) The amount of the bond shall be equal to 20 cents per pound of sugar transferred under the license.

(f) The Licensing Authority will release the obligation under the bond for transferred sugar by 20 cents per pound for the quantity of sugar credited to the license in accordance with § 1530.206, as determined by the Licensing Authority.

(g) If the licensee fails to qualify for a credit to the license within 95 days of the date of transfer of corresponding sugar in an amount sufficient to offset the charge to the license for that corresponding sugar or if such a credit initially granted is subsequently revoked, payment will be made to the United States of America under the bond of a monetary amount equal to up to 1.5 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of raw sugar, in effect on the last market day before the date of entry of the sugar or the last market day before the end of the period during which export was required, whichever difference is greater, times the quantity of refined sugar, converted to raw value, that should have been, but was not, exported in the form of sugar containing products in timely compliance with the requirements of this subpart. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate

such price as he or she deems appropriate.

(h) Within 10 business days of the date of issuance of a license, the licensee shall submit to the Licensing Authority a copy of the performance bond.

§ 1530.204 Transfer of sugar.

(a) Transfers of sugar from a refiner to a licensee must conform with the conditions of the license, the provisions of this program and the program provided for in subpart A of this part, and any other procedures specified by the Licensing Authority.

(b) Refined sugar transferred under a license must be shipped by the refiner to the licensee within 45 days of the date of entry of the sugar entered under subheading 1701.11.02 of the HTS to which the refined sugar corresponds.

(c) The licensee shall submit to the Licensing Authority, within 10 business days of the transfer of sugar, a Notice of Transfer which must adequately identify the refined sugar received from a refiner, including the weight of the transferred sugar and the date of transfer.

(d) The licensee may receive transfers of refined sugar from more than one refiner, as specified on the application for a license; however, the combined total of such transfers may not exceed the maximum license amount.

§ 1530.205 Proof of export and notice of drawback claims.

(a) The proof of export will consist of:

(1) Certification. The licensee shall provide a written certification that he or she has exported a specified quantity of sugar in sugar containing products. The certification shall include:

(i) The licensee's name, address, and license number;

(ii) The product description, the percentage of sugar in such product, and the total weight of sugar contained in the sugar containing product exported;

(iii) The percentage of valueless sugar lost in normal product manufacture and the quantity of valueless sugar actually lost in the manufacture of the product exported;

(iv) The date of export, the port or point from which exported, the bill of lading number(s), and an identification of the vessel or other export carrier and any agent used in connection with the export;

(v) The country of destination and foreign consignee;

(vi) An identification of the transferred sugar which corresponds to the sugar exported in the sugar containing product, including the quantity of the transferred sugar;

(vii) The entry number of a claim, if any, by the licensee or any other person for a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS on the basis, or as a result, of the exportation of the sugar containing product and the amount of such refund;

(viii) A statement that the sugar containing products have been exported, that the licensee has reserved all rights to claim drawback refunds, and that no refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, of the exportation of the sugar containing product.

(2) Documentation. The licensee shall submit the following information

(i) An original, certified U.S. Customs Service Form 7512; and

(ii) An original bill of lading or copy of a U.S. Customs Service Form 7511

(b) The certification must accompany the documentation submitted to the Licensing Authority. The certification and documentation must be submitted to the Licensing Authority within 95 days of the date of export. The Licensing Authority will not credit the license for sugar exported in sugar containing products unless satisfactory and timely certification and documentation is received.

(c) Notice of drawback claims. Whenever the licensee knows or has reason to know that any claim has been made, by the licensee or any other person for a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS on the basis, or as a result, of the exportation of sugar containing products produced from sugar transferred from a refiner to the licensee or corresponding sugars, under the provisions of § 1530.204 of this subpart, the licensee shall within 5 business days provide a written notification to the Licensing Authority. This notification shall include the following information, if known or reasonably believed to be true by the licensee:

(1) The licensee's name, address, and license number;

(2) A description of the sugar containing products exported, and the weight of such sugar containing products;

(3) An identification of the imported sugar to which the sugar contained in the exported sugar containing products corresponds, including the quantity of the imported sugar;

(4) The date of export, the port or point from which exported, the bill of lading number(s), and an identification of the vessel or other export carrier and any agent used in connection with the export;

(5) The country of destination and foreign consignee;

(6) The entry number of the drawback claim and the amount of such refund of duties; and

(7) The identity of the person who filed such drawback entry.

(d) The Licensing Authority may waive any of the provisions of this section if compliance with the relevant provisions of HTS subheading 1701.11.02, additional U.S. note 3, and all other regulations in this subpart is otherwise established to the Licensing Authority's satisfaction.

§ 1530.206 Charges and credits to licenses.

(a) Charges will be made to a license for quantities of sugar transferred under the license, effective as of the date of transfer, when the licensee submits the information required by § 1530.204 or when the Licensing Authority otherwise determines that a transfer has been made.

(b) At the request of the licensee and upon satisfactory and timely proof that the licensee has complied with all of the requirements of this program, the Licensing Authority will credit a license for:

(1) Quantities of sugar in the sugar containing products for which proof of export has been submitted in accordance with the provisions of § 1530.205 of this subpart, but only if the Licensing Authority is satisfied that no refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, of the exportation of the sugar containing product; and

(2) Quantities of sugar charged to the license which the Licensing Authority determines have been destroyed, lost in the production process, or otherwise disposed of so as to render the use or exportation of a corresponding quantity of sugar in sugar containing products impossible or unnecessary.

(c) The Licensing Authority may revoked any credit previously made to a

license if the Licensing Authority determines, on the basis of evidence obtained after the credit was granted, that the licensee had not complied with all of the requirements of this subpart or if the exported sugar containing products are re-exported or returned to the customs territory of the United States without having undergone a substantial transformation.

§ 1530.207 Replacement of sugars; substitution of sugars.

(a) The sugar exported in sugar containing products does not have to be identical to the sugar transferred.

(b) Exportation of sugar in sugar containing products for credit to the license may occur any time after the date on which the license was issued by the Licensing Authority. Any quantity of sugar exported in sugar containing products after the date on which the license was issued, but prior to the transfer of the corresponding sugar, will be treated as having been exported within the time limits of § 1530.202(b).

§ 1530.208 Records.

(a) Each licensee requesting credit in accordance with § 1530.206(b) shall keep records to establish for all sugar containing products exported under the provisions of this program:

(1) The date or inclusive dates of manufacture;

(2) The quantity and identity of the sugar, refined basis, transferred to the licensee under the provisions of this subpart;

(3) The quantity and description of the articles manufactured;

(4) The quantity of sugar, refined basis, contained in the sugar containing products exported;

(5) The country of destination, foreign consignee, date of export, port, export carrier and any agent used in connection with the export and all documents relating to such exportation, including but not limited to any contract, invoice, bill of lading, dock receipt, ship's manifest, or copies thereof; and

(6) Any drawback entry, including all related documents, filed by the licensee or any other person for a refund, as drawback, of any customs duties paid on the importation of any sugars, syrups, or molasses described in subheadings 1701.11.01, 1701.11.02, 1701.11.03, 1701.12.01, 1701.12.02, 1701.91.21, 1701.91.22, 1701.99.01, 1701.99.02, 1702.90.31, 1702.90.32, 1806.10.41, 1806.10.42, 2106.90.11 and 2106.90.12 of the HTS on the basis, or as a result, of the exportation of the sugar containing product and the amount of any such refund paid.

(b) Each licensee requesting credit for valueless sugar lost in normal product manufacture, or destroyed or otherwise disposed of, shall also keep records to establish the quantity of valueless sugar lost, disposed of, or destroyed.

(c) All records required by this section to be kept by a licensee shall be retained for at least 5 years after a license is credited for the exportation of the sugar containing product.

(d) The licensee must, upon request, make the records covered by this section available for inspection and copying by the Licensing Authority or other appropriate official of the Federal Government.

(e) If, after inspection of the records, the Licensing Authority determines that such records are inadequate to establish that refined sugar was transferred, an appropriate sugar containing product was manufactured, valueless sugar was lost or destroyed, appropriate sugar containing products were exported, drawback of duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS was not claimed or received on the basis, or as a result, of the exportation of the sugar containing product, or any other requirement of this program was complied with, the Licensing Authority may revoke credits granted for the appropriate quantity of sugar.

§ 1530.209 Enforcement.

(a) If at any time after receiving the proof of export described in § 1530.205 of this subpart, the Licensing Authority determines that the export of sugar in the form of sugar containing products corresponding to the quantity of sugar transferred under the license did not occur, and has not been otherwise disposed of or lost in the manufacturing process as valueless sugar, and if the bond has been released under § 1530.203, the Licensing Authority may hold the licensee liable for up to 1.5 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of raw sugar, in effect on the last market day before the date of transfer of the sugar or the last market day before the end of the period during which export was required, whichever difference is greater, times the quantity of sugar, converted to raw value, that should have been, but was not, exported in sugar containing products. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate such price as he or she deems appropriate.

(b) If at any time after receiving the licensee's certification that no refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, the exportation of the sugar containing product, the Licensing authority determines that a refund of such customs duties has been claimed or received by the licensee or any other person, and if the bond has been released under § 1530.203, the Licensing Authority may hold the licensee liable for up to 1.5 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of raw sugar, in effect on the last market day before the date of transfer of the sugar or the last market day before the end of the period during which export was required, whichever difference is greater, times the quantity of sugar, converted to raw value, that should have been, but was not, exported in sugar containing products. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate such price as he or she deems appropriate.

(c) If at any time the Licensing Authority determines that a licensee has failed to comply with the requirements of this subpart, including the requirements of HTS subheading 1701.11.02 and of the relevant provisions of additional U.S. note 3, the Licensing Authority may, after notice to the licensee, suspend or revoke the license issued to the licensee under this program and may refuse to issue a license to that manufacturer. The Licensing Authority may suspend or revoke a license if claims are filed under 19 CFR part 191 for the refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS on the basis, or as a result, of the exportation of a sugar containing product under this program or if any other claim under 19 CFR part 191 is denied on the basis that the sugar containing product was not exported.

§ 1530.210 Appeals.

(a) Any action or determination of the Licensing Authority under this subpart may be appealed to the Director, Import Policies and Trade Analysis Division, Foreign Agricultural Service (FAS), within 30 days from the date of notification. The appeal must be presented in writing and must specifically state any reason as to why such determination should not stand. The Director, Import Policies and Trade Analysis Division, FAS, will provide such person with an opportunity for an informal hearing on such matter.

(b) A further appeal from the final decision of the Director, Import Policies and Trade Analysis Division, FAS, may be made to the Administrator, FAS, within five business days of the notification of the decision of the Director, Import Policies and Trade Analysis Division, FAS.

§ 1530.211 Waivers.

Upon written application of the licensee, the Licensing Authority may extend the period for the export of sugar containing products, may temporarily increase the maximum amount of the license, may extend the period for submitting proof of export, or may temporarily waive or modify any other requirement imposed by this subpart if such waiver or modification is necessary or appropriate under unusual, unforeseen or extraordinary circumstances and will not frustrate the purposes of this program and if compliance with the relevant provisions of HTS subheading 1701.11.02, additional U.S. note 3 is established to the Licensing Authority's satisfaction. The Licensing Authority may specify additional requirements or procedures in place of the requirements or procedures waived or modified.

§ 1530.212 Expiration of licenses.

(a) The licenses issued under this program shall expire upon written notice to the licensees by the Licensing Authority. The notice will state the date on which the licenses will expire and any other details applicable to the expiration of the licenses.

(b) If there have been no charges or credits on the license within 12 months of the date on which the license was issued, or any subsequent period of 18 months, the license may be deemed to have expired.

§ 1530.213 Paperwork Reduction Act assigned number.

The Office of Management and Budget has approved the information collection requirements contained in these regulations in accordance with 44 U.S.C. chapter 35 and OMB number 0551–0015 has been assigned.

§ 1530.214 Transitional provisions.

(a) All licenses issued to manufacturers prior to October 1, 1990, pursuant to the provisions of 7 CFR 1530.201, under the program for "Sugar to be Re-exported in Sugar Containing Products," are canceled effective October 9, 1990.

(b) Any manufacturer who, on September 30, 1990, held a license which had a balance of charges and credits other than zero and which is canceled pursuant to paragraph (a) of this section may be issued a new license upon such manufacturer's agreement to:

(1) Fully settle the balance outstanding on such previous license, by bringing such balance to zero;

(2) Comply with all the provisions of this subpart, subheading 1701.11.02 of the HTS, and additional U.S. note 3; and

(3) Comply with any terms, conditions and procedures imposed by the Licensing Authority in order to assure an orderly transition.

(c) During the transitional period between October 1, 1990, and the promulgation of a final rule to replace the interim rule issued on October 9, 1990, the Licensing Authority may modify or waive any requirement of this subpart, including the requirements that a manufacturer make a written application for a license prior to the issuance of the license and make a written application for a waiver under § 1530.210 of this subpart, if the Licensing Authority determines such modification or waiver is necessary or appropriate to assure an orderly transition and will not frustrate the purposes of this program.

Subpart C—Sugar for the Production of Polyhydric Alcohol

§ 1530.300 Definitions.

For purposes of this subpart, unless the context indicates otherwise, the following words and phrases have the meanings ascribed to them:

(a) *Additional U.S. note 3* means paragraph (c) of additional U.S. note 3 to chapter 17 of the HTS.

(b) *Agent* means a licensed customs house broker, freight forwarder, or other person authorized to act on behalf of the licensee.

(c) *Date of entry* is the date when the U.S. Customs Service entry form is properly executed and deposited, together with any estimated duties and special import fees and any related documents required by law or regulation to be filed with such form at the time of entry with the appropriate customs official.

(d) *Drawback* and *drawback entry* have the meanings ascribed to them in 19 CFR part 191.

(e) *Enter* or *entry*, with respect to sugar imported into customs territory of the United States, refers to sugar that is entered or withdrawn from warehouse for consumption.

(f) *HTS* means the Harmonized Tariff Schedule of the United States.

(g) *License* means a license, issued by the Secretary of Agriculture, through the Licensing Authority, which permits the entry, in accordance with the provisions of this subpart, of raw cane sugar described in subheading 1701.11.02 of the HTS for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption.

(h) *Licensee* means a manufacturer to whom a license has been issued pursuant to the provisions of this subpart.

(i) *Licensing Authority* means the Team Leader, Import Quota Programs, Import Policies and Trade Analysis Division, Foreign Agricultural Service, U.S. Department of Agriculture, or the Team Leader's designee.

(j) *Manufacturer* means a person who is engaged in the production (other than by distillation) of polyhydric alcohols from sugar.

(k) *Number 11 contract price* means the daily closing price per pound of raw sugar for the nearby Number 11 contract of the New York Coffee, Sugar and Cocoa Exchange.

(l) *Number 14 contract price* means the daily closing price per pound of raw sugar for the nearby Number 14 contract of the New York Coffee, Sugar and Cocoa Exchange.

(m) *Person* means any individual, partnership, corporation, association, estate, trust or any other business enterprise or legal entity.

(n) *Program* means the licensing program provided for in the regulations in this subpart and includes the requirements and limitations of HTS subheading 1701.11.02 and additional U.S. note 3.

(o) *Sugar* means raw cane sugar described in subheading 1701.11.02 of the HTS.

§ 1530.301 Application for a license.

(a) An applicant for a license must apply in writing to the Licensing Authority. The letter of application shall contain as a minimum the following information:

(1) The name and address of the applicant and of the facility or facilities at which imported sugar will be used to produce polyhydric alcohols;

(2) The license amount requested, not to exceed the anticipated requirements of the manufacturer on an annual basis;

(3) The name of the person that will establish a performance bond in favor of the United States Government on behalf of the applicant;

(4) The anticipated requirements of the manufacturer for sugar to be used in the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, on an annual basis; and

(5) The total quantity of polyhydric alcohol produced (other than by distillation), except polyhydric alcholols for use as a substitute for sugar in human food consumption, by the manufacturer during the previous 12-month period, and the total quantity of polyhydric alcohol produced by the manufacturer during the previous 12-month period.

(b) An application for a license shall contain a certification that the manufacturer shall use the quantity of sugar entered under a license solely for the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, and that the manufacturer shall notify the Licensing Authority, within 95 days of the exportation of any polyhydric alcohols, if such exportation has resulted in, or has been used as the basis of a claim by the licensee or any other person for, a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.92, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS and the amount of such refund.

(c) A licensee shall promptly notify the Licensing Authority if any of the information described in paragraph (a) of this section has changed and shall submit an amended application upon the request of the Licensing Authority.

(d) The Licensing Authority may waive any provisions of this section for good cause if it is determined that such a waiver will not adversely affect the purposes of this program.

§ 1530.302 Issuance of a license.

(a) The Secretary of Agriculture, through the Licensing Authority, may issue a license to a manufacturer under which the manufacturer, in accordance with the provisions of this program, may enter raw cane sugar described in subheading 1701.11.02 of the HTS for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. The license shall state the maximum amount of sugar which may be imported under the license. The license may contain such additional conditions, limitations or restrictions as the Licensing Authority determines to be appropriate for the purposes of this program. The Licensing Authority may add or modify such conditions, limitations or restrictions at such time and in such manner as the Licensing Authority, in his or her discretion, determines to be necessary or appropriate for the purposes of this program.

(b) The total quantity of sugar imported under a license must be used or the sole purpose of producing (other than by disillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, within 180 days of the date of entry of such sugar.

(c) The maximum amount of sugar which may be imported under the license will be the requirements of the manufacturer for sugar to be used in the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, during the 12-month period following the effective date of the license, as determined by the Licensing Authority. Quantities of sugar imported under the license will be charged to the license and quantities of sugar used for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, will be credited to the license as provided in § 1530.306. At no time may the charges to the license exceed the maximum license amount specified in the license.

(d) The licensee shall reserve all rights, if any, to claim drawback refunds with respect to the exportation of polyhydric alcohols under this program. No credit on a license shall be made if any refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS is claimed or received on the basis, or as a result, of the exportation of such polyhydric alcohols.

(e) If a licensee has made a full settlement of the balance on a license, the licensee may surrender the license on terms and conditions acceptable to the Licensing Authority. A licensee may not transfer a license to any other person. Any attempt to transfer or assign a license shall be null and void and shall be grounds for the revocation of the license by the Licensing Authority.

(f) The licensee may utilize an agent to enter imported sugar. The licensee must provide to the Licensing Authority a copy of a written authorization designating such person to act as an agent for the purpose of entering sugar, and the agent shall produce such authorization for inspection by the appropriate U.S. Customs Service official at the time of entry. If the licensee uses an agent to export polyhydric alcohol, the licensee shall notify the Licensing Authority in writing of the agent's identity.

§ 1530.303 Bond requirements.

(a) Unless the licensee has posted a performance bond with the U.S. Customs Service which is satisfactory to the Licensing Authority with respect to the requirements of this program, the licensee shall post a performance bond, which meets the requirements of this section, with the Licensing Authority.

(b) A bond may cover entries made either during the period of time specified in the bond (term bond) or for a specified entry (single entry bond).

(c) Only the licensee who will use the sugar may be the principal on a bond to cover such sugar to be imported. The surety or sureties shall be among those listed by the Secretary of the Treasury as acceptable on Federal bonds.

(d) The obligation under the bond shall be made effective as of the date of entry of the sugar.

(e) The amount of the bond shall be equal to 20 cents per pound of sugar imported under the license.

(f) The appropriate customs official or the Licensing Authority, as appropriate, will release the obligation under the bond by 20 cents per pound for the quantity of sugar used in the production of polyhydric alcohols and credited to the license in accordance with § 1530.306, as determined by the Licensing Authority.

(g) If the licensee fails to qualify for a credit to the license within 95 days of the date of production of polyhydric alcohols in a quantity sufficient to offset the charge to the license for the imported sugar used for producing such polyhydric alcohols, or if such a credit initially granted is subsequently revoked, payment will be made to the United States of America under the bond of a monetary amount equal to up to 1.5 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of

raw sugar, in effect on the last market day before the date of entry of the sugar or the last market day before the end of the period during which production of polyhydric alcohol was required, whichever difference is greater, times the quantity of raw sugar that should have been, but was not, used in the production of polyhydric alcohol in timely compliance with the requirements of this subpart. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate such price as he or she deems appropriate.

(h) Within 10 business days of the date of issuance of a license, the licensee shall submit to the Licensing Authority a copy of the performance bond.

§ 1530.304 Entry of sugar.

(a) The licensee shall be permitted to enter imported sugar under subheading 1701.11.02 of the HTS in conformity with the conditions, limitations and restrictions of the license, the provisions of this subpart and additional U.S. note 3, and any other procedures specified by the Licensing Authority.

(b) The licensee must present the license to the appropriate U.S. Customs Service official at the time of entry. Such customs official will mark on the license:

(1) The quantity of sugar entered;

(2) The date of entry; and

(3) The customs entry number.

(c) The licensee shall submit to the Licensing Authority a copy of the license, as marked by the customs official, within 10 business days after each entry of sugar.

§ 1530.305 Proof of production of polyhydric alcohols.

(a) Certificate of use. Within 30 days of the date of production of polyhydric alcohols from sugar imported under a license, the licensee shall provide a written certification, signed by the licensee, to the Licensing Authority that he or she has used, within 180 days of the date of entry of sugar under the license, such sugar for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. The certification shall include:

(1) The licensee's name, address, and license number;

(2) The customs entry number(s), date(s) of entry, and total weight of sugar used in the production of such polyhydric alcohols;

(3) The date(s) on which such polyhydric alcohols were produced; and

(4) The following certification, with all blank spaces appropriately filled in as indicated by the instructions placed in brackets:

> The undersigned hereby certifies that between [insert date(s) of production of polyhydric alcohols] _____, 19____, and _____, 19____, the undersigned has used [insert total weight of imported sugar] _____ pounds of sugar, imported on [insert date of entry] _____, 19____, for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption. The undersigned further certifies that the quantity of sugar shown on this certificate of use does not include any sugar previously covered by another certificate of use.

(b) If polyhydric alcohols produced with sugar imported under the license are exported, the licensee shall provide an additional written certification, signed by the licensee, to the Licensing Authority, within 95 days of the date of exportation of the polyhydric alcohols. The certification shall include:

(1) The licensee's name, address, and license number;

(2) The customs entry number(s), date(s) of entry, and total weight of sugar used in the production of such polyhydric alcohols;

(3) The date(s) on which such polyhydric alcohols were produced;

(4) The date of export, the port or point from which exported, the bill of lading number(s), and an identification of the vessel or other export carrier and any agent used in connection with the export;

(5) The country of destination and foreign consignee;

(6) The entry number of a claim, if any, by the licensee or any other person for a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS on the basis, or as a result, of the exportation of the polyhydric alcohol and the amount of such refund; and

(7) A statement that the licensee has reserved all rights to claim drawback refunds with respect to the exportation of the polyhydric alcohol, and that no refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, of the exportation of the polyhydric alcohol.

(c) If polyhydric alcohols produced with sugar imported under the license are exported, the licensee shall provide to the Licensing Authority, within 95 days of the date of exportation of the polyhydric alcohols, the following documentation:

(1) An original, certified U.S. Customs Service Form 7512; and

(2) An original bill of lading or copy of a U.S. Customs Service Form 7511.

(d) Notice of drawback claims. Whenever the licensee knows or has reason to know that any claim has been made, by the licensee or any other person for a refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS on the basis, or as a result, of the exportation of polyhydric alcohol, whether or not such polyhydric alcohol was produced from sugar imported under the licensee's license, the licensee shall within 5 business days provide a written notification to the Licensing Authority. This notification shall include the following information, if known or reasonably believed to be true by the licensee:

(1) The licensee's name, address, and license number;

(2) A description, and the weight, of such polyhydric alcohol exported;

(3) An identification of the imported sugar which was used in the production of the polyhydric alcohol, including the quantity of the imported sugar;

(4) The date of export, the port or point from which exported, the bill of lading number(s), and an identification of the vessel or other export carrier and any agent used in connection with the export;

(5) The country of destination and foreign consignee;

(6) The entry number of the drawback claim and the amount of such refund of duties; and

(7) The identity of the person who filed such drawback entry.

(e) The Licensing Authority may waive any of the provisions of this section if compliance with the relevant provisions of HTS subheading 1701.11.02, additional U.S. note 3, and all other regulations in this subpart is otherwise established to the Licensing Authority's satisfaction.

§ 1530.306 Charges and credits to licenses.

(a) Charges will be made to a license, effective as of the date of entry, for quantities of sugar entered under the license, when the licensee submits the

license as required by § 1530.304(c) or when the Licensing Authority otherwise determines that the licensee has made an entry under subheading 1701.11.02 of the HTS.

(b) At the request of the licensee and upon satisfactory and timely proof that the licensee has complied with all of the requirements of this program, the Licensing Authority will credit a license for quantities of sugar for which a Certificate of Use has been submitted in accordance with the provisions of § 1530.305 of this subpart, but only if the Licensing Authority is satisfied that no refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, of the exportation of the polyhydric alcohol.

(c) The Licensing Authority may revoke any credit previously made to a license if the Licensing Authority determines, on the basis of evidence obtained after the credit was granted, that the licensee had not complied with all of the requirements of this subpart.

§ 1530.307 Replacement of sugars; substitution of sugars.

The sugar used in the production of polyhydric alcohols under this program must be the identical sugar imported under the license. The licensee shall not substitute other sugar for sugar imported under the license or replace such imported sugar with other sugar.

§ 1530.308 Records.

(a) Each licensee requesting credit in accordance with § 1530.306(b) shall keep records to establish for all sugar imported, and for all polyhydric alcohol produced, under the provisions of this program:

(1) The quantity and identity of the sugar imported by the licensee under the provisions of this subpart, including the customs entry numbers;

(2) The quantity and description of the polyhydric alcohols manufactured and the date or inclusive dates of manufacture;

(3) The quantity of sugar actually used in the production (other than by distillation) of polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption; and

(4) If any polyhydric alcohols have been exported, the country of destination, foreign consignee, date of export, port, export carrier and any agent used in connection with the export and all documents relating to such exportation, including but not limited to any contract, invoice, bill of lading, dock receipt, ship's manifest, or copies thereof; and all drawback entries, if any, including all related documents, filed by the licensee or any other person for a refund, as drawback, of any customs duties paid on the importation of any sugars, syrups or molasses described in subheadings 1701.11.01, 1701.11.02, 1701.11.03, 1701.12.01, 1701.12.02, 1701.91.21, 1701.91.22, 1701.99.01, 1701.99.02, 1702.90.31, 1702.90.32, 1806.10.41, 1806.10.42, 2106.90.11, and 2106.90.12 of the HTS on the basis, or as a result, of the exportation of the polyhydric alcohol and the amount of any such refund paid.

(b) All records required by this section to be kept by a licensee shall be retained for at least 5 years after a license is credited for the production of the polyhydric alcohol.

(c) The licensee must, upon request, make the records covered by this section available for inspection and copying by the Licensing Authority or other appropriate official of the Federal Government.

(d) If, after inspection of the records, the Licensing Authority determines that such records are inadequate to establish that the sugar imported under the license was used for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, or that drawback of duties on the importation of any sugars, syrups or molasses described in subheadings 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS was not claimed or received on the basis, or as a result, of the exportation of the polyhydric alcohol, or that any other requirement of this program was complied with, the Licensing Authority may revoke credits granted for the appropriate quantity of sugar.

§ 1530.309 Enforcement.

(a) If at any time after receiving the proof of production of polyhydric alcohol described in § 1530.305 of this subpart, the Licensing Authority determines that the sugar entered under the license was not used for the sole purpose of producing (other than by distillation) polyhydric alcohols, except polyhydric alcohols for use as a substitute for sugar in human food consumption, and if the bond has been released under § 1530.305, the Licensing Authority may hold the licensee liable for up to 1.5 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of raw sugar, in effect on the last market day before the date of entry of the sugar or the last market day before the end of the period during which production of polyhydric alcohol was required, whichever difference is greater, times the quantity of sugar that should have been, but was not, used in such production of such polyhydric alcohol. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate such price as he or she deems appropriate.

(b) If at any time after receiving the licensee's certification that no refund, as drawback, of any duties paid on the importation of any sugars, syrups or molasses described in subheading 1701.11.03, 1701.12.02, 1701.91.22, 1701.99.02, 1702.90.32, 1806.10.42, or 2106.90.12 of the HTS has been or will be claimed or received on the basis, or as a result, of the exportation of polyhydric alcohol, the Licensing Authority determines that a refund of such customs duties has been claimed or received by the licensee or any other person, and if the bond has been released under § 1530.303, the Licensing Authority may hold the licensee liable for up to 1.5 times the difference between the Number 11 contract price and the Number 14 contract price, per pound of raw sugar, in effect on the last market day before the date of entry of the sugar or the last market day before the end of the period during which export was required, whichever difference is greater, times the quantity of sugar used in the production of such polyhydric alcohol. In the event no Number 11 contract price or Number 14 contract price is reported by the New York Coffee, Sugar and Cocoa Exchange, for the relevant market day, the Licensing Authority may estimate such price as he or she deems appropriate.

(c) If at any time the Licensing Authority determines that a licensee has failed to comply with the requirements of this subpart, including the requirement of HTS subheading 1701.11.02 and of the relevant provisions of additional U.S. note 3, the Licensing Authority may, after notice to the licensee, suspend or revoke the license issued to the licensee under this program and may refuse to issue a license to that manufacturer.

§ 1530.310 Appeals.

(a) Any action or determination of the Licensing Authority under this subpart may be appealed to the Director, Import Policies and Trade Analysis Division,

Foreign Agricultural Service (FAS), within 30 days from the date of notification. The appeal must be presented in writing and must specifically state any reason as to why such determination should not stand. The Director, Import Policies and Trade Analysis Division, FAS, will provide such person with an opportunity for an informal hearing on such matter.

(b) A further appeal from the final decision of the Director, Import Policies and Trade Analysis Division, FAS, may be made to the Administrator, FAS, within five business days of the notification of the decision of the Director, Import Policies and Trade Analysis Division, FAS.

§ 1530.311 Waivers.

Upon written application of the licensee, the Licensing Authority may extend the period for the production of polyhydric alcohols, may temporarily increase the maximum amount of the license, may extend the period for submitting proof of use, or may temporarily waive or modify any other requirement imposed by this subpart if such waiver or modification is necessary or appropriate under unusual, unforeseen or extraordinary circumstances and will not frustrate the purposes of this program and if compliance with the relevant provisions of HTS subheading 1701.11.02, additional U.S. note 3 is established to the Licensing Authority's satisfaction. the Licensing Authority may specify additional requirements or procedures in place of the requirements or procedures waived or modified.

§ 1530.312 Expiration of licenses.

(a) The licenses issued under this program shall expire upon written notice to the licensees by the Licensing Authority. The notice will state the date on which the licenses will expire and any other details applicable to the expiration of the licenses.

(b) If there have been no charges or credits on the license within 12 months of the date on which the license was issued, or any subsequent period of 18 months, the license may be deemed to have expired.

§ 1530.313 Paperwork Reduction Act assigned number.

The Office of Management and Budget has approved the information collection requirements in these regulations in accordance with 44 U.S.C. chapter 35 and OMB number 0551–0015 has been assigned.

§ 1530.314 Transitional provisions.

(a) All licenses issued to manufacturers prior to October 1, 1990, pursuant to the provisions of 7 CFR 1530.201, under the program for "Sugar for Production of Polyhydric Alcohol," are canceled effective October 9, 1990.

(b) Any manufacturer who, on September 30, 1990, held a license which had a balance of charges and credits other than zero and which is canceled pursuant to paragraph (a) of this section may be issued a new license upon such manufacturer's agreement to:

(1) Fully settle the balance outstanding on such previous license, by bringing such balance to zero;

(2) Comply with all the provisions of this subpart, subheading 1701.11.02 of the HTS, and additional U.S. note 3; and

(3) Comply with any terms, conditions and procedures imposed by the Licensing Authority in order to assure an orderly transition.

(c) During the transitional period between October 1, 1990, and the promulgation of a final rule to replace the interim rule issued on October 9, 1990, the Licensing Authority may modify or waive any requirement of this subpart, including the requirements that a manufacturer make a written application for a license prior to the issuance of the license and make a written application for a waiver under § 1530.210 of this subpart, if the Licensing Authority determines such modification or waiver is necessary or appropriate to assure an orderly transition and will not frustrate the purposes of this program.

PART 6—[AMENDED]

§§ 6.90–6.93 [Removed]

2. In 7 CFR part 6, subpart—Sugar Import Quotas, consisting of §§ 6.90 through 6.93, is removed.

§§ 6.100–6.113 [Removed]

3. In 7 CFR part 6, the subpart heading "Subpart—Importation of Sugar Free from Quota" is revised to read "Subpart—Calculation of Market Stabilization Price"; the undesignated centerheading "Sugar to be Re-Exported in Refined Form", the authority citation following the centerheading, and §§ 6.100 through 6.113 are removed; and the undesignated centerheading which reads "Calculation of Market Stabilization Price" is removed.

§§ 6.300–6.302 [Redesignated as §§ 6.100–6.102]

4. In 7 CFR part 6, the authority citation preceding §§ 6.300 through 6.302 is redesignated as the authority citation for "Subpart—Calculation of Market Stabilization Price" and §§ 6.300 through 6.302 are redesignated as §§ 6.100 through 6.102, respectively.

Signed at Washington, DC on October 5, 1990.

Clayton Yeutter,

Secretary of Agriculture.

[FR Doc. 90–24143 Filed 10–9–90; 4:57 pm]

BILLING CODE 3410–10–M

Food and Nutrition Service

7 CFR Part 210

National School Lunch Program; Pilot Project Exemptions

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends 7 CFR part 210, the National School Lunch Program, to permit the Department to exempt those State agencies or school food authorities selected for the pilot projects mandated under section 205 of Public Law 101–147 from some or all of the regulatory requirements relating to the counting of meals and the applications for free and reduced price eligibility. Additionally, this rule extends the approved exemptions to the School Breakfast and/or Special Milk Programs, if pilot project schools also operate these programs. This rule responds to a directive to the Secretary of Agriculture in section 205 of Public Law 101–147 to issue final regulations implementing the pilot projects.

EFFECTIVE DATE: This rule is effective July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, room 515, Alexandria, Virginia 22302 or phone (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

Section 205(b) of Public Law 101–147, the Child Nutrition and WIC Reauthorization Act of 1989, directs the Secretary of Agriculture to issue final regulations, not later than July 1, 1990, implementing the pilot projects authorized under section 18(d) of the National School Lunch Act (42 U.S.C. 1769(d)). Further, the provisions in this rule are nondiscretionary and interpretive in nature. For these reasons, the Administrator of the Food and Nutrition Service has determined, in accordance with 5 U.S.C. 553(b)(3) (A)

and (B), that it is impracticable, unnecessary and contrary to public interest to take prior public comment and that good cause therefore exists for publishing this rule without prior public comment. For the same reasons, the Administrator has determined in accordance with 5 U.S.C. 553(d) (1) and (3) that good cause exists for making this rule effective without a 30 day post-publication waiting period. Finally, because section 205 of Public Law 101–147 charges the Secretary to issue final regulations implementing the pilot projects not later than July 1, 1990, this rule is being made effective retroactive to July 1, 1990.

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

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

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

The National School Lunch Program is listed in the Catalog of Federal Domestic Assistance under No. 10.555 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR part 3015, subpart V and final rule related notice at 48 FR 29114, June 24, 1983.)

Background

Section 205(a) of Public Law 101–147, the Child Nutrition and WIC Reauthorization Act of 1989, amended section 18(g) (later redesignated as section 18(d)) of the National School Lunch Act (NSLA) (42 U.S.C. 1769(d)) to require the Secretary to conduct pilot projects seeking to simplify the paperwork burden incurred by State agencies and school food authorities relating to the requirements for daily lunch counts and annual applications for free and reduced price meals.

The first pilot program, authorized under section 18(d)(1) of the NSLA, requires the Department to solicit proposals for State agencies and school food authorities to conduct pilot programs which test alternatives to daily meal counts and annual applications. The second and third pilot programs, authorized under paragraphs (d)(2) and (d)(3) of section 18 of the NSLA, require the Department to carry out pilot programs under which a limited number of schools participating under Provision 1 and Provision 2 of the special assistance certification and reimbursement alternatives have the option of determining the number of free, reduced price and paid meals served daily by multiplying the daily total meal counts by percentages determined on the basis of current enrollment and eligibility status. In addition to the three required pilot programs, section 18(d)(4) of the NSLA authorizes the Department to conduct any other pilot programs to test alternative counting and claiming procedures which do not fall into the pilot programs otherwise authorized under section 18(d).

Accordingly, the Department published a notice on June 11, 1990 (55 FR 23572) soliciting proposals from State agencies and school food authorities wishing to conduct pilot projects under the authority of section 18(d)(1) of the NSLA. The Department will notify State agencies and school food authorities by August 10, 1990 if their proposals are approved. In addition, the Department sent a targeted mailing to school food authorities with schools currently participating in the special assistance certification and reimbursement alternatives under 7 CFR 245.9 soliciting their participation in the pilot projects authorized under paragraphs (d)(2) and (d)(3) of section 18 of the NSLA.

In addition to the mandate to conduct pilot projects, section 205(b) of Public Law 101–147 also directed the Secretary of Agriculture to issue final regulations implementing the pilot projects. In order to implement the pilot projects under section 18(d)(1), section 205(a) allows the Department to permit selected school food authorities and State agencies to depart from some or all of the statutory requirements relating to daily meal counts, by type, and annual applications for free and reduced price meals. Unlike the projects authorized under section 18(d)(1), the conditions for the pilot projects under sections 18(d) (2) and (3) are specifically described in the statute. Therefore, no statutory waiver authority is necessary. In order to comply with the statutory mandates for these projects, however, it will be necessary to waive certain regulatory provisions. In addition, while no projects are currently contemplated under section 18(d)(4), any projects instituted in the future could require deviations from the regulations (although no statutory provisions could be waived). Therefore, this rule responds to this additional directive by amending the National School Lunch Program regulations to permit the Department to exempt those State agencies or school food authorities selected for the pilot projects mandated under section 18(d) of the NSLA from some or all of the requirements relating to the counting of meals and the applications for free and reduced price eligibility requirements of 7 CFR parts 210 and 245.

This rule further allows the Department to extend the approved exemptions to the School Breakfast and/or Special Milk Programs requirements, when those Programs operate in an approved pilot program school. Eligibility and counting requirements for those Programs are similar to those requirements under the National School Lunch Program and the extension of the exemptions is necessary to ensure that pilot program schools need only administer one set of procedures. The Department emphasizes that exemptions will be authorized only when necessary to carry out the approved demonstration projects.

List of Subjects in 7 CFR Part 210

Food assistance programs, National School Lunch Program, Commodity School Program, Grants programs-social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities. Accordingly, 7 CFR part 210 is amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

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

Authority: The provisions of Part 210 issued under secs. 2–12, 60 Stat. 230, as amended; sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751–1760, 1779.

2. Part 210.28 Regional Office addresses and § 210.29 OMB control numbers are redesignated as §§ 210.29 and 210.30, respectively, and a new § 210.28 is added to read as follows:

§ 210.28 Pilot project exemptions.

Those State agencies or school food authorities selected for the pilot projects mandated under section 18(d) of the Act may be exempted by the Department from some or all of the counting and free and reduced price application requirements of this part and 7 CFR part 245, as necessary, to conduct an approved pilot project. Additionally, those schools selected for pilot projects that also operate the School Breakfast Program (7 CFR part 220) and/or the Special Milk Program for Children (7 CFR part 215), may be exempted from the counting and free and reduced price application requirements mandated under these Programs. The Department shall notify the appropriate State agencies and school food authorities of its determination of which requirements are exempted after the Department's selection of pilot projects.

Dated: October 5, 1990.

Betty Jo Nelsen,

Administrator.

[FR Doc. 90-24101 Filed 10-11-90; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 1079

[DA-90-027]

Milk in the Iowa Marketing Area; Revision of Supply Plant Shipping Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Revision of rules.

SUMMARY: This action revises certain provisions of the Iowa Federal milk order for the months of September through November. The action reduces the shipping percentage for pooling supply plants by 5 percentage points from 35 to 30 percent of receipts. The revision is made in response to a request by Beatrice Cheese, Inc., the operator of a supply plant who ships milk to distributing plants regulated under the order. The action is necessary to prevent uneconomic shipments of milk from supply plants to distributing plants. In addition, since these shipping percentages have been reduced during the months of September-November for each of the last five years, the shipping percentage are being reduced during these months for an indefinite period.

EFFECTIVE DATE: October 12, 1990.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Revision of Supply Plant Shipping Percentages; Issued August 2, 1990; published August 8, 1990 (55 FR 32263).

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action reduces the regulatory impact on milk handlers and tends to ensure that the market will be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

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

This revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the provisions of § 1079.7(b)(1) of the Iowa order.

Notice of proposed rulemaking was published in the **Federal Register** (55 FR 32263) concerning a proposed decrease in the shipping percentage for pool supply plants for the months of September through November. The public was afforded the opportunity to comment on the proposed notice by submitting written data, views and arguments by August 15, 1990.

Statement of Consideration

After consideration of all relevant material, including the proposal set forth in the aforesaid notice, and other available information, it is hereby found and determined that the supply plant shipping percentage should be lowered by 5 percentage points from the present 35 to 30 percent of milk receipts during the months of September through November.

Section 1079.7(b)(1) of the Iowa order provides that the Director of the Dairy Division may increase or reduce the supply plant shipping percentage by up to 10 percentage points. The adjustments can be made to encourage additional milk shipments or to prevent uneconomic shipments.

A reduction of 5 percentage points to the supply plant shipping percentage for the months of September-November 1990 was proposed by Beatrice Cheese, Inc., a handler who operates a pool supply plant under the order. The handler contends that the reduction of the shipping standard is necessary to prevent uneconomic shipments from supply plants to distributing plants. The handler points out that receipts of producer milk under the order during the first six months of 1990 were up about 4 percent from the previous year. In addition, about 26 percent of producer milk pooled under the order was used in Class I during the first six months, compared to 26.5 percent the previous year. The handler also points out that receipts for milk at its supply plant during the first six months were about 5 percent greater than the previous year. Based on the relationship of fluid milk sales to the receipts of milk, the handler contends that a reduction of the supply plant shipping percentage is necessary to prevent uneconomic shipments during the months of September-November 1990. Absent a reduction, the handler contends that it would have to engage in the uneconomic backhauling of 2.0 to 2.5 million pounds of milk per month in order to pool its supply of milk. The handler maintains that distributing plants would be adequately supplied with milk with a lowering of the supply plant shipping percentage by 5 percentage points to 30 percent of receipts.

The notice of proposed rulemaking noted that these supply plant shipping percentages had been reduced during the months of September through November during each of the last five years. As a result of this history of the supply/demand relationship for the market during these months, consideration was given to reducing the shipping percentage for the months of September through November for an indefinite period.

Mid-America Dairymen, Inc. (Mid-Am), a cooperative association that represents producers who supply the market, filed comments opposing the requested action. Mid-Am expressed the view that a reduction of the shipping percentage could result in a shortage of milk for Class I use at distributing plants. Basically, Mid-Am contends that a review of the market's supply/demand relationship for the first six months of the year is not necessarily indicative of the supply/demand relationship that will exist during the last half of the year. Mid-Am notes that during the last half of 1989, producer receipts declined by about 14 percent from the same period in 1988 resulting in a Class I utilization of more than 36 percent compared to a 30 percent Class I utilization during the last half of 1988. As a result, Mid-Am

contends that a reduction of the supply plant shipping percentage is unwarranted for the September-November 1990 period, particularly since increased fluid milk sales can be anticipated with the opening of schools. In addition, Mid-Am contends that an indefinite reduction is not warranted in view of a number of uncertainties associated with milk production and marketing.

In a separate action, Associated Milk Producers Inc., (AMPI), a cooperative association that represents producers who supply the market, requested a suspension of certain provisions that limit the amount of milk that can be moved directly from farms to nonpool plants and still be priced under the order. In supporting this request, AMPI cited the same marketing conditions expressed by Beatrice Cheese. AMPI projects that, based on the first six months of the year, about 30 percent of the market's milk supply will be needed for Class I use during September-November this year. AMPI maintains that the normal historical utilization increase should be assumed rather than the aberration from the historical trend that occurred during 1989 when a significant quantity of milk was removed from the market because of pricing considerations.

The reasons presented by Mid-Am do not provide a sufficient basis for denying the request to reduce the supply plant shipping percentage during the months of September-November. The best available indicator of the market's potential supply/demand relationship for the months involved is an extension of the marketing conditions experienced during the first six months of the year and the historical relationship between marketing conditions during the first and second half of the year. In this regard, the experience of 1989 is a clear aberration from the normal trend. Consequently, the marketing conditions indicated by Beatrice Cheese and AMPI reflect a need to reduce the supply plant shipping percentage to avoid uneconomic shipments of milk during the September-November period.

A reduction of the shipping percentage this year results in a reduction during each of the last six years. Thus, it appears that a lower shipping standard during the months of September-November is more reflective of marketing conditions than the 35-percent shipping standard. Thus, the lower shipping standard should be established for these months for an indefinite period. Mid-Am's concerns that an indefinite lowering of the shipping standard may not reflect future marketing conditions are not persuasive since the order provides a remedy to either increase or reduce the shipping standard as a result of changes in marketing conditions. Further, an indefinite duration in view of the history or revision actions, is more likely to result in a reduction of rulemaking actions that occur in continuously adjusting these provisions of the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest is that:

(a) This revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of September through November;

(b) This revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed revision was given interested parties and they were afforded the opportunity to file written data, views, or arguments concerning this revision.

Therefore, good cause exists for making this revision effective upon publication of this notice in the **Federal Register**.

List of Subjects in 7 CFR Part 1079

Milk marketing orders.

It is therefore ordered that the following provisions of § 1079.7(b) of the Iowa milk order are hereby revised for the months of September through November.

PART 1079—MILK IN THE IOWA MARKETING AREA

1. The authority for 7 CFR part 1079 continues to read as follows:

Authority: Sections 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

§ 1079. [Amended]

2. In the introductory text of § 1079.7(b), the provision "35 percent" is revised to "30 percent" for the months of September, October and November.

Signed at Washington, DC on: October 5, 1990.

W. H. Blanchard,

Director, Dairy Division.

[FR Doc. 90–24057 Filed 10–11–90; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 78

[Docket No. 90–178]

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 Idaho from Class A to Class Free. We have determined that Idaho now meets the standards for Class Free status. This action relieves certain restrictions on the interstate movement of cattle from Idaho.

DATES: Interim rule effective October 9, 1990. Consideration will be given only to comments received on or before December 11, 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 90–178. 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 brucellosis 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, Idaho 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 Idaho 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. Idaho now meets the standards for classification as Class Free.

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

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 Idaho.

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 Idaho from Class A to Class Free reduces certain testing and other requirements governing the interstate movement of cattle from Idaho. 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 Idaho, as well as buyers and importers of Idaho cattle.

There are an estimated 16,000 herds in Idaho, 98 percent of which are owned by small entities that would be affected by this rule. 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, but not under regulations concerning Class Free status. Last year Idaho tested 86,454 cattle under the Class A status regulations for change-of-ownership. This testing costs approximately $3.50 per head, or $302,589. If such testing were distributed equally among all herds affected by this rule, Class Free status would save less than $19 per herd.

Therefore, we have determined that changing Idaho's brucellosis status to Class Free should 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–1, 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 "Idaho," after "Hawaii,".

§ 78.41 [Amended]

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

Done in Washington, DC, this 9th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–24098 Filed 10–11–90; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–94–AD; Amdt. 39–6771]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A320 series airplanes, which requires replacement of the ram air turbine (RAT) ejection jack with a new or modified ejection jack. This amendment is prompted by a report of a RAT failing to deploy on command in flight due to a malfunction of the ejection jack. This condition, if not corrected, could result in the RAT failing to deploy due to ejection jack overload, and subsequently, the RAT failing to provide hydraulic power in an emergency situation.

EFFECTIVE DATE: November 19, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 227–2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to certain Airbus Industrie Model A320 series airplanes, which requires replacement of the ram air turbine (RAT) ejection jack with a new or modified ejection jack, was published in the **Federal Register** on June 7, 1990 (55 FR 23218).

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

The Air Transport Association (ATA) of America supported the rule. The other commenter, Airbus Industrie, recommended that the rule be modified to be consistent with the revised French Airworthiness Directive (AD) 90–026–07(B)R1, dated April 18, 1990. The revised French AD introduced a rigging adjustment on the RAT, to be performed within 30 days after the effective date of the AD and furthermore required replacement of the ejection jack prior to June 30, 1991 (rather than the 30-day compliance time proposed in this AD action). The FAA does not concur that the rigging adjustment must be incorporated into the proposed rule since the rigging adjustment has already been accomplished on all currently-operating Model A320 series airplanes in the U.S. fleet. The FAA also does not concur with the recommendation to extend the compliance time for replacement of the ejection jack, since failure of the RAT to deploy following the loss of generated electrical power could result in the loss of electrical power. The FAA has determined that the interval proposed is the maximum permissible time allowable without compromising air safety. However, if an individual operator can provide substantiating data and/or alternative inspection procedures to the FAA that will justify a change in the compliance time specified in the AD and still maintain an acceptable level of safety, that request will be considered under the provisions of paragraph B of the final rule.

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

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

It is estimated that 27 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification of the ejection jack will be performed by Dowty Rotol at no cost to the operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,320.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended].

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

Airbus Industrie: Applies to Model A320 series airplanes, which have not incorporated Modification 21892, certificated in any category. Compliance is requried within 30 days after the effective date of this AD, unless previously accomplished.

To prevent failure of the ram air turbine (RAT) to deploy on command due to a malfunction of the extention jack, accomplish the following:

A. Remove ejection jack, Part Number (P/N) 114160003, and replace it with a new or modified ejection jack, P/N 114160004 or 114160005, in accordance with Air Industrie Service Bulletin A320–29–1030, dated February 15, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which

provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective November 19, 1990.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service

[FR Doc. 90–24077 Filed 10–11–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–91–AD; Amdt 39–6770]

Airworthiness Directives; Airbus Industrie Model A320–111, A320–211, and A320–231 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Industrie Model A320–111, A320–211, and A320–231 series airplanes, which requires disconnecting the two wires controlling the test function of certain angle of attack sensors. This amendment is prompted by a safety analysis which disclosed that there is insufficient segregation of the test control circuits of the angle of attack sensors. This condition, if not corrected, could result in simultaneous activation in flight of the test function of two of the angle of attack sensors and a subsequent incorrect pitch-down command to the elevator.

EFFECTIVE DATE: November 19, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 227–2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all Airbus Industrie Model A310–111, A320–211, and A320–231 series airplanes, which requires disconnecting the two wires controlling the test function of certain angle of attack sensors, was published in the **Federal Register** on June 7, 1990 (55 FR 23228).

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

The commenter supported the rule.

Since the issuance of the Notice, Airbus Industrie has issued Revision 2 to Service Bulletin A320–34–1012, dated June 8, 1990. This revision clarifies the procedures for disconnecting the two wires controlling the test function of certain angle of attack sensors. The final rule has been revised to reflect the latest revision to the service bulletin as an additional service information source.

Airbus Industrie has also issued Service Bulletin No. A320–34–1013, dated June 1, 1990, which describes procedures for rerouting the test control wires to eliminate the risk of failure to a wire loom. The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, has not classified this service bulletin as mandatory, but considers these procedures to be equivalent to those required by this AD. The FAA concurs that the accomplishment of Modification 21824P1953 serves as an optional means of compliance for the requirements of this AD. Consequently, paragraph A.2. has been added to the final rule to provide for an optional means of compliance; i.e., the accomplishment of Modification 21824P1953, which entails rerouting the test control wires on the angle of attack sensors.

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

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

It is estimated that 17 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3.5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,380.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U S.C. 1354(a), 1421 and 1423;

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

§ 39.13 [Amended]

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

Airbus Industrie: Applies to all Model A320–111, A320–211, and A320–231 series airplanes, certificated in any category. Compliance is required within the next 350 hours time-in-service after the effective date of this AD, unless previously accomplished.

To prevent the simultaneous activation in flight of two angle of attack sensors and subsequent incorrect pitch-down command to the elevator, accomplish the following:

A. Perform one of the following:

1. Disconnect and modify the wiring in the relay box 103VU, in Zone 127, and in Zone 232, in accordance with Airbus Industrie Service Bulletin A320–34–1012, Revision 1, dated April 10, 1990; or Revision 2 dated June 8, 1990; or

2. Accomplish Modification No. 21824P1953, which consists of moving the test control wires of the angle of attack sensors, in accordance with Airbus Industrie Service Bulletin A320–34–1013, dated June 1, 1990.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective November 19, 1990.

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

Darrell M. Pederson

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–24076 Filed 10–11–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–195–AD; Amdt 39–6765]

Airworthiness Directives; Boeing Model 727 and 727–100 Series Airplanes, Equipped with Main Deck Cargo Door Installed In Accordance with Supplemental Type Certificate (STC) SA1368SO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727 and 727–100 series airplanes, equipped with a main deck cargo door installed in accordance with STC SA1368SO, which requires a one-time inspection to determine if cargo door latch lockpins have been removed; interim repetitive inspections of various cargo door components to ensure continued integrity, and repair, if necessary; and eventual installation of six latch locking mechanisms in those doors from which they were previously removed. This amendment is prompted by the results of an audit of the cargo door installation which revealed that six cargo door latch lockpins were removed by virtue of a revision to the STC. This condition, if not corrected, could result in inadvertent in-flight opening of the main deck cargo door, with resultant major structural damage and possible loss of controllability of the airplane.

EFFECTIVE DATE: October 29, 1990.

ADDRESSES: The applicable service information may be obtained from Aeronautical Engineers, Inc., P.O. Box 661027, Miami, Florida 33166. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Mr. Rich Jennings, Systems and Equipment Branch, ACE–130A; telephone (404) 991–3020. Mailing address: FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349.

SUPPLEMENTARY INFORMATION: During an audit of a cargo door installation on a Boeing Model 727 series airplane, an unsafe condition was discovered with respect to the latch locking mechanism installed in accordance with Supplemental Type Certificate (STC) SA1368SO. The unsafe condition was introduced by Revision "N" to the Aeronautical Engineers, Inc. (AEI), Drawing List, Report Number R–517, dated September 15, 1987. This revision authorized removal of six of the seven locking mechanisms approved as part of the original STC. Service history has shown that airplanes that do not have a means to lock each latch of an outward opening cargo door are subject to in-flight failures of the doors. This condition, if not corrected, could result in an inadvertent in-flight opening of the main cargo door, with resultant major structural damage and possible loss of controllability of the airplane.

The FAA has reviewed and approved Aeronautical Engineers, Inc., Service Bulletin Report No. R–690, dated August 22, 1990, which describes procedures for installing six latch locking mechanisms to STC SA1368SO cargo doors.

Since this condition is likely to exist on other airplanes of the same type design, this AD requires (1) A one-time inspection to determine if each of the seven door latches has a locking mechanism; (2) if locking mechanisms have been removed, requires the installation of a warning placard in the cockpit, verification that the cargo door is properly secured prior to each takeoff that is preceded by cargo door operation, repetitive inspections of various cargo door components to ensure continued integrity, and repair of any discrepancies, if necessary; and (3) eventual installation of the six latching mechanisms in those doors from which they were previously removed.

Since a situation exists that requires 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 regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 727 and 727–100 series airplanes, equipped with main deck cargo doors installed in accordance with Supplemental Type Certificate (STC) SA1368SO, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent inadvertent in-flight opening of the main deck cargo door, accomplish the following:

A. Within 5 days after the effective date of this AD, perform a visual inspection of the main deck cargo door to determine the number of cargo door latch lockpins installed. If 7 latchpins are installed, no further action is required.

B. If fewer than 7 latch lockpins are installed, within 10 days after the effective date of this AD, accomplish the following:

1. Install a warning placard in a prominent place in the cockpit stating: "Main Deck Cargo Door Latch Locks Missing—See AFM Limitations Section for Instructions."

2. Incorporate the following into the Limitations section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM.

a. Prior to takeoff after operation of the main cargo door: From outside the airplane, verify that the door in the closed position is flush with the fuselage and that the torque tube position indicator is visible through the view port indicating that the torque tube has rotated to the latched position.

b. Prior to takeoff after operation of the main cargo door: From inside the airplane:

(1) Verify that all seven latches are engaged; that latch alignment marks, which indicate latch in overcenter position, are aligned; and that the lockpin in the forward latch position (Position No. 1) is properly engaged.

(2) On the cargo door control panel, verify that all lights are extinguished, and that the door master power switch, if installed, is in the OFF position. If the master power switch is not installed, prior to each flight, pull the three cargo door hydraulic pump circuit breakers located on the P6–12B circuit breaker panel. These circuit breakers are to remain pulled during flight.

Warning: Do not pull the cargo door control circuit breaker located on the P6–2 circuit breaker panel. This deactivates the cargo door warning annunciator system.

C. Within 10 days after the effective date of this AD, and thereafter at intervals not to exceed 30 days, accomplish the following:

1. Verify proper rigging of the door latches in accordance with the procedures specified in section IV, page 8, of Aeronautical Engineers, Inc. (AEI), Service Bulletin Report No. R–690, dated August 22, 1990.

2. Perform a visual inspection of the cargo door warning annunciator system wiring, connectors, and switches for continued proper installation and continued integrity. If deficiencies are found, including broken or frayed wiring, repair prior to further flight.

3. Perform a functional inspection of the cargo door warning annunciator system, to verify that:

a. The "door closed," "latch lock," and "pin lock" limit switches (and corresponding lights on the door control panel) are functioning properly and in sequence; and

b. The cargo door warning light on the cargo door control panel and the cargo door warning light on the flight engineer's panel are illuminated when the main cargo door is open, and extinguished when the door is verified closed, latched, and locked.

4. With the cargo door properly rigged and in the closed, latched, and locked position, verify that the torque tube position indicator is properly indexed, and visible through the external view port.

D. Within 60 days after the effective date of this AD, install six cargo door latch locking mechanisms in accordance with AEI Service Bulletin Report No. R–690, dated August 22, 1990. Once this installation is accomplished, the repetitive inspections required by paragraph C. of this AD may be terminated, and the placard and the AFM revision required by paragraph B. of this AD may be removed.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Atlanta Aircraft Certification Office (ACO), ACE–130A, FAA, Central Region.

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

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Aeronautical Engineers, Inc., P.O. Box 661027, Miami, Florida 33166. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the FAA, Central Region, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, suite 210C, Atlanta, Georgia.

This amendment becomes effective October 29, 1990.

Issued in Renton, Washington, on October 1, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–24075 Filed 10–11–90; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–109–AD; Amdt 39–6768]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which currently requires inspection of the fuselage skin lap splice between body station (BS) 400 and BS 520 at stringers (S) 6L or S–6R and repair, if necessary. This action deletes the option of reinspecting known small cracks in lieu of repairing them before further flight. This amendment is prompted by further FAA consideration of the crack repair deferral option in the existing AD. This condition, if not corrected, could lead to sudden loss of cabin pressurization and the inability of the airplane fuselage to withstand fail-safe loads.

EFFECTIVE DATE: November 16, 1990.

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

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by superseding AD 89-05-03, Amendment 39-6146 (54 FR 7397, February 21, 1989), applicable to Boeing Model 747 series airplanes, to require inspection of the fuselage skin lap splice between BS 400 and BS 520 at stringer S-6L and S-6R and repair, if necessary, was published in the Federal Register on June 29, 1990 (55 FR 26701).

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

The Air Transport Association (ATA) of America, commenting on behalf of its members, expressed no objection to the rule.

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

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

There are approximately 628 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 202 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $64,640.

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 Relgulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39--[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding AD 89-05-03, Amendment 39-6146 (54 FR 7397, February 21, 1989), AD 89-05-03, with the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, line number 001 through 628, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent a failure of the fuselage skin lap splice between body station (BS) 400 and BS 520 at stringer S-6L and S-6R, accomplish the following:

A. Conduct close visual and high frequency eddy current (HFEC) inspection of the fuselage skin lap splice between BS 400 and BS 520, at stringers S-6L and S-6R for cracking, in accordance with Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, or Revision 1, dated March 29, 1990, at the following thresholds:

1. Within the next 100 landings after March 31, 1989 (the effective date of Amendment 39-6146, AD 89-05-03), for airplanes that have accumulated 16,000 or more landings as of March 31, 1989, unless previously accomplished within the last 4,900 landings.

2. Within the next 1,000 landings after March 31, 1989, or prior to the accumulation of 16,000 landings, whichever occurs first, for airplanes that have accumulated between 12,000 and 16,000 landings, as of March 31, 1989, unless previously accomplished within the last 4,000 landings.

3. Prior to the accumulation of 13,000 landings for airplanes that have accumulated 12,000 or fewer landings as of March 31, 1989, unless previously accomplished within the last 5,000 landings.

Adequate lighting must be used for this inspection. The eddy current inspections may be conducted without removal of the paint, provided the paint does not interfere with the inspections. Paint must be removed, using an approved chemical stripper, in any situation where the inspector determines that the paint is interfering with the proper functioning of the inspection instrument.

B. On airplanes which have been modified to the stretched-upper-deck configuration, as identified in Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, or Revision 1, dated March 29, 1990, the accumulated landing threshold for compliance with paragraph A. of this AD is measured from the time of the stretched-upper-deck modification.

C. If no cracking is detected, repeat the close visual and HFEC inspections required by paragraph A. of this AD, at intervals not to exceed 5,000 landings.

D. If cracks are detected, accomplish the repair or preventive modification of the affected lap splice in accordance with Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, or Revision 1, dated March 29, 1990, prior to further pressurized flight. If cracks are repaired in local areas without accomplishing preventive modification of the entire affected lap area, continue inspections of the unmodified and unrepaired areas of the affected lap splice in accordance wtth paragraph C. of this AD.

E. For airplanes incorporating the preventative modification, as described in Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, or Revision 1, dated March 29, 1990, accomplish the inspections required by paragraph A. of this AD, prior to accumulation of 10,000 landings after the modification and thereafter at intervals not to exceed 5,000 landings. If cracks are found, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, prior to further pressurized flight.

F. For purposes of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 1.5 psi.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon

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

This amendment becomes effective November 16, 1990.

Issued in Renton, Washington, on October 1, 1990.

Darell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24081 Filed 10-11-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-184-AD; Amdt 39-6764]

Airworthiness Directives; British Aerospace Model ATP Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model ATP series airplanes, which requires repetitive applications of an icing inhibitor to each propeller blade. This amendment is prompted by reports of vibration and/or fuselage skin damage due to the shedding of ice accretion for the propeller blades. This condition, if not corrected, could result in reduced structural integrity of the fuselage.

EFFECTIVE DATE: October 29, 1990.

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

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

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on all British Aerospace Model ATP series airplanes. There have been recent reports of vibration and/or fuselage skin damage on in-service airplanes due to the shedding of ice accretion from the propeller blades. This condition, if not corrected, could result in reduced structural intergrity of the fuselage.

British Aerospace has issued Service Bulletin ATP-61-2, dated Revision 1, October 31, 1989, which describes procedures for repetitive applications of Icex, an icing inhibitor, to the propeller blades to reduce the amount of ice buildup prior to shedding. The United Kingdom CAA has classified this service bulletin as mandatory.

British Aerospace has also issued Service Bulletin ATP-53-10, dated March 7, 1990, which describes procedures for the installation of ice guards on both the left side (Station 180FS and 126FS, and Stringers 6P to 22P) and right side (between Stations 180FS and 141.2FS, and Stringers 11S to 28S) of the fuselage. The accomplishment of this modification terminates the need for the repetitive applications of Icex. The United Kingdom CAA has not classified this service bulletin as mandatory.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires repetitive applications of Icex to the propeller blades, in accordance with Service Bulletin ATP-61-2, Revision 1, previously described.

The FAA considers the mandatory use of Icex to be an interim action to protect against propellers shedding ice particles large enough to damage the fuselage, until permanent action is accomplished to protect the fuselage from damage or prevent the ice buildup.

Since a situation exists that requires 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 as unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

British Aerospace: Applies to all Model ATP series airplanes, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To reduce ice accretion on the propeller blades and prevent subsequent damage to the fuselage, accomplish the following:

A. Within 50 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 50 hours time-in-service, apply Icex to the propeller blades, in accordance with British Aerospace Service Bulletin ATP-61-2, Revision 1, dated October 31, 1989.

B. Incorportion of Modification 10129A, the installation of ice guards on both the left (between Station 180FS and 126FS, and Stringers 6P to 22P) and right (between Station 180FS and 141.2FS, and Stringers 11S and 28S) sides of the fuselage, in accordance

with British Aerospace Service Bulletin ATP-53-10, dated March 7, 1990, constitutes terminating action for the repetitive applications of Icex to the propeller blades required by paragraph A. of this AD.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

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

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to British Aerospace, PLC, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective October 29, 1990.

Issued in Renton, Washington, on October 1, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24074 Filed 10-11-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-136-AD; Amdt. 39-6772]

Airworthiness Directive; British Aerospace Model BAe 125-800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model BAe 125-800A series airplanes, which requires a lubrication inspection of the main landing gear (MLG) upper and lower torque link pivots; visual and dye penetrant inspections to detect cracks or defects of the pivot pins and bolts, and repair or replacement, as necessary; and repetitive lubrication procedures thereafter. This amendment is prompted by reports of two instances in which a MLG torque link pin fractured due to overload induced by excessive stiffness in the torque link pivots. This condition, if not corrected, could result in failure of a link pin, and subsequent reduced structural integrity of the MLG.

EFFECTIVE DATE: November 19, 1990.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all British Aerospace Model BAe 125-800A series airplanes, which requires a lubrication inspection of the main landing gear (MLG) upper and lower torque link pivots; visual and dye penetrant inspection, to detect cracks or defects in the pivot pins and bolts, and repair or replacement, as necessary; and repetitive lubrication procedures thereafter, was published in the **Federal Register** on July 19, 1990 (55 FR 29387).

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

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

It is estimated that 119 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $4,760.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

British Aerospace: Applies to all Model BAe 125-800A series airplanes, on which British Aerospace Modification 253244A has not been incorporated, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent failure of a link pin and subsequent reduced structural integrity of the main landing gear (MLG), accomplish the following:

A. Within 30 days after the effective date of this AD, with the airplane on wheels, lubricate the right and left MLG upper and lower torque link pivots (three per landing gear), in accordance with British Aerospace Service Bulletin 32-222, dated November 10, 1989.

1. If grease *does appear* in all places indicated in the service bulletin, no further action in accordance with this AD is required and the airplane may be returned to service.

2. If grease *does not* appear in all places indicated in the service bulletin, prior to further flight, disassemble that MLG, perform visual and dye penetrant inspections to detect defects (scoring, wear, necking, ovality, and/or blocked grease holes) and cracks in the pivot pins and bolts, and hand lubricate the torque link pivots, in accordance with the service bulletin.

a. If the condition of the torque link pin or bolt reveals defects or cracks, prior to further flight, replace it with a serviceable part in accordance with the service bulletin.

b. If the clearance between any torque link and the MLG is less than 0.002 inch, carefully abrade the surfaces of the bushes in the torque link to achieve the required .002 inch minimum/.010 inch maximum condition, in accordance with the service bulletin.

c. At intervals not to exceed 50 landings, disassemble and repeat the special hand lubrication of the MLG upper and lower torque links, in accordance with the service bulletin.

B. Incorporation of Modification 253244A, in accordance with British Aerospace Service Bulletin 32-222-3244A, Revision 1, dated March 5, 1990, constitutes terminating action for the repetitive lubrication procedures required by paragraph A.2.c. of this AD.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041-0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment becomes effective November 19, 1990.

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

Darrel M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24078 Filed 10-11-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-NM-75-AD; Amdt. 39-6767]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires inspection and repair of the horizontal stabilizer center section rear spar upper chord, and includes a modification which, if accomplished, would terminate the requirement for the repetitive inspections. This action deletes the previous terminating provision and requires repetitive inspections of the modified or replaced structure. This amendment is prompted by a structural reevaluation which indicates that repetitive inspections of the modified and/or repaired structure are required to maintain safety. Undetected cracking in this structure could ultimately result in failure of the horizontal stabilizer.

EFFECTIVE DATE: November 16, 1990.

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

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2785. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 82-21-02, Amendment 39-4473 (47 FR 44713, October 12, 1982), applicable to certain Boeing Model 737 series airplanes, to delete the previous terminating provision and require repetitive inspections of the modified or replaced structure, was published in the Federal Register on June 1, 1990 (55 FR 22353).

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

The Air Transport Association (ATA) of America, on behalf of its members, expressed no obligation to the proposed rule.

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

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

There are approximately 198 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 153 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $48,960.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-4473, AD 82-21-02, with the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, listed in Boeing Alert Service Bulletin 737–55A1031, Revision 2, dated November 30, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracking in the horizontal stabilizer center section rear spar upper chord, accomplish the following:

A. Prior to the accumulation of 35,000 landings, or within 350 landings after October 18, 1982 (the effective date of AD 82–21–01, Amendment 39–4473), whichever occurs later, unless accomplished within the last 4,150 landings, and thereafter at intervals not to exceed 4,500 landings since the last inspection, eddy current or dye penetrant inspect the upper surface of the forward flange of the horizontal stabilizer center section rear spar upper chord for cracks in the area of each beam gusset plate in accordance with "Part A-Inspection" of Boeing Alert Service Bulletin 737–55A1031, Revision 2, dated November 30, 1989, or previous FAA-approved revisions. If cracks are found, repair, modify, or replace the damaged chord before further flight, in accordance with Boeing Model 737 Structural Repair Manual, Subject 51–30–09, or Boeing Alert Service Bulletin 737–55A1031, Revision 2, dated November 30, 1989, or previous FAA-approved revisions.

B. After repair, modification, or replacement, resume the repetitive inspections required by paragraph A. of this AD, at the following schedule or within the next 1,000 landings, whichever occurs later:

1. Prior to the accumulation of 9,000 landings after repair.

2. Prior to the accumulation of 35,000 landings after modification.

3. Prior to the accumulation of 50,000 landings after replacement.

Thereafter, repeat the inspections at intervals not to exceed 4,500 landings.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

This amendment supersedes Amendment 39–4473, AD 82–21–02.

This amendment becomes effective November 16, 1990.

Issued in Renton, Washington, on October 1, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–24079 Filed 10–11–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–NM–108–AD; Amdt. 39–6766]

Airworthiness Directives: Boeing Model 747–200 and 747–300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–200 and 747–300 series airplanes, which requires replacement of a pneumatic duct aluminum bracket with a steel bracket in the engine struts. This amendment is prompted by reports of an engine fire after landing, due to a fuel line leak. The fuel line had chafed as a result of contact with a pneumatic duct, due to a broken bracket. This condition, if not corrected, could result in an engine fire.

EFFECTIVE DATE: November 16, 1990.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Seattle Aircraft Certification Office, Seattle Aircraft Certification Office Branch, ANM–140S; telephone (206) 227–2686. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 747–200 and 747–300 series airplanes equipped with General Electric CF6–45 or CF6–50 engines, which requires replacement of a pneumatic duct aluminum bracket with a steel bracket in the engine struts, was published in the **Federal Register** on July 3, 1990 (55 FR 27471).

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

The commenter had no objection to the adoption of the amendment as proposed.

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

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed. 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 132 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 6 airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,900.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 747 series airplanes, equipped with General Electric CF6-45 and CF6-50 engines, as listed in Boeing Service Letter 747-SL-54-32, dated December 4, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To eliminate the potential for an engine fire due to a fuel leak, accomplish the following:

A. Within the next 60 days or 450 hours time-in-service after the effective date of this AD, whichever occurs first, replace the aluminum pneumatic duct brackets, P/N 69B94023-1, in the outboard struts, with steel brackets, P/N 69B94023-2, in accordance with Boeing Service Letter 747-SL-54-32, dated December 4, 1989.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW. Renton, Washington 98055-4056.

This amendment becomes effective November 16, 1990.

Issued in Renton, Washington, on October 1, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24080 Filed 10-11-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 61

RIN 1076-AC21

Preparation of Rolls of Indians

September 7, 1990.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is amending the regulations contained in 25 CFR part 61 which governs the preparation of rolls of Indians. The Coquille Restoration Act of 1989 directs the Secretary of the Interior to prepare within one year of enactment a tribal membership roll of the Coquille Indian Tribe. The regulations in part 61 provide general enrollment procedures that can be made applicable to the preparation of a specific roll of Indians by amending the regulations to include the qualifications for enrollment and the deadline for filing applications for the particular roll. The BIA is amending part 61 by adding a paragraph (j) to § 61.4 to include the qualifications for enrollment and the deadline for filing applications so that the procedures contained in part 61 will govern the preparation of the tribal membership roll of the Coquille Indian Tribe.

EFFECTIVE DATE: November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Superintendent, Siletz Agency, Bureau of Indian Affairs, P.O. Box 539, Siletz, Oregon 97380, telephone number: (503) 444-2679 (FTS 423-4111).

SUPPLEMENTARY INFORMATION: The authority to issue these rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9; and Public Law 101-42. This final rule is published in exercise of the authority delegated by the Secretary of the Interior (Secretary) to the Assistant Secretary-Indian Affairs in the Departmental Manual at 209 DM 8.

The Coquille Restoration Act (Restoration Act) of June 28, 1989, Public Law 101-42, 103 Stat. 91, provides for the restoration of the Federal trust relationship with, and assistance to, the Coquille Tribe of Indians and the individual members of the tribe. Section 7 directs the Secretary to compile a tribal membership roll of the Coquille Indian Tribe within one year of enactment. The tribal membership roll is to be comprised of Coquille Indian descendants who meet certain requirements. To be eligible for enrollment, Coquille Indian descendants must be living on the date of the Restoration Act, must not be members of another federally recognized tribe, and must possess at least one-eighth (⅛) degree Indian blood. In addition the person must be listed on or must have met the requirements to be listed on the Coquille roll prepared under the Act of August 30, 1954 (68 Stat. 979; 25 U.S.C. 771), and approved by the BIA on August 29, 1960, or be the lineal descendant of such a perdon.

To establish eligibility for enrollment the amendment requires all persons to file or have filed on their behalf an application form with the Superintendent, Siletz Agency, Bureau of Indian Affairs, by the deadline specified in § 61.4(j)(2). The deadline will be 60 days from the effective date of the Final Rule to govern the preparation of the Coquille tribal membership roll which will actually be 90 days from date of publication in the **Federal Register** of the Final Rule. Applications filed after that date will be rejected for failure to file on time regardless of whether the applicants otherwise meet the qualifications for enrollment.

It should be noted the Restoration Act does provide that after the Coquille tribal membership roll provided for in the Act has been completed, membership in the Coquille Indian Tribe shall be governed by the tribal constitution adopted in accordance with the provisions of Section 9 of the Restoration Act. Thereafter, however, in addition to any other membership requirements contained in the tribal constitution, persons must be of Coquille Indian ancestry and not be members of any other federally recognized tribe to establish eligibility for membership in the Coquille Indian Tribe. Consequently, applicants who are rejected for failure to file on time may be considered for membership after the adoption of the tribal constitution.

In addition to general public notice, the BIA attempts to provide actual notice to as many potentially eligible beneficiaries as possible. Section 61.5(c) of part 61 provides that, when applicable, the Director or Superintendent shall "mail notices of the preparation of the roll to previous enrollees or tribal members at the last address of record or, in the case of tribal members, the last address available." The last roll of Coquille Indians prepared by BIA was a descendancy roll which was approved in 1960. Because the roll is so out-of-date, it would not be practical to provide notice to persons whose names appear on that roll. However, the Coquille Indian Tribe does maintain a list of individuals who have

been affiliated with the Tribe through the restoration process which is more current. Consequently, the Superintendent, Siletz Agency, Bureau of Indian Affairs, shall send notices to those persons whose names and addresses are furnished to him by the Coquille Indian Tribe. The notice shall advise individuals of the preparation of the roll and the relevant procedures to be followed, including the qualifications for enrollment and the deadline for filing application forms. An application form will be mailed with each notice.

The regulations in part 61 provide general enrollment procedures and contain provisions which are not applicable in the preparation of all rolls. As a matter of clarification, because the BIA is preparing a tribal membership roll of the Coquille Indian Tribe under this proposed amendment, review of applications by tribal authorities under § 61.10 is authorized to provide for maximum tribal participation in the enrollment process.

Comments and Changes

A proposed rule to amend 25 CFR part 61 to add paragraph (j) to § 61.4 to include the qualifications for enrollment and the deadline for filing applications for the tribal membership roll of the Coquille Indian Tribe was published for public comment in the **Federal Register** on Tuesday, May 1, 1990, 55 FR 18128. The period for commenting on the proposed amendment closed on May 31, 1990. The only comments received were from the Coquille Indian Tribe by its Tribal Chairman. Stated simply the comments address three issues: (1) Who must file applications for membership, (2) how the requirement that persons not be enrolled members of another federally recognized tribe will be implemented, and (3) what evidence is acceptable for establishing Indian ancestry.

1. Two different comments were received from the Tribe with regard to who had to file applications for enrollment. An early comment urged that persons recognized as members by the Tribe whose names listed on the Coquille roll prepared pursuant to the Act of August 30, 1954, and approved by the BIA on August 29, 1960 (1960 Roll), not be required to file applications to establish eligibility for enrollment. The Tribe's other comment was that the text of the proposed amendment to part 61 did not clearly state who must file applications.

The Coquille Indian Tribe does maintain a list of individuals who have been affiliated with the Tribe through the restoration process as indicated above. However, the Restoration Act makes no reference to the tribally maintained membership information, but directs the Secretary to prepare a tribal membership roll. The Tribe believes that persons whom they currently recognized as members who were named on the 1960 Roll "should not have to go through the enrollment process again."

The 1960 Roll was prepared for the sole purpose of a onetime per capita distribution of Coquille judgment funds and required applicants only to establish that they were of Coquille Indian descent, not that they were of any specific degree of Indian blood. The Restoration Act requires applicants to establish that they possess at least ⅛ degree Indian Blood in addition to being of Coquille Indian descent to qualify for membership. Consequently, the inclusion of an individual's name on the 1960 Roll does not necessarily establish that the individual is eligible for membership in the Coquille Indian Tribe under the Restoration Act.

Furthermore, any attempt to relieve some individuals of the burden of actually filing applications for membership could result in confusion and uncertainty. Persons who are currently recognized as members by the Coquille Indian Tribe and who were named on the 1960 Roll might presume nothing more was required by them to establish eligibility for membership. This could result in these individuals disregarding requests from the BIA for additional information or taking no action to appeal their rejection for membership. On the other hand, individuals who were named on the 1960 Roll, but who are not currently recognized by the Coquille Indian Tribe may nevertheless consider themselves affiliated with the Coquille Indian Tribe. As a result they might presume that they did not have to file applications for membership. There is no way of knowing who might be in this latter category of individuals.

Consequently, the final rule requires that all persons file applications to establish eligibility for inclusion on the Coquille tribal membership roll. The intent of the proposed rule, as has been suggested, may not have been entirely clear. For that reason the first sentence of paragraph (j)(2) of § 61.4 has been reworded in an attempt to make the intent clearer.

The regulations contained in part 61 provide in § 61.(c) that "[a]pplication forms may be filed by sponsors on behalf of other persons." Under § 61.1 "sponsor" is defined as "any person who files an application for enrollment or appeal on behalf of another person." Consequently, under the regulations the Tribe plainly can file applications on behalf of individuals they recognize as members and relieve the individuals of the burden.

2. The Tribe stated that the rule did not address who determines if an individual is an enrolled member in another Tribe. The concern by the Tribe is probably as a result of the preparation of a membership roll for another group in Oregon which was restored a few years ago. Dual enrollment or more precisely what constituted dual enrollment became an issue. In that instance the dual enrollment prohibition contained in the restoration statute was interpreted to include persons who were members or claiming membership in any other Indian tribe, either federally recognized or acknowledged or not federally recognized or acknowledged. This resulted in the rejection of persons for membership who claimed not to know or not to consider themselves enrolled with any other tribe.

In this instance, however, the dual enrollment prohibition in the Restoration Act, which the regulations reflect, is limited to persons who are enrolled members of another federally recognized tribe. There is little room for interpretation. Generally, individuals know whether they are enrolled with a federally recognized tribe. From a strictly procedural standpoint, applicants "proving" they are not enrolled with another federally recognized tribe is a requirement for membership the same as proving they possess at least one-eighth degree Indian blood. Applicants will be asked on the application form whether they are enrolled with another federally recognized tribe.

In accordance with the regulations contained in part 61, both the BIA and the Tribe will review the applications. If either the BIA or the Tribe have any reason to believe that the individual may be dually enrolled, either the BIA or the Tribe may check out the status of the applicant's possible enrollment with another federally recognized tribe. Under the regulations the Superintendent will accept the recommendation or determination of the "Tribal Committee" with regard to an applicant's eligibility unless clearly erroneous.

No changes have been made to the regulations as a result of this first comment concerning dual enrollment. However, the Tribe did raise another issue with regard to dual enrollment which does need to be addressed to prevent any confusion or misunderstanding and has resulted in the addition of paragraph (j)(4) to the

amendment to § 61.4 from what was proposed.

As was pointed out by the Tribe, the House Report on the Restoration Act indicated that it was Congress' intent that individuals be permitted to relinquish their membership in another Tribe to establish their eligibility for membership in the Coquille Indian Tribe. As stated in H.R. Rep. No. 101–61, 101st Cong., 1st Sess. (1989) at page 5:

> Regarding the prohibition against enrollment in another Indian tribe, the Committee does not intend this requirement to deprive any individual of his/her rights as an individual tribal member. Relinquishment of membership in another Tribe may occur concurrently with or an soon as possible after enrollment in the Coquille Indian Tribe.

Relinquishment of membership in a Tribe is basically a unilateral action by the individual. In instances where an individual is relinquishing membership in one tribe to establish eligibility for membership in another, as would be the case here, the BIA recommends that the individual submit a "conditional relinquishment." A conditional relinquishment from one tribe would become effective if and when the individual was accepted as a member in the other tribe.

The BIA is usually not included in the process. However, in this case because the BIA will be making determinations of eligibility for membership in the Coquille Indian Tribe, it is only reasonable for the BIA to be involved.

The additional paragraph (j)(4) of the amendment to § 61.4 provides that persons who are enrolled members of another federally recognized tribe(s) may file conditional relinquishment forms with their applications to satisfy the enrollment requirement contained in paragraph (j)(l)(iii).

Unlike application forms which can be filed by sponsors, as was discussed above, paragraph (j)(4) prohibits the "sponsoring" of relinquishment forms. Where the BIA is preparing a roll and there is a deadline for filing applications, it is considered to the benefit of individuals to allow the sponsoring of applications. Although it can result in individuals being enrolled without their knowledge, it has been thought that the beneficial effects outweigh any adverse effects.

However, relinquishment results in membership rights being taken away from an individual. Such a decision should only be made by the individual. Consequently, the amendment provides that in the case of an adult, the relinquishment document can only be executed by the individual himself or herself unless the person is legally incompetent, in which case the legal guardian, and only the legal guardian, may execute the relinquishment document. In the case of minors, only the parent or legal guardian may execute a relinquishment document.

If an applicant is determined eligible for membership in the Coquille Indian Tribe, the BIA will notify the appropriate federally recognized tribe and furnish the tribe the individual's relinquishment. Otherwise the relinquishment will be retained with the application form.

3. The Tribe's comment with regard to what evidence was acceptable for establishing Indian ancestry was not so much directed at the proposed amendment as at the comments made in the **"SUPPLEMENTARY INFORMATION"** portion of the proposed rulemaking document. The amendment to § 61.4 basically restates the provisions contained in the Restoration Act with regard to establishing Coquille Indian ancestry and Indian blood degree.

Section 7(c) provides that the Coquille roll approved by the BIA on August 29, 1960, shall be accepted as conclusive evidence of Coquille Indian ancestry of all those listed on the roll. Further, Indian blood degree information shown on the January 1, 1940, census roll of nonreservation Indians of the Grande Ronde-Siletz Agency shall be conclusive evidence in determining the degree of Indian blood for applicants. Section 7(c) also provides that the Secretary shall accept any available evidence establishing Coquille Indian ancestry and Indian blood degree.

The Tribe took particular exception to the example that was given under the **"SUPPLEMENTARY INFORMATION"** portion and indicated the belief that such an example could lead to confusion and misinterpretation of the rule. The example given was deliberate and was intended to prevent any misunderstanding by individual applicants as to how the BIA would implement the proposed amendment to § 61.4.

As was indicated in the proposed rulemaking document, the burden of proof is on applicants to establish that they meet the requirements for enrollment. Consequently, although a document such as an affidavit supporting an applicant's eligibility must be accepted as evidence, in and of itself, it may not be sufficient to meet the burden of proof. It is important that individual applicants realize that something more than self-proclamation or self-serving affidavits is necessary to establish eligibility for enrollment. Thus, the example given was an affidavit from a tribal elder stating personal knowledge that the applicant was of Coquille Indian ancestry would not establish Coquille Indian ancestry for the purposes of eligibility under the Coquille Restoration Act if Bureau records clearly showed that the applicant was of Coos Indian ancestry.

Applicants not on the specified rolls will need to submit evidence acceptable to the Secretary to establish Coquille Indian ancestry and the required degree of Indian blood. Moreover, even descendants of persons named on the specified rolls will need to submit documentary evidence establishing their relationship to persons named on the specified rolls.

BIA records are the most acceptable form of evidence for establishing Indian ancestry. However, as was stated in the **"SUPPLEMENTARY INFORMATION"** of the proposed rulemaking document, BIA records can contain conflicting information which would need to be evaluated and weighed. For establishing relationship to ancestors, birth certificates, death certificates, copies of probate findings and BIA records are the most acceptable form of evidence. Baptismal records can sometimes be used.

Under the provisions of the Coquille Restoration Act other evidence such as affidavits, newspaper articles, and published books will be accepted. Consequently, all evidence submitted and records available to BIA officials will be used in evaluating an applicant's eligibility. The determination of eligibility will be made on the basis of the preponderance of evidence except that being named on or having a lineal ancestor named on the Coquille roll approved by BIA on August 29, 1960, is conclusive evidence of Coquille Indian ancestry for the purposes of eligibility under the Coquille Restoration Act regardless of what other documents or records show and the January 1, 1940, census roll of nonreservation Indians of the Grande Ronde-Siletz Agency is conclusive evidence of degree of Indian blood.

No other changes have been made to the amendment to add a paragraph (j) to § 61.4 of part 61, from what was proposed.

The primary author of this document is Kathleen L. Slover, Tribal Enrollment Specialist, Division of Tribal Government Services.

The Office of Management and Budget has informed the Department of the Interior that the information collection

requirements contained in this part 61 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501, et seq.).

The Department of the Interior has determined that this is not a major rule under E.O. 12291 because only a limited number of individuals will be affected and this rule provides only for the enrollment of those individuals as members of the Coquille Indian Tribe which will not have a significant gross annual effect on the economy.

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because of the limited applicability as stated above.

The Department of the Interior has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and that neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 25 CFR Part 61

Indians—enrollment.

Accordingly, part 61 of subchapter F of chapter I of title 25 of the Code of Federal Regulations is amended as shown.

1. The authority citation for part 61 is revised to read as following:

Authority: 5 U.S.C. 301; 25 U.S.C. 2 and 9; 25 U.S.C. 1401 et seq., as amended; Pub. L. 100–139; Pub. L. 100–580; Pub. L. 101–42.

2. Section 61.4 is amended by adding a new paragraph (j) to read as follows:

§ 61.4 Qualifications for enrollment and the deadline for filing application forms.

* * * * *

(j) *Coquille Tribe of Indians.* (1) Pursuant to section 7 of the Coquille Restoration Act of June 28, 1989, Public Law 100–139, a tribal membership roll is to be prepared comprised of persons of Coquille Indian ancestry:

(i) Who were born on or before and living on June 28, 1989;

(ii) Who possess at least one-eighth (⅛) degree or more Indian blood;

(iii) Who are not enrolled members of another federally recognized tribe; and

(iv) Whose names were listed on the Coquille roll prepared pursuant to the Act of August 30, 1954 (68 Stat. 979; 25 U.S.C. 771), and approved by the Bureau of Indian Affairs on August 29, 1960;

(v) Whose names were not listed on but who met the requirements to be listed on the Coquille roll prepared pursuant to the Act of August 30, 1954, and approved by the Bureau of Indian Affairs on August 29, 1960; or

(vi) Who are lineal descendants of persons, living or dead, identified in paragraphs (j)(1)(iv) and (j)(1)(v) of this section.

(2) To establish eligibility for inclusion on the tribal membership roll, all persons must file an application form with the Superintendent, Siletz Agency, Bureau of Indian Affairs, P.O. Box 539, Siletz, Oregon 97380 by January 10, 1991. Application forms filed after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether the applicant otherwise meets the qualifications for enrollment.

(3) For the purposes of establishing eligibility under paragraph (j) of this section, any available evidence establishing Coquille ancestry and the required degree of Indian blood shall be accepted. However, information shown on the Coquille roll prepared pursuant to the Act of August 30, 1954, shall be accepted as conclusive evidence of Coquille ancestry and blood degree information shown on the January 1, 1940, census roll of nonreservation Indians of the Grand Ronde-Siletz Agency shall be accepted as conclusive evidence in determining degree of Indian blood for applicants.

(4) For the purposes of establishing eligibility under paragraph (j) of this section, persons who may be enrolled members of another federally recognized tribe or tribes may submit a conditional relinquishment of membership document in the other tribe or tribes with their application forms. A conditional relinquishment of membership document in the other tribe or tribes with their application forms. A conditional relinquishment will be accepted by the Superintendent only if it is executed by the person himself or herself unless the person is legally incompetent, in which case the legal guardian and only the legal guardian may execute the conditional relinquishment document. In the case of minors, only the parent or legal guardian may execute a conditional relinquishment document.

* * * * *

Walter L. Mills,

Acting Assistant Secretary, Indian Affairs.

[FR Doc. 90–24091 Filed 10–11–90; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 43 and 47

[T.D. 8314]

RIN 1545–AO67

Final and Temporary Regulations Regarding the Tax on Transportation by Water

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains temporary regulations that implement the tax on the transportation of passengers on covered voyages by certain vessels under section 4471 of the Internal Revenue Code as enacted by section 7504 of the Revenue Reconciliation Act of 1989 (Pub. L. 101–239, 103 Stat. 2106, 2362). This document also removes the existing regulations under 26 CFR part 47 (relating to documentary stamp taxes), which are obsolete.

EFFECTIVE DATES: These regulations are effective for voyages beginning on or after January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Edward B. Madden, Jr., 202–566–4077 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations on the Excise Tax on Transportation by Water (26 CFR part 43) under sections 4471 and 4472 of the Internal Revenue Code relating to the excise tax on the initial embarkation or disembarkation of passengers on certain commercial passenger vessels and on certain other commercial vessels transporting passengers engaged in gambling.

As a final action this document also removes the existing regulations under 26 CFR part 47 (relating to documentary stamp taxes), which are obsolete.

Need for Temporary Regulations

Immediate guidance is needed on the imposition of tax on transportation of persons by water. Therefore, good cause is found to dispense with the public notice requirement of 5 U.S.C. 553(b) and the delayed effective date requirement of 5 U.S.C. 553(b).

Explanation of Provisions

The temporary regulations provide taxpayers with rules for complying with

the tax imposed by section 4471 of the Code. Section 4471 of the Code imposes a tax of $3 per passenger on a covered voyage, as that term is defined in section 4472, to be paid by the person providing the covered voyage. The tax is to be imposed only for each passenger on a covered voyage, either at the time of first embarkation or disembarkation in the United States. Under section 4472(1) of the Code, the term "covered voyage" means a voyage of (a) a commercial passenger vessel that extends over one or more nights, or (b) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial waters of the United States. A passenger vessel is any vessel with stateroom or berth accommodations for more than 16 passengers.

Requirements for Filing Returns, Paying Tax, and Using Government Depositories

Sections 6011 (relating to requiring returns), 6071 (relating to the time for filing returns), and 6302 (relating to the use of government depositories) provide that regulations are required in order to impose rules for filing returns and making deposits of tax.

Under temporary § 43.6011(a)–1T, any person liable for the tax imposed by section 4471 must file Form 720, *Quarterly Federal Excise Tax Return*, to report that liability. The procedures for filing are contained in the instructions to the form. Temporary § 43.6071(a)–1T(a) provides that returns must be filed by the last day of the month following the end of the calendar quarter.

Under temporary § 43.6302(c)–1T, semimonthly deposits of tax are required to be made by all persons liable for the tax imposed under section 4471. The deposit for each semimonthly period is due on or before the 9th day of the following semimonthly period.

Temporary §§ 43.6071(a)–1T(c) and 43.6151(a)–1T provide special rules for filing returns and for paying the tax due for the period January 1, 1990, through November 15, 1990.

In the Proposed Rules portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing a companion Notice of Proposed Rulemaking that announces proposed regulations to address additional issues not addressed in these temporary regulations.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a final Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of the proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Edward B. Madden, Jr., Office of Assistant Chief Counsel (Passthroughs & Special Industries), Internal Revenue Service. Other personnel from the Service and Treasury Department, however, participated in their development.

List of Subjects

26 CFR Part 43

Excise taxes, Gambling, Transportation by water, Vessels.

26 CFR Part 47

Documentary stamp taxes, Excise taxes, Insurance, Reporting and recordkeeping requirements, Securities.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR ch. I, is amended as follows:

Paragraph 1. A new part 43 of the Code of Federal Regulations is added as follows:

PART 43—EXCISE TAX ON TRANSPORTATION BY WATER

Sec. 43.4471–1T Imposition of tax (temporary).
Sec. 43.6011(a)–1T Returns (temporary).
Sec. 43.6011(a)–2T Final returns (temporary).
Sec. 43.6071(a)–1T Time for filing returns (temporary).
Sec. 43.6091–1T Place for filing returns (temporary).
Sec. 43.6101–1T Period covered by returns (temporary).
Sec. 43.6109(a)–1T Identifying numbers (temporary).
Sec. 43.6151(a)–1T Time and place for paying tax shown on return (temporary).
Sec. 43.6302(c)–1T Use of government depositaries (temporary).

Authority: 26 U.S.C. 7805. §§ 43.6011(a)–1T and 43.6011(a)–2T also issued under 26 U.S.C. 6011; § 43.6071(a)–1T also issued under 26 U.S.C. 6071; § 43.6091–1T also issued under 26 U.S.C. 6091; § 43.6109–1T also issued under 26 U.S.C. 6109; § 43.6302(c)–1T also issued under 26 U.S.C. 6302.

§ 43.4471–1T Imposition of tax (temporary).

(a) *In general.* Section 4471 imposes a tax of $3 per passenger on a covered voyage as is defined in section 4472.

(b) *By whom paid.* The tax is imposed on the person providing the covered voyage (the operator of the vessel).

§ 43.6011(a)–1T Returns (temporary).

(a) *In general.* Liability for tax imposed under section 4471 shall be reported on Form 720, *Quarterly Federal Excise Tax Return*, (or any other form designed by the Commissioner subsequent to publication of these regulations for reporting such liability). Except as provided in paragraph (b) of this section and § 43.6071(a)–1T(c), a return shall be made for a period of one calendar quarter in which the person incurs liability for tax imposed under section 4471, and for each subsequent calendar quarter, whether or not liability was incurred under section 4471 during that quarter, until the person has filed a final return in accordance with § 43.6011(a)–2T.

(b) *Monthly and semimonthly returns*—(1) *Requirement.* If the district director determines that any person that is required to make deposit of taxes under the provisions of § 43.6302(c)–1T has failed to timely deposit those taxes, that person shall be required, if so notified in writing by the district director, to file a monthly or semimonthlty return. Every person so notified by the district director shall make a return for the calendar month or semimonthly period (as defined in § 43.6302(c)–1T(c)) in which the notice is received and for each calendar month or semimonthly period thereafter until that person has filed a final return (as defined in § 43.6011(a)–2T) or is notified to make returns for a different return period as provided in paragraph (b)(2) of this section.

(2) *Change of requirement.* As circumstances dictate, the district director may notify a person in writing that the person is required to make quarterly or monthly returns instead of semimonthly returns or to make quarterly or semimonthly returns instead of monthly returns.

(3) *Return for period change takes effect.* The first return required pursuant to the notice of a change of requirement shall include all prior periods for which the person has not filed a return.

(c) *Cross reference.* For provisions relating to the time to file returns, see § 43.6071(a)–1T. For provisions relating to the place for filling returns, see § 43.6091–1T. For provisions relating to

use of government depositaries, see § 43.6302(c)–1T.

§ 43.6011(a)–2T Final returns (temporary).

Any person required by § 43.6011(a)–1T to make a return who in any return period ceases operations in respect of which a return is required, shall make a final return in accordance with the instructions to the return. Each final return shall be marked "Final Return" by the person filing the return. A person who has only temporarily ceased to incur liability for tax shall not make a final return but shall continue to file returns.

§ 43.6071(a)–1T Time for filing returns (temporary).

(a) *Quarterly returns.* Each return required to be made under § 43.6011(a)–1T(a) for a return period of one calendar quarter shall be filed on or before the last day of the first calendar month following the close of the quarter for which it is made.

(b) *Monthly and semimonthly returns*—(1) *Monthly returns.* Each return required to be made under § 43.6011(a)–1T(b) for a monthly period shall be filed not later than the last day of the month following the period for which it is made.

(2) *Semimonthly returns.* Each return required to be made under § 436011(a)–1T(b) for a semimonthly period shall be filed not later than the last day of the semimonthly period following the period for which it is made.

(c) *Returns for the period January 1, 1990, through November 15, 1990.* Liability for tax incurred during the period January 1, 1990, through November 15, 1990 shall be reported on a single return filed not later than November 30, 1990.

(d) *Cross reference.* For provisions relating to timely mailing treated as timely filing and paying, see section 7502. For provisions relating to time for performance of acts where the last day falls on Saturday, Sunday, or a legal holiday, see section 7503.

§ 43.6091–1T Place for filing returns (temporary).

(a) *Quarterly returns.* Quarterly returns shall be filed according to the instructions applicable to those returns.

(b) *Monthly and semimonthly returns.* Monthly and semimonthy returns required under § 43.6011(a)–1T(b) shall be filed in accordance with the instructions of the district director requiring such filing.

§ 43.6101–1T Period covered by returns (temporary).

See § 43.6011(a)–1T for the rules relating to the period covered by the return.

§ 43.6109(a)–1T Identifying numbers (temporary).

Every person required by § 43.6011(a)–1T to make a return shall provide the taxpayer identifying number required by the instructions applicable to the return.

§ 43.6151(a)–1T Time and place for paying tax shown on return (temporary).

The tax required to be reported on each tax return under this subpart is due and payable at the time prescribed in § 43.6071(a)–1T and the place prescribed in § 43.6091–1T for filing the return. The tax required to be reported for the period January 1, 1990, through November 15, 1990, shall be due and payable not later than November 30, 1990. See the applicable sections in part 301 of this chapter (Regulations on Procedure and Administration) for provisions relating to interest on underpayments, additions to tax, and penalties. For provisions relating to the use of Federal Reserve banks and authorized financial institutions in depositing the taxes, see § 43.6302(c)–1T.

§ 43.6302(c)–1T Use of government depositaries (temporary).

(a) *In general.* This section provides rules relating to deposits of tax imposed by section 4471. The provisions of this section shall not apply to taxes for the month or the semimonthly period in which the taxpayer receives notice from the district director that returns are required under § 43.6011(a)–1T(b), or for any subsequent month or semimonthly period for which such a return is required.

(b) *Semimonthly deposits*—(1) *In general.* Each person required by § 43.6011(a)–1T(a) to file a return shall make semimonthly deposits of the tax imposed by section 4471. The taxes payable under section 4471 for a semimonthly period (as defined in paragraph (c) of this section) shall be deposited (except as provided in paragraph (d) of this section) on or before the 9th day of the semimonthly period following the semimonthly period for which the taxes are reportable.

(2) *Safe harbor rule.* A person will be considered to have complied with the semimonthly deposit requirement if the deposit for such semimonthly period is not less than ⅙ (16.67 percent) of the total tax liability under section 4471 for the second preceding calendar quarter, and the person deposits any underpayment for the current quarter on or before the last day of the first calendar month following the end of the quarter. This safe harbor rule does not apply to any person who did not report liability for tax under section 4471 for the second preceding quarter.

(c) *Semimonthly period.* The term "semimonthly period" means the first 15 days of a calendar month or the portion of a calendar month following the 15th day of that month.

(d) *No deposits of tax for the period January 1, 1990, through November 15, 1990.* No person required to file an excise tax return for any part of the period beginning January 1, 1990, and ending November 15, 1990, is required under this section to deposit the amount of liability for excise taxes imposed under section 4471 incurred during that period, but shall make payment of the tax as provided by § 43.6151(a)–1T. Any person required to file a return to report taxes incurred under section 4471 for any part of the period beginning January 1, 1990 and ending November 15, 1990 may, however, deposit the amount of that liability with a Federal Reserve bank or authorized financial institution on or before November 30, 1990.

(e) *Depositary forms and procedures*—(1) *In general.* A person required by this section to make deposits may make one or more remittances with respect to the amount required to be deposited. An amount of tax that is not otherwise required by this section to be deposited may, nevertheless, be deposited if the person liable for the tax so desires.

(2) *Remittance of deposits.* Each depost shall be accompanied by Form 8109, *Federal Tax Deposit Coupon* (or any other form designated by the Commissioner for making deposits) and remitted in accordance with the instructions applicable to that form and to the return.

(3) *Procurement of prescribed forms.* Copies of the Federal Tax Deposit Coupon will be furnished, so far as possible, to persons required to make deposits under this section. Those persons will not be excused from making a deposit, however, if no coupon has been furnished. A person not supplied with the coupon is required to apply for it in ample time to make the required deposits within the time prescribed. Copies of the Federal Tax Deposit Coupon may be obtained by applying for them with the district director or the director of a service center.

PART 47—[REMOVED].

Par. 2. Title 26, part 47, of the Code of Federal Regulations is removed

Approved: October 1, 1990.

Charles H. Brennan,

Acting Commissioner of Internal Revenue.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 90-24049 Filed 10-5-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zone, San Clemente Island, Pacific Ocean, CA

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps of Engineers is establishing a danger zone in the waters of the Pacific Ocean offshore the northwest tip of San Clemente Island, California. The purpose of the danger zone is to protect persons, vessels and property from hazards associated with the establishment of a Naval small arms range. The danger zone restriction is in effect for 40 days each year according to a prearranged schedule. During the remaining time of the year the area is open to the public.

ADDRESS: HQUSACE, ATTEN: CECW-OR, Washington, DC 20314-1000.

DATES: Effective on November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Holt at (213) 894-5606 or Mr. Ralph Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: The Commander, Naval Facilities Engineering Command (NFEC), San Diego, California, has requested the Corps to establish a danger zone in the waters off the northwest tip of San Clemente Island, California. The U.S. Navy is constructing a small arms range facility at the northwest corner of the island. The area is to protect persons, vessels and property from the possibility of an errant round which could strike the water area. It is not intended to use the area encompassed by the danger zone as a range impact area.

In March 1988, the Commander, NFEC requested the U.S. Coast Guard establish a permanent safety zone in the waters off the northwest tip of San Clemente Island to protect boat traffic and mariners from dangers associated with the proposed small arms range. The Coast Guard published a Notice of Proposed Rulemaking in the **Federal Register** on 26 July 1988 (53 FR 28019-28020) soliciting comments on the proposed safety zone. The safety zone boundaries were similar to the proposed rules published herein. The coordinates have been modified slightly to remove land areas from the danger zone and to remove an overlap with an existing danger zone. After close of the comment period of 19 September 1989, the Commander, Marine Safety Office, San Diego, notified the Commander, NFEC, that (1) No comments were received in response to the NPRM and, (2) that due to resource limitations and the potential for confusing the public with both the Coast Guard and Navy enforcing the regulations, it would be in the best interest of the public and the U.S. Navy for the area to be established as a restricted area or danger zone by the Corps of Engineers. The Corps of Engineers concurs with the recommendations of the Coast Guard.

On 17 October 1988, the Commander, NFEC requested that the Corps of Engineers establish a danger zone off San Clemente Island. The danger zone would be closed to all vessels except those expressly allowed entrance by the Navy. The Corps published an Interim Final Rule in the **Federal Register** establishing the danger zone on 13 February 1989 (54 FR 6519), with concurrent local public notice published by the Corps Los Angeles District Engineer. In view of the objections received in response to the interim final rule and the Los Angeles District public notice, the interim final rule was suspended on 20 September 1989. Most of the respondents expressed concern about impacts to commercial and recreational fishing, impacts to recreational diving, and impacts to charter boat services. In addition, on 30 July 1990, the Corps published final rules in the **Federal Register** amending the danger zones location off the southern tip of San Clemente Island. Although the Corps did not receive any comments during the proposed rule comment period it did receive two letters of objection and a request for a public hearing after the comment period. The comment clearly did not pertain to the danger zones located at the southern end of San Clemente Island, but were directed at the earlier proposed danger zone located on the northwest end of the San Clemente Island. The Corps has also considered those comments in reaching its final decision on the Navy's revised proposal. The Los Angeles District Engineer has denied the request for a public hearing because the issues have already been resolved; are therefore insubstantial and there is no valid reason to be served by a hearing. The comments are similar to those addressed by the Navy and changes have been made to the regulations to accommodate those concerns.

In response to comments received, the Navy has re-evaluated their project and has modified their request from total closure to a partial, 40-day per year closure divided into eight five-day periods. Closures of the area will be advertised in the U.S. Coast Guard's Notice to Mariners. In addition, the Navy will establish a point of contact who will be available to inform callers of the status and scheduling of closures.

Although the small arms range does not yet exist, the Navy urgently needs approval for the danger zone prior to soliciting bids for the construction of the range facilities and expending public funds. The Navy has examined several alternatives to the proposed location of the range. For reasons of increased costs, logistical constraints and safety concerns, none of the other alternatives are considered feasible by the Navy.

Economic Assessment and Certification

This rule is issued with respect to a military function of the Defense Department and the provisions of E.O. 12291 do not apply.

I hereby certify that this regulation will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above, the Corps of Engineers is amending part 334 of title 33 to read follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 226; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Part 334 is amended by adding section 334.961 to read as follows:

§334.961 Pacific Ocean, San Clemente Island, California, naval danger zone off the northwest shore.

(a) The danger zone: The waters of the Pacific Ocean adjacent to San Clemente Island, California, bounded by the following coordinates and San Clemente Island:

Point A—33°01'38"N	118°36'20"W
Point B—33°01'11"N	118°37'25"W
Point C—33°00'11"N	118°37'00"W

Point D—33°00'05"N	118°38'53"W
Point E—33°02'55"N	118°39'05"W
Point F—33°04'25"N	118°37'41"W
Point G—33°02'02.5"N	118°35'53"W

(b) The regulations:

(1) No vessel or other craft, except vessels of the U.S. Government or vessels duly authorized by the enforcing agency shall enter this area during closure periods.

(2) The regulations in this section shall be enforced by the commander, Naval Base, San Diego, California, and such agencies as he/she shall designate.

Dated: September 20, 1990.

Approved.

Patrick J. Kelly,

Major General, U.S. Army,

Director of Civil Works.

[FR Doc. 90-24092 Filed 10-11-90; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3834-6]

Approval and Promulgation of Air Quality Implementation Plans; Texas; Approval of Volatile Organic Compound Regulation Revisions Specific to Automobile and Light-duty Truck Surface Coating in Tarrant County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a State Implementation Plan (SIP) revision request submitted by the State of Texas on July 16, 1990. More specifically, EPA is approving revisions of Texas Air Control Board Regulation V, § 115.421 and § 115.429 that specify alternative equivalent emission limitations for automobile and light-duty truck surface coating operations. EPA is also approving revisions to § 115.425 that specify additional procedures for determining compliance with the emission limitations. The intended effect of this action is to allow automobile and light-duty truck surface coating operations in Tarrant County, Texas to meet alternate volatile organic compound emission limits that are equivalent to those limits in the existing federally approved SIP.

DATES: This rule will become effective on December 11, 1990 unless notice is received on or before November 13, 1990. That someone wishes to submit adverse comments. Such notice may be submitted to Thomas H. Diggs at the EPA Regional Office contact's address and telephone number listed below. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the SIP revision and EPA's evaluation report (Evaluation Report for Provisions Specific to Automobile and Light-Duty Truck Coating Operations in Tarrant County, Texas, August 1990) are available for public review during normal business hours at the following locations:

Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723;

U.S. Environmental Protection Agency, Region 6 Office, 12th floor, 1445 Ross Avenue, Dallas, Texas 75202; and

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460.

Those wishing to view the documents at the EPA Region 6 office are requested to call the contact named below at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Jim Callan (6T-AP), Air Programs Branch, U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; telephone (214) 655-7214 or FTS 255-7214.

SUPPLEMENTARY INFORMATION: On July 16, 1990, Governor Clements of Texas submited to EPA a package of revisions to the Texas State Implementation Plan (SIP). This submission contained revisions adopted by the Texas Air Control Board on June 22, 1990, to the volatile organic compound regulations entitled Texas Air Control Board Regulation V (31 TAC Chapter 115) Control of Air Pollution from Volatile Organic Compounds, subchapter E: Solvent Using Processes, Surface Coating Processes, § 115.421, § 115.425, and § 115.429. In today's **Federal Register** notice, EPA is approving a portion of these regulation revisions as part of the SIP.

Revisions to § 115.421 deal with emission limits for automobile and light-duty truck primer surfacer, topcoat, and final repair operations. Section 115.425 specifies the test methods for determining compliance with the emission limits. Section 115.429 establishes the compliance schedule for the revised limits in § 115.421.

A. Background

Texas' July 16, 1990, submittal contains revisions to the ozone SIP adopted by the State. These specific revisions were submitted at this time for one primary reason. Texas revised these sections pursuant to a Settlement Agreement between the United States and General Motors Corporation in the case of *United States* v. *General Motors Corporation,* Civil Action No. 4-87-580-E, which had been filed in the U.S. District Court for the Northern District of Texas, Fort Worth Division. As part of that Settlement Agreement, General Motors agreed to petition the Texas Air Control Board for specific revisions to Texas' rules controlling volatile organic compounds from surface coating, §§ 115.421 through 115.429. As part of the Settlement Agreement, EPA agreed to review and take action on the State's submittal of these specific revisions affecting the General Motors Corporation assembly plant in Arlington, Tarrant County, Texas within sixty days of such submittal.[1] Therefore, EPA is acting today on those portions necessary to satisfy the requirements of the Settlement Agreement.

B. EPA Action

EPA is approving the following revisions that were submitted by Texas on July 16, 1990. Confusin may arise when understanding the effect of these revisions since the current federally approved version of Texas' VOC regulation follows the State's old codification scheme (i.e., surface coating regulations are numbered as § 115.191). The revisions being approved today, on the other hand, follow the new codification (i.e., surface coating regulations are now numbered as § 115.421).

1. Section 115.421(8)(A) is approved

This section now allows an automobile and light-duty truck surface coating operation to meet alternate emission limits of 15.1 pounds of VOC per gallon of solids deposited for its primer surfacer and topcoat applications. This alternate limit has been determined by EPA to be equivalent to the emission limit of 2.8 pounds of VOC per gallon of coating minus water.[2]

[1] For additional information about the settlement agreement, refer to the November 9, 1989, **Federal Register** (54 FR 47145).

[2] A July 3, 1979, memo from Richard G. Rhoads, then Director of EPA's Control Program Development Division, entitled "Appropriate Transfer Efficiency for 'Waterborne Equivalency' ", explains why these two limits may be considered equivalent. Briefly, a coating that contains 2.8 pounds VOC per gallon of coating, is applied at a transfer efficiency of 30 percent, and consists of 62 percent solids by volume, will have VOC emissions at the rate of 15.1 pounds VOC per gallon of solids deposited.

This section also now allows final repair coatings to meet an alternative to the emission limit of 4.8 pounds VOC per gallon of coating (less water) based on a daily weighted average. The alternate limit is 4.8 pounds VOC per gallon of coating (less water) on an occurrence weighted average basis. This alternate procedure may be used to demonstrate compliance, each day, if the facility does not compile sufficient records to enable daily weighted average VOC content determinations to be made. Compliance procedures for this occurrence weighted average are specified in § 115.425 which is also being approved today as is discussed below.

EPA requires that a State's VOC regulations specify the pounds per gallon of coating (kilogram per liter of coating) emission limits for VOC on a less water and less exempt solvent basis. Section 115.421(8)(A) does not state this. However, exempt solvents are not used in coatings that are subject to § 115.421(8)(A) and which are in use at the General Motors facility. The calculation used to establish these alternate emission limits, and the calculation to determine if the coatings in use at a facility are in compliance with those limits, are both on a solid deposited basis. These calculations do not consider exempt solvents. Furthermore, General Motors' Arlington facility is the only facility subject to § 115.421(8)(A). None-the-less, for clarity, EPA is requiring Texas to revise this section as well as all other surface coating provisions under § 115.421 in the near future to treat exempt solvents as water. Texas must make these revisions in order to satisfactorily respond to Phase I of the Post 1987 SIP Call.

2. Revisions to § 115.425 are approved, with the exception of § 115.425(1)

Section 115.425(3)(A) is added to specify the procedure for determining compliance with the new alternate emission limits for primer surfacer and topcoat coatings. That procedure is the EPA publication Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light Duty Truck Topcoat Operations, EPA 450/3–88–018, December, 1988. This publication also specifies the appropriate test methods and necessary records for determining compliance with the alternative emission limit. Section 115.425(3)(B) is added to specify the procedure for determining compliance with the alternative final repair coating emission limit of 4.8 pounds of VOC per gallon of coating (less water) on an occurrence weighted average basis. Final repair coatings consist of prime, basecoat, and clearcoat. Occurrence weighted averages are calculated daily, for all materials sprayed, using the following three factors specific to each material: Pounds of VOC per gallon of coating, percentage of solids in the coating, and the target dry film builds.

As discussed above, EPA requires that a State's VOC regulations specify the pounds per gallon of coating (kilogram per liter of coating) emission limits for VOC on a less water and less exempt solvent basis. Section 115.425(3)(B) fails to consistently specify "less water and exempt solvent" in determining compliance with the final repair coating alternate emission limits. However, similar to the situation described above, waterborne coatings and coatings with exempt solvents are not currently used in the final repair process at the General Motors facility. EPA is requiring Texas to clarify these sections in the near future to discount exempt solvents and water in the compliance calculations when appropriate. Texas must make these revisions in order to satisfactorily respond to Phase I of the Post 1987 SIP Call.

EPA is taking no action on § 115.425(1) at this time. When EPA acts to recodify the entire surface coating rule, § 115.425(1) may be addressed at that time.

3. Section 115.429(2)(E) is approved

This new section requires all affected facilities in Tarrant County to comply with § 115.421(8)(A) no later than September 30, 1990.

These revisions being approved by EPA today allow automobile and light-duty truck surface coating operations to meet equivalent alternative emission limits. In no way should these revisions be construed as relaxing current federally approved limitations affecting VOC emissions from automobile and light-duty truck surface coating operations in Texas.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective December 11, 1990 unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will become effective December 11, 1990.

Final Action

EPA approves a portion of the VOC regulation revisions in the SIP revision request submitted by the State of Texas on July 16, 1990. Those portions are identified above and in the amendments to 40 CFR part 52, § 52.2270, given below.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 11, 1990. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Texas was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: September 14, 1990.

Harless Benthul,

Acting Regional Administrator.

40 CFR part 52, subpart SS, is amended as follows:

PART 52—[AMENDED]

Subpart SS—Texas

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2270 is amended by adding paragraph (c)(74) to read as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(74) Revisions to Texas Air Control Board's volatile organic compound regulations were submitted by the Governor of Texas on July 16, 1990.

(i) Incorporation by reference

(A) Revisions to Texas Air Control Board Regulation V (31 TAC Chapter 115) Control of Air Pollution from Volatile Organic Compounds, Subchapter E: Solvent-Using Processes, Surface Coating Processes, § 115.421 introductory paragraph, § 115.421(8)(A), § 115.425 introductory paragraph, § 115.425(3), § 115.429 introductory paragraph, and § 115.429(2)(E), as adopted by the Texas Air Control Board on June 22, 1990.

(B) Texas Air Control Board Order No. 90–07 as adopted by the Texas Air Control Board on June 22, 1990.

(ii) Additional material

(A) Texas Air Control Board July 10, 1990, certification signed by Steve Spaw, P.E., Executive Director, Texas Air Control Board.

[FR Doc. 90–24031 Filed 10–11–90; 8:45 am]

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GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–1, 301–3, 301–7, 301–8, 301–11, 301–12, 301–14, Appendixes A and B to Ch. 301, Parts 302–1, 302–2, 302–5, and 302–6

[FTR Amdt. 10]

RIN 3090-AD52

Federal Travel Regulation; Worldwide Lodgings-plus Per Diem System

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This final rule amends the FTR to implement a uniform worldwide lodgings-plus per diem computation system. The General Services Administration committed to conduct a thorough review of the per diem reimbursement system for travel outside CONUS concurrent with establishing lodgings-plus as the predominant reimbursement system for travel within CONUS in July 1986. The worldwide lodgings-plus system is a direct result of that review which indicated that a uniform reimbursement system would simplify reimbursement procedures and ease the administration of official travel.

EFFECTIVE DATE: This final rule is effective December 1, 1990, and applies for travel (including travel incident to a change of official station) which begins on or after December 1, 1990.

FOR FURTHER INFORMATION CONTACT: Doris Jones, Travel Management Division (FBT), Washington, DC 20406, telephone FTS 557–1253 or commercial (703) 557–1253.

SUPPLEMENTARY INFORMATION: Public Law 99–234 (99 Stat. 1756), January 2, 1986, among other things, provided the Administrator of General Services with authority to establish the type of reimbursement system for agencies to use in reimbursing subsistence expenses incurred by Federal civilian employees during official travel. The General Services Administration (GSA) amended the Federal Travel Regulation (FTR) on July 1, 1986, establishing lodgings-plus per diem as the predominant reimbursement system for travel within CONUS. At that time GSA indicated it would conduct a thorough review of the quarter-day per diem reimbursement system used for travel outside CONUS to determine the desirability, feasibility, and potential cost effectiveness of developing and implementing a single worldwide system. The review indicated that a uniform method of paying per diem expenses to Federal travelers would result in simplified and equitable reimbursement procedures and both ease and reduce the cost of travel administration. This amendment establishes lodgings-plus as a single worldwide system to be used in computing reimbursement for per diem expenses, and incorporates corresponding changes in all affected parts of subtitle F, Federal Travel Regulation System, to produce a smooth interface with the new worldwide system. Certain editorial changes have been made as well to improve readability.

This amendment also updates the Federal Travel Regulation to reflect the General Services Administration as the civilian executive agency with exclusive contracting authority for the use of travel agents. This brings the regulation in line with policy that has existed since the General Accounting Office lifted its prohibition on the use of travel agents and conferred the contracting authority upon GSA.

Additionally, in 1986 the President established the Northern Mariana Islands as a Commonwealth in political union with the United States. The President's action effectively changed the Northern Mariana Islands from a foreign Trust Territory of the Pacific Islands to a nonforeign area. In recognition of that status change, the Commonwealth of the Northern Mariana Islands is now identified in the Federal Travel Regulation as a nonforeign area.

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

List of Subjects

41 CFR Parts 301–1, 301–3, 301–7, 301–8, 301–11, 301–12, and 301–14

Government employees, Travel, Travel allowances, Travel and transportation expenses.

41 CFR Parts 302–1, 302–2, 302–5, and 302–6

Government employees, Relocation allowances and entitlements, Transfers.

For the reasons set out in the preamble, 41 CFR chapters 301 and 302 are amended as set forth below.

PART 301–1—APPLICABILITY AND GENERAL RULES

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

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–1.6 [Amended]

2. Section 301–1.6(e) is amended by removing the phrase "or other agency approved by the General Accounting Office".

PART 301–3—USE OF COMMERCIAL TRANSPORTATION

3. The authority citation for part 301–3 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301–3.2 [Amended]

4. Section 301–3.2(c)(1) is amended by removing the phrase "the Commonwealth of Puerto Rico, or the

United States territories and possessions." and adding in its place "the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, or a United States territory or possession.".

§ 301-3.6 [Amended]

5. Section 301-3.6(b)(1)(iii) is amended by removing the phrase "(49 U.S.C. App. 1301(38))." and adding in its place "(49 U.S.C. App. 1301(41))."

6. Part 301-7 is revised to read as follows:

PART 301-7—PER DIEM ALLOWANCES

Sec.

301-7.1 General.
301-7.2 Employee and agency responsibilities.
301-7.3 Maximum per diem rates.
301-7.4 Rate adjustment requests for travel within CONUS.
301-7.5 General rules affecting entitlement to per diem.
301-7.6 Lodgings-plus per diem system.
301-7.7 Computation rules for travel of more than 10 hours, but not exceeding 24 hours.
301-7.8 Computation rules for travel of more than 24 hours.
301-7.9 Lodging—location, receipt requirements, and allowable expenses.
301-7.10 Deviation from lodgings-plus per diem system.
301-7.11 Rest stops when travel outside CONUS is involved.
301-7.12 Reductions in maximum per diem rates when appropriate.
301-7.13 Mixed travel reimbursements.
301-7.14 Per diem allowance computations for special situations.
301-7.15 Interruptions of per diem entitlement.

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301-7.1 General.

This part applies worldwide (both within and outside CONUS) except as specifically provided herein.

(a) *Authority.* Per diem allowances shall be paid as prescribed in this part for official travel away from the official station (including travel incident to a change of official station), except when actual subsistence expense reimbursement is authorized or approved as provided in part 301-8 of theis chapter.

(b) *Definitions.* For purposes of this part, the following definitions apply:

(1) *Calendar day.* Calendar day means the 24-hour period from one midnight to the next midnight. The calendar day technically begins one second after midnight (reflected in this part as 12:01 a.m.) and ends at 12:00 midnight.

(2) *CONUS.* CONUS refers to the *continental United States*, defined in § 301-1.3(c)(5) as the 48 contiguous States and the District of Columbia. (See 5 U.S.C. 5701(6).)

(3) *Destination rate.* Destination rate is the rate applicable to the next location where the employee will perform temporary duty or where the employee makes an en route stopover to obtain overnight lodging.

(4) *Locality rates.* Locality rates are maximum per diem rates prescribed for specific localities.

(5) *Standard CONUS rate.* Generally, the standard CONUS rate is prescribed for any location within CONUS that is not included in one of the defined localities or areas for which a specific rate is prescribed in appendix A of this chapter. The standard CONUS rate is also prescribed for all locations within CONUS when permanent change of station travel is involved.

(6) *Per diem allowance.* The per diem allowance is a daily payment instead of actual expenses for lodging, meals and related incidental expenses (see paragraph (c) of this section). The per diem allowance is distinguished from transportation expenses and other miscellaneous travel expenses as described in paragraphs (b)(5) (i) and (ii) of this section.

(i) *Transportation expenses.* Transportation expenses include commercial bus, air, rail, or vessel/steamship fares and are reimbursable in addition to the per diem allowance. Transportation expenses also include local transit system and taxi fares; cost of commercial rental cars and other special conveyances; and mileage and other allowances to cover operating expenses for use of privately owned conveyances, including fees for parking, ferries, etc. (See parts 301-2, 301-3, and 301-4 for governing provisions.)

(ii) *Other miscellaneous travel expenses.* Other miscellaneous travel expenses are those described in part 301-9 that are directly attributable and necessary to the travel and temporary duty as authorized and performed. When authorized or approved by the agency concerned, these expenses are reimbursable in addition to the per diem allowance and transportation expenses.

(c) *Types of expenses covered by per diem.* The per diem allowance covers all charges, including taxes and service charges where applicable, for the following types of expenses (also referred to as *subsistence expenses* in other parts of this subtitle).

(1) *Lodging.* (i) The term *lodging* includes expenses for overnight sleeping facilities; baths; personal use of the room during daytime; and service charges for fans, air conditioners, heaters, and fires furnished in rooms when such charges are not included in the room rate.

(ii) The term *lodging* does not include accommodations on airplanes, trains, buses, or vessels. The cost of accommodations furnished aboard common carriers is included in the transportation cost and is not considered an expense covered by per diem. However, in determining the overall cost to the Government when authorizing the mode of transportation to be used (see § 301-2.2), the availability of these accommodations shall be considered.

(2) *Meals.* Expenses for breakfast, lunch, and dinner and related tips and taxes (specifically excluded are alcoholic beverage and entertainment expenses, and any expenses incurred for other persons).

(3) *Incidental expenses covered by per diem.* (i) Fees and tips to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on vessels, and hotel servants in foreign countries.

(ii) Laundry and cleaning and pressing of clothing.

(iii) Transportation between places of lodging or business and places where meals are taken except as provided in § 301-2.3(b) of this chapter.

(iv) Telegrams and telephone calls necessary to reserve lodging accommodations. (See part 301-6 of this chapter for allowable telegram and telephone expenses incurred for other purposes.)

§ 301-7.2 Employee and agency responsibilities.

(a) *Employee responsibility*—(1) *Duty to exercise care in incurring expenses.* An employee traveling on official business is expected to exercise the same care in incurring expenses that a prudent person would exercise if traveling on personal business and expending personal funds. Excess costs, circuitous routes, delays, or luxury accommodations and services unnecessary or unjustified in the performance of official business are not acceptable under this standard. Employees will be responsible for excess costs and any additional expenses incurred for personal preference or convenience. (See § 301-1.3(a) of this chapter.)

(2) *Duty to record pertinent times.* The date and hour of departure from and arrival at the official station or any other place at which official travel begins or ends must be shown on the travel voucher. The same information also must be shown for points at which temporary duty is performed or for a

stopover or official rest stop location when such arrival or departure affects the per diem allowance or other travel expenses. Other points visited should also be shown, but the time of arrival and departure need not be entered.

(3) *Use of standard time.* The hours of departure and arrival recorded on the voucher shall be those of the standard time in effect at the place involved. (See 15 U.S.C. 262.)

(b) *Agency responsibilities for authorizing/approving rates.* It is the responsibility of the head of each agency, or his/her designee, to authorize or approve only those per diem allowances that are justified by the circumstances affecting the travel and are allowable under the specific rules in this part. However, the per diem rates provided for under these rules represent the maximum allowable. To prevent authorization or approval of per diem allowances in excess of amounts required to meet the necessary per diem expenses of official travel, consideration shall be given to factors such as those listed in paragraph (b) of this section that reduce the necessary expenses of employees (see specific guidelines in § 301–7.12 for reducing rates):

(1) Known arrangements or established cost experience at temporary duty locations showing that lodging and/or meals can be obtained without cost or at reduced cost to the employee;

(2) Situations in which special rates for accommodations have been made available for a particular meeting, conference, training or other temporary duty assignment;

(3) Traveler's familiarity with establishments providing lodging and meals at a lower cost in certain localities, particularly where repetitive travel or extended stays are involved;

(4) Modes of transportation where accommodations are provided as part of the transportation cost; and

(5) Situations in which the Government furnishes lodging, such as Government quarters or other lodging procured for the employee by means of an agency purchase order. (See § 301–7.12(a).)

§ 301–7.3 Maximum per diem rates.

Per diem allowances for official travel authorized or approved under this part shall be at daily rates not in excess of the maximum per diem rates established as provided in paragraphs (a) through (c) of this section. Per diem rates include a maximum amount for lodging expenses and a fixed allowance for meals and incidental expenses (M&IE). Maximum lodging amounts and the fixed M&IE allowances are separately reflected in the listings of per diem rates identified in paragraphs (a) through (c) of this section.

(a) *Continental United States (CONUS).* The per diem allowances payable for official travel within CONUS shall not exceed the maximum per diem rates established by the Administrator of General Services and listed in appendix A of this chapter. (See instructions in § 301–7.4 for requesting rate adjustments within CONUS.)

(b) *Nonforeign areas outside CONUS.* The per diem allowances payable for official travel in nonforeign areas shall not exceed the maximum per diem rates established by the Secretary of Defense and listed in Civilian Personnel Per Diem Bulletins published periodically in the Federal Register. The term *nonforeign areas* includes the States of Alaska and Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories and possessions of the United States. Maximum per diem rates for nonforeign areas also are listed for convenience in section 925, a per diem supplement to the Standardized Regulations [Government Civilians, Foreign Areas].

(c) *Foreign areas.* Per diem allowances payable for official travel in foreign areas shall not exceed the maximum per diem rates established by the Secretary of State and published in section 925, a per diem supplement to the Standardized Regulations (Government Civilians, Foreign Areas). The term *foreign areas* includes any area (including the Trust Territory of the Pacific Islands) situated both outside CONUS and the nonforeign areas as described in paragraphs (a) and (b) of this section.

§ 301–7.4 Rate adjustment requests for travel within CONUS.

(a) Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in appendix A of this chapter will be surveyed on an annual basis by GSA to determine whether rates are adequate. Requests for per diem rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Federal Supply Service, Attn: Travel Management Division (FBT), Washington, DC 20406. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies.

(b) Requests for rate adjustments shall include a city designation and a description of the surrounding location involved (county or other defined area) and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the locations.

§ 301–7.5 General rules affecting entitlement to per diem.

(a) *No allowance at official station.* A per diem allowance shall not be allowed within the limits of the official station (see definition in § 301–1.3(c)(3) of this chapter) or at, or within the vicinity of, the place of abode (home) from which the employee commutes daily to the official station. Agencies may define a radius or commuting area that is broader than the limits of the official station within which per diem will not be allowed for travel within 1 calendar day.

(b) *Travel of 10 hours or less (10-hour rule).* A per diem allowance shall not be allowed when the period of official travel is 10 hours or less. (This rule also applies to travel incident to a change of official station.)

(c) *Exception to 10-hour rule.* Per diem shall not be allowed for employees who qualify for per diem solely on the basis of working a nonstandard workday (e.g., four 10-hour days or any other compressed or flexible schedule). In such instances, per diem shall not be allowed for travel periods less than or equal to the employee's workday hours plus 2 hours.

(d) *Beginning and ending of entitlement.* For computing per diem allowances, official travel begins at the time an employee leaves his/her home, office, or other authorized point of departure and ends when the traveler returns to his/her home, office, or other authorized point at the conclusion of the trip.

(e) *International date line.* In cases where the traveler crosses the international date line (180th meridian), the actual elapsed time shall be used to compute per diem rather than calendar days.

§ 301–7.6 Lodgings-plus per diem system.

Per diem allowances for all official travel, including travel incident to a change of official station, shall be computed under the lodgings-plus per

diem system, except as otherwise provided in this part. Under this system, the per diem allowance for each travel day is established on the basis of the actual amount the traveler pays for lodgings plus an allowance for meals and incidental expenses (M&IE), the total not to exceed the applicable maximum per diem rate for the location concerned. The rules provided in paragraphs (a) and (b) of this section and in §§ 301–7.7 through 301–7.10 shall be applied in the specific situations covered.

(a) *Maximum per diem rates*—(1) *For travel within CONUS.* Maximum per diem rates prescribed under § 301–7.3(a) for travel within CONUS are listed in appendix A of this chapter. For all CONUS locations not specifically listed or encompassed by the defined boundaries of a listed location, the standard maximum per diem rate (standard CONUS rate) is prescribed.

(2) *For travel outside CONUS.* Maximum per diem rates prescribed under §§ 301–7.3(b) and 301–7.3(c) apply to travel outside CONUS.

(3) *Maximum rate applicable to change of official station travel.* The standard CONUS rate shall be the applicable maximum per diem rate for en route travel performed in CONUS incident to a change of official station. Locality rates prescribed for locations outside CONUS will apply for en route travel performed outside CONUS incident to a change of official station.

(b) *Elements of per diem allowance*—(1) *Maximum lodging expense allowance.* The maximum per diem rates include a maximum amount for lodging expenses. The employee will be reimbursed for actual lodging costs incurred up to the applicable maximum amounts. Receipts for lodging are required as provided in § 301–7.9(b).

(2) *Meals and incidental expenses (M&IE) allowance.* The maximum per diem rates include a fixed allowance for meals and for incidental expenses (M&IE rate). The M&IE rate, or fraction thereof, is payable to the traveler without itemization of expenses or receipts. For partial days of travel, the M&IE rate shall be prorated as provided in § 301–7.8(e).

§ 301–7.7 Computation rules for travel of more than 10 hours, but not exceeding 24 hours.

When the travel period (entire trip) for which per diem has been authorized is 24 hours or less, but more than 10 hours, the travel period will be prorated as shown in § 301–7.8(e) starting with the quarter day in which travel begins and ending with the quarter day in which the traveler arrives at home, office, or other authorized point upon conclusion of the trip. The per diem allowance for the trip will be calculated as follows:

(a) *Lodging not required.* If lodging is not required, the per diem allowable shall be the M&IE rate applicable to the location of the temporary duty assignment prorated as provided in § 301–7.8(e). If more than one temporary duty point is involved, the per diem allowance will be calculated using the highest of the M&IE rates prescribed for the locations where official business is performed.

(b) *Lodging required.* If lodging is required, the rules for travel of more than 24 hours apply.

§ 301–7.8 Computation rules for travel of more than 24 hours.

The applicable maximum per diem rate for each calendar day of travel shall be determined by the travel status and location of the employee at 12:00 midnight and whether lodging is required at such location. When lodging is required, the applicable maximum per diem rate shall be the maximum rate prescribed for the temporary duty location, or a stopover point where lodging is obtained while en route to, from, or between temporary duty locations (see §§ 301–7.9 and 301–7.6(a)(3) for rules on lodging location and maximum per diem rates applicable to change of official station travel, respectively). Only one maximum rate will be applicable to a calendar day or fraction thereof. Per diem for travel of more than 24 hours shall be calculated as provided in paragraphs (a) through (g) of this section.

(a) *Day travel begins*—(1) *Lodging required.* When lodging is required on the day travel begins (day of departure from the home, office, or other authorized point), the per diem allowable shall be the actual cost of lodging incurred by the traveler, limited to the applicable maximum lodging allowance prescribed for the location of the lodging, plus the applicable M&IE rate prescribed for the location of the lodging prorated as provided in paragraph (e) of this section.

(2) *Lodging not required.* When lodging is not required on the day travel begins, (day of departure from the home, office, or other authorized point), the per diem allowable shall be the destination M&IE rate prorated as provided in paragraph (e) of this section.

(b) *Full calendar days of travel*—(1) *Lodging required.* For each full calendar day that the employee is in a travel status and lodging is required (whether en route or at a temporary duty location), the per diem allowable shall be the actual cost of lodging incurred by the traveler, limited to the applicable maximum lodging allowance prescribed for the location of the lodging, plus the applicable M&IE rate.

(2) *Lodging not required.* For each full calendar day that the traveler is in a travel status and lodging is not required (such as when the traveler is en route overnight to the next temporary duty location), the per diem allowance shall be the destination M&IE rate.

(c) *Returning from travel*—(1) *Lodging required.* For each full calendar day of travel when lodging is required at an en route location while the employee is returning to the official station, home, or other authorized point, the per diem allowable shall be the actual cost of lodging incurred by the traveler, limited to the applicable maximum lodging allowance prescribed for the location of the lodging, plus the applicable M&IE rate.

(2) *Lodging not required.* For any full calendar day of travel when lodging is not required while the traveler is en route overnight returning to the official station, home, or other authorized point, the per diem allowable shall be the M&IE rate applicable to the preceding calendar day.

(3) *Day travel ends.* For the day travel ends (day traveler returns to the official station, home, or other authorized point) the per diem allowable shall be the M&IE rate applicable to the preceding calendar day prorated as provided in paragraph (e) of this section.

(d) *Travel incident to a change of official station*—(1) *En route travel to new official station.* The rules in § 301–7.8 (a) and (b) apply when computing per diem allowances for en route travel (24 hours or less and 24 hours or more) to a new official station (see part 302–2). The M&IE rate applicable to the new official station on the day of arrival at that location, or the standard CONUS M&IE rate, as appropriate, will be prorated as provided in paragraph (e) of this section. When travel begins and ends on the same day, the rule in paragraph (a)(2) of this section will apply and the M&IE rate applicable to the new official station, or the standard CONUS M&IE rate, as appropriate, will also be prorated as provided in paragraph (e) of this section.

(2) *Travel to seek residence quarters.* The rules in § 301–7.8 (a) through (c) apply when computing per diem for travel to seek residence quarters (see part 302–4).

(e) *Method of prorating M&IE rate for partial days.* The applicable M&IE rate for a partial day of travel shall be prorated using the following table. In computing the per diem allowance for a

partial day, the calendar day (midnight to midnight) shall be the unit. For each 6-hour period (or fraction thereof at the beginning or end of a partial travel day) that the employee is in a travel status on that day, one-fourth of the applicable M&IE rate shall be allowed. A quarter day, although reflected here as beginning one minute after the hour, technically begins one second after the stated hour.

First quarter	12:01	a.m. -	06:00 a.m.
Second quarter	06:01	a.m. -	12:00 noon
Third quarter	12:01	p.m. -	06:00 p.m.
Fourth quarter	06:01	p.m. -	12:00 midnight

(f) *Lodging obtained after midnight.* Although per diem generally is based on the employee's location at midnight, there will be instances in which he/she is en route and does not arrive at the lodging location (either temporary duty location or en route stopover point) until after midnight. In such cases, the lodging shall be claimed for the preceding calendar day and the applicable maximum per diem for the preceding day will be determined as if the employee had been at the lodging location at 12:00 midnight of that day.

(g) *Commercial vessel.* For vessel travel, except for the day of arrival on board (day of embarkation) and the day of departure from the vessel (day of debarkation), the allowable per diem rate will be $6 per day. When the $6 rate is not sufficient to meet the traveler's per diem expenses, a per diem rate equal to the anticipated expenses, not to exceed $9 per day, may be authorized or approved; except that the rate for travel by the Alaska Ferry System shall not exceed the standard M&IE rate for CONUS. Per diem will be computed under the lodgings-plus system on the days of embarkation and debarkation.

§ 301–7.9 Lodging—location, receipt requirements, and allowable expenses.

(a) *Lodging location rules*—(1) *Lodging at temporary duty location.* It is presumed that the employee will obtain lodging at the temporary duty location. However, if the employee obtains lodging away from or outside the temporary duty location because of personal preference or convenience, the allowable per diem shall be limited to the maximum per diem rate prescribed for the temporary duty location.

(2) *Lodging not available at temporary duty location.* In certain circumstances, lodging accommodations may not be available at the temporary duty location and the employee must obtain lodging in an adjacent locality where the prescribed maximum per diem rate is higher than the maximum per diem rate for the location of the temporary duty point. In such instances, the agency may make an administrative determination on an individual case basis to authorize or approve the higher maximum per diem rate. If the higher maximum rate is not justified and authorized in advance, the employee must furnish a statement with the travel voucher satisfactorily explaining the circumstances that caused him/her to obtain lodging in an area other than at the temporary duty point designated in the travel authorization.

(b) *Receipt requirements.* Receipts shall be required to support all lodging costs for which an allowance is claimed under the lodgings-plus per diem system except that a statement instead of a receipt may be accepted for the fee or service charge incurred for the use of Government quarters. Receipts are not required when a specific or reduced rate has been authorized in advance of the travel as provided in §§ 301–7.10 and 301–7.12.

(1) *Double occupancy.* If the lodging receipt shows a charge for double occupancy, such fact shall be shown on the travel voucher with the name, and employing agency or office, of the person sharing the room if such person is a Government employee on official travel. One-half of the double occupancy charge shall be allowable for each employee. If the person sharing the room is not another Government employee on official travel, identification of the person sharing the room is not required and the employee may be allowed the single room rate.

(2) *Receipts lost or impractical to obtain.* If receipts have been lost or destroyed or are impractical to obtain, a statement acceptable to the agency explaining the circumstances shall be furnished with the travel voucher, including the name and address of the lodging facility, the dates the lodging was obtained, and the cost incurred. Agencies may require employees to obtain copies of lost or destroyed receipts from the lodging establishment. (See also § 301–11.3(d).)

(c) *Allowable lodging expenses.* As provided in § 301–7.6(b)(1), the traveler will be reimbursed only for his/her actual cost of lodging up to the maximum amount. Expenses incurred in the situations described in paragraphs (c) (1) through (5) of this section will be allowed as lodging expenses:

(1) *Conventional lodging.* When an employee uses conventional lodging facilities (hotels, motels, boarding houses, etc.), the allowable lodging expense will be based on the single room rate for the lodging used (for double occupancy, see paragraph (b)(1) of this section). (See § 301–7.14(a) for computing daily lodging expense when lodging is rented on a weekly or monthly basis.)

(2) *Government quarters.* A fee or service charge paid for the use of Government quarters is an allowable lodging expense.

(3) *Lodging with friends or relatives.* When the employee obtains lodging from friends or relatives (including members of the immediate family) with or without charge, no part of the per diem allowance will be allowed for lodging unless the host actually incurs additional costs in accommodating the traveler. In such instances, the additional costs substantiated by the employee and determined to be reasonable by the agency may be allowed as a lodging expense. Neither costs based on room rates for comparable conventional lodging in the area nor flat *token* amounts will be considered as reasonable.

(4) *Lodging in nonconventional facilities.* When no conventional lodging facilities are present (e.g., in remote areas) or when there is a shortage of rooms because of an influx of attendees at special events (e.g., world's fairs or international sports events), costs of lodging obtained in nonconventional facilities may be allowed. Such facilities may include college dormitories or similar facilities and rooms generally not offered commercially that are made available to the public by area residents in their homes. In such cases, the traveler must provide an explanation of the circumstances which is acceptable to the agency.

(5) *Use of travel trailer or camping vehicle for lodgings.* A per diem allowance for lodging may be allowed when the traveler uses a travel trailer or camping vehicle while on temporary duty assignments away from his/her official station. (See § 301–7.14(b) for per diem computations in such situations.)

§ 301–7.10 Deviation from lodgings-plus per diem system.

An agency may determine that the lodgings-plus per diem system as prescribed in this section is not appropriate for certain travel assignment situations, such as when quarters or meals, or both, are provided at no cost or at a nominal cost by the Government or when for some other reason the per diem costs to be incurred by the employee can be determined in advance. (For example, see situations described in §§ 301–7.12 and 301–7.14.) In such instances, a specific per diem rate may be established within the

maximum per diem otherwise applicable to the travel situation and any appropriate reductions made in accordance with § 301–7.12, provided the exception from the lodgings-plus per diem system and the specific per diem rate are authorized in advance on the travel authorization by an appropriate official of the agency concerned. Such specific per diem rate authorized on the travel authorization shall be the per diem rate payable on the travel voucher without receipts and/or itemization by the employee.

§ 301–7.11 Rest stops when travel outside CONUS is involved.

(a) When travel is direct between authorized origin and destination points which are separated by several time zones and either the origin or destination point is outside CONUS, a rest period not in excess of 24 hours may be authorized or approved when air travel between the two points is by less-than-premium-class accommodations and the scheduled flight time, including stopovers, exceeds 14 hours by a direct or usually traveled route.

(b) The rest stop may be authorized at any intermediate point, including points within CONUS, provided the point is midway in the journey or as near to midway as requirements for use of U.S. flag air carriers and carrier scheduling permit.

(c) A rest stop shall not be authorized when an employee, for personal convenience, elects to travel by an indirect route resulting in excess travel time.

(d) The per diem rate for the rest stop shall be the rate applicable for the rest stop location.

(e) When carrier schedules or the requirements for use of U.S. flag air carriers preclude an intermediate rest stop, or a rest stop is not authorized, it is recommended that the employee be scheduled to arrive at the temporary duty point with sufficient time to allow a reasonable rest period before reporting for duty. (See § 301–3.6 of this chapter for guidelines on the use of U.S. flag carriers.)

§ 301–7.12 Reductions in maximum per diem rates when appropriate.

An agency may, in individual cases or situations, authorize a reduced per diem rate under certain circumstances, such as when lodgings and/or meals are obtained by the employee at a reduced cost or furnished to the employee at no cost or a nominal cost by the Government; or when for some other reason the per diem costs to be incurred by the employee can be determined in advance. In exercising its responsibilities outlined in § 301–7.2(b), the agency should consider any known factors that will cause the traveler's per diem expenses in a specific situation to be less than the applicable maximum rates prescribed under § 301–7.3. If it can be determined in advance of the travel that such factors are present, the agency should authorize a reduced rate that is commensurate with the known expense levels. Such reduced rate authorized on the travel authorization shall be the per diem rate payable on the travel voucher without receipts and/or itemization by the employee. When reduced rate situations involve partial days, per diem for such days may be the reduced rate prorated by quarters, a special reduced rate prescribed for the partial days, or an amount determined under the lodgings-plus system, as considered appropriate by the agency. Guidelines for reducing rates and situations where reduced rates may be appropriate include but are not limited to those provided in paragraphs (a) through (d) of this section.

(a) *When lodgings/meals are furnished by the Government*—(1) *Lodgings furnished.* Normally when all or part of the lodging is furnished at no cost or at a nominal cost to the employee by the Government, the lodgings-plus per diem system automatically reduces the maximum per diem rate to the M&IE rate (or fraction thereof). When lodging is furnished at no cost to the employee through use of an agency purchase order, the agency shall not authorize or approve a per diem allowance for other per diem expenses that will, when combined with the cost of lodging furnished, exceed the applicable maximum per diem rate prescribed under § 301–7.3.

(2) *Meals furnished.* When all or part of the meals are furnished at no cost or at a nominal cost to the employee by the Federal Government, the applicable maximum per diem rate or the M&IE rate, as appropriate, shall be reduced to a daily amount commensurate with the expenses expected to be incurred by the employee. If a reduced per diem rate was not authorized in advance of the travel and meals were furnished at no cost or at a nominal cost by the Federal Government, the appropriate deduction prescribed in paragraph (a)(2) (i) or (ii) of this section shall be made from the total per diem payable on the travel voucher. If there is a charge for the meal for which a deduction has been made under this paragraph, reimbursement shall be allowed for the amount paid, not to exceed the amount allocated for the meal in paragraph (a)(2) (i) or (ii) of this section. The total amount of the deductions made on partial days shall not cause the employee to receive less than the amount allocated for incidental expenses.

(i) *CONUS locations.* The applicable M&IE rate for CONUS locations shall be reduced by the dollar amount shown in the following table when meals are furnished to the employee without charge or at a nominal cost (see paragraph (a)(2) of this section) by the Federal Government.

	M&IE RATES	
	$26	$34
Breakfast	$5	$7
Lunch	5	7
Dinner	14	18
Incidentals	2	2

(ii) *Outside CONUS locations.* The M&IE rates for localities in both nonforeign and foreign areas shall be reduced by the applicable dollar amount shown in appendix B of this chapter when meals are furnished to the employee without charge or at a nominal cost (see paragraph (a)(2) of this section) by the Federal Government.

(b) *Extended stays.* When travel assignments involve extended periods at temporary duty locations and travelers are able to secure lodging and/or meals at lower costs (e.g., weekly or monthly rentals), the per diem rate should be reduced accordingly. If the extended temporary duty is for training, see paragraph (d) of this section. (See also § 301–7.14 for allowable expenses in special situations.)

(c) *Meetings and conventions.* In the interest of uniform treatment of employees, whenever a meeting or conference is arranged which will involve the travel of attendees from other agencies or components of the same agency, and reduced cost lodging accommodations have been prearranged at the meeting or conference site, the agency or agencies sponsoring the meeting or conference shall recommend to the other participating agencies or components a per diem allowance that would be reasonable.

(d) *Per diem for extended training assignments.* (1) The Government Employees Training Act (5 U.S.C. 4101–4118) authorizes agencies to pay all or a part of the per diem expenses of an employee assigned to training at a temporary duty station. Implementing regulations prescribed by the Office of Personnel Management (OPM) in 5 CFR 410.603 provide specific guidelines for payment of per diem expenses for employees on extended training

assignments of more than 30 calendar days at temporary duty locations.

(2) Generally the OPM guidelines require a reduced per diem of not more than 55 percent of the applicable maximum per diem rate prescribed in this regulation (see § 301–7.3). Per diem above these levels (not to exceed the maximum per diem rates) must be justified. Agencies shall refer to the OPM guidelines in 5 CFR 410.603 for specific criteria to determine the appropriate per diem. Guidelines also are published by OPM in the Federal Personnel Manual, chapter 410, section 6–3.

§ 301–7.13 Mixed travel reimbursements.

Mixed travel occurs when official travel within a single trip is subject to payment of per diem under the lodgings-plus system and an actual expense allowance under the actual expense system. Reimbursement will be computed under only one system for each calendar day except when the provisions of § 301–8.2(b) or 301–8.3(a)(2)(ii) of this chapter apply. When actual subsistence expense reimbursement for certain travel days is intermittent with the per diem method for others, the rules in § 301–8.6 of this chapter govern.

§ 301–7.14 Per diem allowance computations for special situations.

(a) *Per diem for weekly or monthly rentals*—(1) *Types of expenses included in lodging costs.* When an employee rents a room, apartment, house, or other lodging incident to a temporary duty assignment, the following expenses may be considered part of the lodging cost: the rental cost; if unfurnished, the rental cost of appropriate and necessary furniture and appliances, such as a stove, refrigerator, chairs, tables, bed, sofa, television, and vacuum cleaner; cost of connection, use, and disconnection of utilities; cost of reasonable maid fee and cleaning charges; monthly telephone use fee (does not include installation and long-distance calls); and, if ordinarily included in the price of a hotel or motel room in the area concerned, the cost of special user fees, such as cable TV charges and plug-in charges for automobile head bolt heaters.

(2) *Computation of daily lodging costs.* When the employee obtains lodging on a weekly or monthly rental basis, the daily lodging cost shall be computed by dividing the total lodging cost for the expenses listed in paragraph (a)(1) of this section by the number of days the accommodations are actually occupied, provided that the employee acts prudently in renting by the week or month, and that the cost to the Government does not exceed the cost of renting conventional lodging at a daily rate. Otherwise the daily lodging cost shall be computed by dividing by the number of days in the rental period; e.g., 7 or 30 days, as appropriate.

(3) *Per diem allowable.* (i) Under the lodgings-plus system, the allowable per diem consists of the daily lodging cost calculated under paragraph (a)(2) of this section plus the applicable M&IE rate not to exceed the maximum per diem rate prescribed for the location involved.

(ii) When a reduced per diem rate is being established (see § 301–7.12) in advance of the travel, the daily lodging cost calculated in paragraph (a)(2) of this section shall be added to the amount determined by the agency to be necessary for meals and incidental expenses.

(b) *Per diem allowances for use of a recreational vehicle for lodging.* The term *recreational vehicle* includes mobile homes, campers, camping trailers, or self-propelled mobile recreational vehicles.

(1) *Privately owned*—(i) *Lodging costs.* When an employee uses a privately owned camping or recreational vehicle while on official travel, allowable expenses which may be considered as a lodging cost include parking fees; fees for connection, use, and disconnection of utilities (electricity, gas, water, and sewage); bath or shower fees; and dumping fees. Depreciation shall not be considered as a lodging cost.

(ii) *Meals and incidental expenses.* The agency shall determine an appropriate amount for meals and incidental expenses based on whether the type of recreational vehicle used by the employee has meal preparation facilities. Such amount shall not exceed the applicable M&IE rate.

(iii) *Per diem computation.* The daily lodging costs plus an appropriate rate for meals and incidental expenses determined under paragraph (b)(1)(ii) of this section shall be the per diem rate, limited to the applicable maximum rate prescribed under § 301–7.3 for the locality involved. An agency may authorize a reduced per diem rate within the applicable maximum per diem rate if the actual costs expected to be incurred can be determined in advance of the travel.

(2) *Rented recreational vehicle.* When the use of a rented recreational vehicle is authorized or approved as advantageous to the Government, the rental fee and the allowable expenses shown in paragraph (b)(1)(i) of this section may be considered as lodging costs. Advantageous use might occur when the employee is on an extended temporary duty assignment in a remote area or where conventional lodging facilities are limited or not available. If use of a rented recreational vehicle is not authorized or approved as advantageous, only those expenses listed in paragraph (b)(1)(i) of this section may be considered as lodging costs.

(c) *Per diem computations when temporary duty is curtailed, canceled, or interrupted for official purposes.* When an employee has made advance arrangements for lodging (such as those described in paragraph (a) or (b) of this section), with reasonable expectation of the travel assignment being completed as ordered or directed, and subsequently the temporary duty assignment is curtailed, canceled, or interrupted for official purposes, or for other reasons beyond the employee's control that are acceptable to the agency, lodging costs may be calculated and paid as follows:

(1) *Travel assignment curtailed or interrupted.* When the temporary duty assignment is curtailed or interrupted for the benefit of the Government or for other reasons beyond the employee's control and the employee is unable to obtain a refund of prepaid rent, expenses incurred for unused lodging may be reimbursed under the following conditions:

(i) *Determination of reasonableness.* The agency must determine that the employee acted reasonably and prudently in incurring allowable lodging expenses pursuant to temporary duty travel orders. Included in this determination should be a consideration of whether the employee sought to obtain a refund of the prepaid lodging cost or otherwise took steps to minimize the costs once the temporary duty was officially curtailed or interrupted.

(ii) *Adjusted calculation and reimbursement of lodging costs.* If the agency determines that the employee acted reasonably, the unused portion of the prepaid lodging cost may be reimbursed as follows:

(A) The daily lodging costs for the period covered by the voucher shall be calculated by dividing the total cost for the rental period by the number of days of actual occupancy. The total of the lodging costs thus calculated plus the appropriate daily amount authorized for meals and incidental expenses may be reimbursed not to exceed the per diem rate authorized in the employee's travel orders for the days that the lodging was occupied.

(B) If the authorized per diem rate is insufficient for the days of occupancy,

the daily lodging cost calculated in paragraph (c)(1)(ii)(A) of this section plus the amount authorized for meals and incidental expenses may be reimbursed on an actual expense basis not to exceed appropriate maximum daily rates determined as provided in § 301–8.3.

(C) The excess amount (if any) of the unrefunded lodging cost not reimbursed under paragraph (c)(1)(ii)(B) of this section may be paid as a miscellaneous travel expense incident to the travel assignment, if otherwise proper.

(D) In instances where the travel assignment was interrupted for official purposes (e.g., when the employee is directed to perform temporary duty at another location), allowable per diem expenses (if any) incurred during the interruption may be reimbursed separately from those reimbursements outlined in paragraphs (c)(1)(ii) (A) through (C) of this section, if otherwise proper and in conformance with the provisions of this part.

(2) *Travel assignment canceled.* When the employee incurs lodging expenses in reasonable expectation of a travel assignment being completed as ordered or directed, and due to a change in travel orders the travel assignment is canceled before its commencement, the prepaid lodging expenses may be reimbursed as a miscellaneous travel expense provided the amounts are reasonable and the conditions in paragraph (c)(1)(i) of this section are met.

(3) *Forfeited rental deposits.* If, in situations described in paragraphs (c) (1) and (2) of this section, the employee was required by the terms of a lease or rental agreement to pay a rental deposit and all or part of the deposit is forfeited to cover unpaid lodging costs, the amount of the forfeited deposit may be reimbursed as a miscellaneous travel expense provided the conditions in paragraph (c)(1)(i) of this section are met. Reimbursement for deposits forfeited for damages to lodging accommodations shall not be allowed.

(d) *Per diem while aboard Government vessel.* For temporary duty aboard Government vessels where meals and lodgings are furnished at no cost or at a reduced cost, agencies shall prescribe an appropriate per diem rate within the provisions of this part. The term *Government vessel* includes vessels owned and operated, leased and operated, or chartered by the Government.

§ 301–7.15 Interruptions of per diem entitlement.

For purposes of this section, the term *place of abode* means the place from which the employee commutes daily to the official station.

(a) *Leave and nonworkdays*—(1) *General.* Leave of absence (other than as provided in paragraph (d) of this section) for one-half, or less, of the prescribed daily working hours shall be disregarded for per diem purposes. Where the leave is more than one-half of the prescribed daily working hours, no per diem shall be allowed for that day.

(2) *Nonworkdays.* Legal Federal Government holidays and weekends or other scheduled nonworkdays are considered nonworkdays. Employees are considered to be in a per diem status on nonworkdays except when they return to their official station or place of abode (see paragraph (b) of this section), or except under conditions stated in paragraphs (a)(2) (i) and (ii) of this section.

(i) *Leave before and after nonworkdays.* Per diem shall not be paid for nonworkdays when:

(A) Employees are in a leave status at the end of the workday before the nonworkdays and at the beginning of the workday following the nonworkdays, and

(B) The period of leave on either of those days is more than one-half of the prescribed working hours for that day.

(ii) *Leave between nonworkdays.* Per diem shall not be paid for more than two nonworkdays in cases where leave of absence is taken for all of the prescribed working hours between the nonworkdays.

(b) *Return to official station for nonworkdays*—(1) *Required return—official business.* An employee who is required by appropriate agency officials to return to his/her official station for the nonworkdays to perform official business or because it is otherwise advantageous to the Government shall be allowed the round-trip transportation expenses and per diem for the en route travel.

(2) *Authorized return—substantial cost savings.* An agency may authorize per diem and transportation expenses to an employee to return home for nonworkdays where a significant cost savings will be achieved. Travel time shall be scheduled within the employee's duty hours to the extent practicable. The cost of lost productivity attributable to the duty hours involved in traveling to and from the employee's residence for nonworkdays shall be considered in determining the cost savings.

(3) *Authorized return incident to extended temporary duty.* Employees who are required to routinely perform extended periods of temporary duty may, at agency discretion and within the limits of appropriations available for payment of travel expenses, be authorized round-trip transportation expenses and per diem en route for periodic return travel to their official stations or places of abode for nonworkdays. Agencies are cautioned that this authority is to be used with the utmost discretion and consideration of the length and purpose of the temporary duty assignments and the distance of the return travel. The periodic return travel may be authorized if the conditions specified in paragraphs (b)(3) (i) and (ii) of this section are met.

(i) The head of the agency or his/her designee has determined, based on an appropriate cost analysis, that the costs of periodic weekend return travel (including the costs of potential overtime, if applicable) are outweighed by savings in terms of increased employee efficiency and productivity, as well as reduced costs of recruitment and retention of employees. This cost analysis shall be conducted no less frequently than every other year.

(ii) Return travel for nonworkdays authorized under these provisions constitutes an exception to the directive on scheduling of travel contained in 5 U.S.C. 6101(b)(2) and therefore should be performed outside the employee's regularly scheduled duty hours or during periods of authorized leave. However, in the case of employees not exempt from the Fair Labor Standards Act overtime provisions, consideration should be given to scheduling the authorized travel to minimize payment of overtime, including scheduling of travel during regularly scheduled duty hours when necessary. (See Office of Personnel Management regulations for further guidelines covering overtime during travel.)

(4) *Voluntary return.* When an employee voluntarily returns to his/her official station or place of abode for nonworkdays, the maximum reimbursement for the round-trip transportation and per diem en route shall be limited to the per diem allowance and travel expenses which would have been allowed had the employee remained at the temporary duty station. The employee shall perform any such voluntary return travel during nonduty hours or periods of authorized leave.

(c) *Indirect route or interrupted travel.* If there is an interruption of travel or deviation from the direct route resulting in excess travel time because of an employee's personal preference or convenience or through the taking of leave, the per diem allowed shall not

exceed that which would have been allowed on uninterrupted travel by a direct or usually traveled route except as provided in part 301–12 of this chapter for certain emergency travel situations. (See §§ 301–2.5, 301–7.2(a)(2), and 301–11.5(a)(3) of this chapter.)

(d) *Illness or injury or a personal emergency situation.* Provisions governing per diem allowable for emergency travel performed due to an employee's incapacitating illness or injury or because of a personal emergency situation, as well as the continuation of per diem due to incapacitating illness or injury of the employee, are found in part 301–12 of this chapter.

PART 301–8—REIMBURSEMENT OF ACTUAL SUBSISTENCE EXPENSES

7. The authority citation for part 301–8 continues to read as follows:

Authority: 5 U.S.C. 5701–5709; E. O. 11609, July 22, 1971 (36 FR 13747).

8. Section 301–8.1 is revised to read as follows:

§ 301–8.1 General.

This part applies worldwide (both within and outside CONUS) except as specifically provided herein.

9. Section 301–8.2 is amended by revising the first sentence of the introductory text of paragraph (a) and the text of paragraph (b) to read as follows:

§ 301–8.2 Conditions warranting authorization or approval of actual expenses.

(a) *Travel assignments involving special or unusual circumstances.* Travel on an actual subsistence expense basis may be authorized or approved for travel assignments when the applicable maximum per diem rate (see § 301–7.3 of this chapter) is inadequate due to special or unusual circumstances. * * * * * * * * * *

(b) *Situations requiring reimbursement for occasional lodging and/or meals.* Although lodging and/or meals are furnished without cost (or at a nominal cost) for a particular assignment, the employee may necessarily incur expenses for occasional lodgings and/or meals. The agency may approve reimbursement of appropriate expenses incurred for occasional meals or lodging that are determined to be necessary and justified by the circumstances involved. The actual expense allowable for lodging or each meal may not exceed the applicable lodging or individual meal allowance provided in part 301–7, or 150 percent of those amounts if special or unusual circumstances are involved. If the travel is to a location where § 301–8.3 (b)(1)(ii) or (d) applies under special or unusual circumstances, the authorizing agency shall determine an appropriate limitation cn the amount of reimbursement. Each agency shall establish necessary administrative procedures for travel under these provisions.

10. Section 301–8.3 is revised to read as follows:

§ 301–8.3 Maximum daily rates and reimbursement limitations.

This section establishes the maximum amount of reimbursement for actual subsistence expenses that may be authorized or approved for each calendar day or fraction thereof. Agencies shall determine appropriate and necessary daily maximum rates not to exceed these amounts when authorizing or approving travel under this part. Maximum daily rates need not be prorated for fractions of a day; however, see paragraphs (b) (1) and (2) of this section for reimbursement limitations.

(a) *Maximum daily rates*—(1) *Travel within CONUS.* For travel within CONUS, the maximum daily rate for subsistence expenses shall not exceed 150 percent of the applicable maximum per diem rate (rounded to the next higher dollar) prescribed in appendix A of this chapter for the travel assignment location.

(2) *Travel outside CONUS.* For travel outside CONUS, the maximum daily rate for subsistence expenses shall not exceed the greater of the amounts prescribed by the Departments of Defense and State, respectively, for nonforeign and foreign areas as set forth in paragraphs (a)(2) (i) and (ii) of this section:

(i) 150 percent of the applicable maximum per diem rate (rounded to the next higher dollar) prescribed under § 301–7.3 (b) or (c); or

(ii) $50 plus the applicable maximum per diem rate prescribed under § 301–7.3 (b) or (c).

(b) *Reimbursement limitation*—(1) *General limitation.* When the actual subsistence expenses incurred during any 1 day are less than the maximum daily rate authorized, the employee shall be reimbursed only for the lesser amount. Expenses incurred and claimed (including those for fractional days) shall be reviewed and allowed only to the extent determined to be necessary and reasonable by the agency. (See § 301–8.5(b).) Reimbursement for meals and incidental expenses shall not exceed:

(i) 150 percent of the M&IE rate applicable to the temporary duty location; or

(ii) $25 plus the M&IE rate applicable to the temporary duty location when the daily maximum rate authorized is established under paragraph (a)(2)(ii) of this section.

(2) *Specific meals and incidental expenses limitation.* The agency may limit reimbursement for meals and incidental expenses to 100 percent of the applicable M&IE rate and deviate from the requirement for receipts and/or itemization of such expenses as provided in § 301–8.5(a)(3). In such instances, the M&IE rate shall be prorated for partial days of travel as provided in § 301–7.8(e) of this chapter.

(c) *Travel to a Presidentially declared disaster area.* For travel to a Presidentially declared disaster area, the Director of the Federal Emergency Management Agency (FEMA) may request establishment of a maximum daily rate for subsistence expenses above the maximum rate prescribed in paragraph (a) of this section. The Administrator of General Services may establish an appropriate maximum daily rate, not to exceed 300 percent of the maximum per diem rate prescribed for the area under § 301–7.3, pursuant to a review of the justification supporting the request. Such higher established rate shall apply for all official travel to the disaster area and will be effective for a period not to exceed 30 days. The Administrator of General Services may extend the period of effectiveness in increments of 30 days upon the request of the Director of FEMA. Requests should be submitted to the Administrator of General Services, Washington, DC 20405, and must contain the following information:

(1) A copy of the Presidential disaster declaration and a specification of the geographic area encompassed;

(2) A recommended maximum daily rate not to exceed 300 percent of the maximum per diem rate prescribed for the area under § 301–7.3 of this chapter;

(3) A description of the specific circumstances which justify the establishment of the recommended rate; and

(4) A recommended time period for effectiveness of the maximum daily rate requested to be established under this paragraph.

(d) *When lodging is procured through use of an agency purchase order.* When actual subsistence expense reimbursement is authorized or approved under this part 301–8 and lodging is furnished to the employee at no cost through use of an agency

purchase order, the agency shall not authorize or approve reimbursement for other subsistence expenses that will, when combined with the cost of lodging furnished, exceed the maximum daily rate authorized under paragraph (a) of this section.

§ 301-8.5 [Amended]

11. In § 301-8.5 revise the following references:

In paragraph:	Revise reference:	To read:
(a)(2)	§ 301-7.5(c)(1) (i) and (ii)	§ 301-7.9(b) (1) and (2) of this chapter
(a)(2)	Part 301-8	part
(a)(3)	§ 301-8.3(a)(2)(ii)	§ 301-8.3(b)(2)

12. Section 301-8.6 is amended by revising paragraph (b) to read as follows:

§ 301-8.6 Mixed travel (per diem and actual subsistence expense) reimbursement.

* * * * *

(b) If actual expense reimbursement authorized for particular locations is intermingled with per diem at other locations in a single trip, the agency shall determine when the transition between reimbursement systems occurs. Only one method or system is authorized for any given calendar day except as provided in § 301-8.2(b) or § 301-8.3(b)(2).

13. Section 301-8.7 is revised to read as follows:

§ 301-8.7 Interruption of subsistence entitlements.

The provisions of § 301-7.15 of this chapter applicable to interruptions of per diem entitlement (leave and nonworkdays, return to official station for nonworkdays, indirect route or interrupted travel, and illness or injury or a personal emergency situation) shall apply to travel on an actual subsistence expense basis.

PART 301-11—CLAIMS FOR REIMBURSEMENT

14. The authority citation for part 301-11 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301-11.6 [Amended]

15. Section 301-11.6 is amended as follows:

a. In paragraphs (a)(1), (a)(4), (b)(26), and (b)(27) remove the reference "301-7.11(d)" and add in its place "301-7.15(d)".

b. In paragraph (b)(15) remove the reference "§ 301-7.7" and add in its place "§ 301-7.12 of this chapter".

c. Revise paragraph (b)(16) to read as follows:

§ 301-11.6 Administrative approvals.

* * * * *

(b) * * *

(16) Additional per diem for travel by commercial vessel when the $6 rate is insufficient. (See § 301-7.8(g) of this chapter.)

* * * * *

PART 301-12—EMERGENCY TRAVEL OF EMPLOYEE DUE TO ILLNESS OR INJURY OR A PERSONAL EMERGENCY SITUATION, WITHIN OR OUTSIDE CONUS

16. The authority citation for part 301-12 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301-12.1 [Amended]

17. Section 301-12.1 is amended by removing the term "subsistence" and replacing it with "per diem", and by removing the reference to "Part 301-12" and replacing it with "part".

18. Section 301-12.5 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 301-12.5 Incapacitating illness or injury of employee.

* * * * *

(a) *Continuation of per diem at point of interruption.* An employee who interrupts the temporary duty assignment because of an incapacitating illness or injury and takes leave of any kind shall be allowed a per diem allowance under the provisions of § 301-7.6 of this chapter not to exceed the maximum rates prescribed under § 301-7.3 of this chapter for the location where the interruption occurs * * *

* * * * *

PART 301-14—PAYMENT OF SUBSISTENCE AND TRANSPORTATION EXPENSES FOR THREATENED LAW ENFORCEMENT/INVESTIGATIVE EMPLOYEES

19. The authority citation for part 301-14 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

20. Section 301-14.6 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 301-14.6 Eligibility conditions and limitations.

(a) *Limits on duration of temporary living accommodations.* Subsistence payments may begin as soon as the agency decides to invoke the provisions of this part in a particular situation.

* * *

* * * * *

§ 301-14.7 [Amended]

21. In § 301-14.7 revise the following references:

In paragraph:	Revise reference:	To read:
(b)(1)	§ 301-7.5(c)(2)	§ 301-7.9(c) of this chapter
(b)(2)	§ 301-7.9	§ 301-7.14 of this chapter
(d)(2)(i)	§ 301-7.2	§ 301-7.3 of this chapter

Appendix A to Chapter 301—Prescribed Maximum Per Diem Rate for CONUS

22. Appendix A to chapter 301 is amended by revising the introductory text and the text of footnote 4 to read as follows:

The maximum rates listed below are prescribed under § 301-7.3 of this chapter for reimbursement of per diem expenses incurred during official travel within CONUS (the continental United States). The amount shown in column (a) is the maximum that will be reimbursed for lodging expenses including applicable taxes. The M&IE rate shown in column (b) is a fixed amount allowed for meals and incidental expenses covered by per diem. The per diem payment calculated in accordance with part 301-7 of this

chapter for lodging expenses plus the M&IE rate may not exceed the maximum per diem rate shown in column (c).

* * * * *

[4] Federal agencies may submit a request to GSA for review of the costs covered by per diem in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be surveyed on an annual basis by GSA to determine whether rates are adequate. Requests for per diem rate adjustments shall be submitted by the agency headquarters office to the General Services Administration, Federal Supply Service, Attn: Travel Management Division (FBT), Washington, DC 20406. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA any requests from bureaus or subagencies. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area), and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the locations.

23. Appendix B to chapter 301 is added to read as follows:

Appendix B to Chapter 301—Allocation of M&IE Rates to Be Used in Making Deductions from the M&IE Allowance

M&IE rates for localities in nonforeign areas (prescribed in Civilian Personnel Per Diem Bulletins published periodically in the **Federal Register** by the Secretary of Defense) and for localities in foreign areas (established by the Secretary of State in section 925, a per diem supplement to the Standardized Regulations (Government Civilians, Foreign Areas)) shall be allocated as shown in this table (§ 301–7.12(a)(2)(ii) of this chapter) when making deductions from nonforeign or foreign area per diem rates.

M&IE Rate	Breakfast	Lunch	Dinner	Incidentals
$ 1	$0	$0	$0	$1
2	0	0	1	1
3	0	1	1	1
4	1	1	1	1
5	1	1	2	1
6	1	2	2	1
7	1	2	3	1
8	1	2	3	2
9	1	2	4	2
10	2	2	4	2
11	2	3	4	2
12	2	3	5	2
13	2	3	5	3
14	2	4	5	3
15	2	4	6	3
16	2	4	7	3
17	3	4	7	3
18	3	5	7	3
19	3	5	8	3
20	3	5	8	4
21	3	5	9	4
22	3	6	9	4
23	3	6	9	5
24	4	6	9	5
25	4	6	10	5
26	4	7	10	5
27	4	7	11	5
28	4	7	11	6
29	4	7	12	6
30	5	7	12	6
31	5	8	12	6
32	5	8	13	6
33	5	8	13	7
34	5	9	13	7
35	5	9	14	7
36	5	9	15	7
37	6	9	15	7
38	6	10	15	7
39	6	10	16	7
40	6	10	16	8
41	6	10	17	8
42	6	11	17	8
43	6	11	17	9
44	7	11	17	9
45	7	11	18	9
46	7	12	18	9
47	7	12	19	9
48	7	12	19	10
49	7	12	20	10
50	8	12	20	10
51	8	13	20	10
52	8	13	21	10
53	8	13	21	11
54	8	14	21	11
55	8	14	22	11
56	8	14	23	11
57	9	14	23	11
58	9	15	23	11
59	9	15	24	11
60	9	15	24	12
61	9	15	25	12
62	9	16	25	12
63	9	16	25	13
64	10	16	25	13
65	10	16	26	13
66	10	17	26	13
67	10	17	27	13
68	10	17	27	14
69	10	17	28	14
70	11	17	28	14
71	11	18	28	14
72	11	18	29	14
73	11	18	29	15
74	11	19	29	15
75	11	19	30	15
76	11	19	31	15
77	12	19	31	15
78	12	20	31	15
79	12	20	32	15
80	12	20	32	16
81	12	20	33	16
82	12	21	33	16
83	12	21	33	17
84	13	21	33	17
85	13	21	34	17
86	13	22	34	17
87	13	22	35	17
88	13	22	35	18
89	13	22	36	18
90	14	22	36	18
91	14	23	36	18
92	14	23	37	18
93	14	23	37	19
94	14	24	37	19
95	14	24	38	19
96	14	24	39	19
97	15	24	39	19
98	15	25	39	19
99	15	25	40	19
100	15	25	40	20
101	15	25	41	20
102	15	26	41	20
103	15	26	41	21
104	16	26	41	21
105	16	26	42	21
106	16	27	42	21
107	16	27	43	21
108	16	27	43	22
109	16	27	44	22
110	17	27	44	22
111	17	28	44	22
112	17	28	45	22
113	17	28	45	23
114	17	29	45	23
115	17	29	46	23
116	17	29	47	23
117	18	29	47	23
118	18	30	47	23
119	18	30	48	23
120	18	30	48	24
121	18	30	49	24
122	18	31	49	24
123	18	31	49	25
124	19	31	49	25
125	19	31	50	25
126	19	32	50	25
127	19	32	51	25
128	19	32	51	26
129	19	32	52	26
130	20	32	52	26
131	20	33	52	26
132	20	33	53	26
133	20	33	53	27
134	20	34	53	27
135	20	34	54	27
136	20	34	55	27
137	21	34	55	27
138	21	35	55	27
139	21	35	56	27
140	21	35	56	28
141	21	35	57	28
142	21	36	57	28
143	21	36	57	29
144	22	36	57	29
145	22	36	58	29
146	22	37	58	29
147	22	37	59	29
148	22	37	59	30
149	22	37	60	30

M&IE Rate	Breakfast	Lunch	Dinner	Incidentals
150	23	37	60	30
151	23	38	60	30
152	23	38	61	30
153	23	38	61	31
154	23	39	61	31
155	23	39	62	31
156	23	39	63	31
157	24	39	63	31
158	24	40	63	31
159	24	40	64	31
160	24	40	64	32
161	24	40	65	32
162	24	41	65	32
163	24	41	65	33
164	25	41	65	33
165	25	41	66	33
166	25	42	66	33
167	25	42	67	33
168	25	42	67	34
169	25	42	68	34
170	26	42	68	34
171	26	43	68	34
172	26	43	69	34
173	26	43	69	35
174	26	44	69	35
175	26	44	70	35
176	26	44	71	35
177	27	44	71	35
178	27	45	71	35
179	27	45	72	35
180	27	45	72	36
181	27	45	73	36
182	27	46	73	36
183	27	46	73	37
184	28	46	73	37
185	28	46	74	37
186	28	47	74	37
187	28	47	75	37
188	28	47	75	38
189	28	47	76	38
190	29	47	76	38
191	29	48	76	38
192	29	48	77	38
193	29	48	77	39
194	29	49	77	39
195	29	49	78	39
196	29	49	79	39
197	30	49	79	39
198	30	50	79	39
199	30	50	80	39
200	30	50	80	40
201	30	50	81	40
202	30	51	81	40
203	30	51	81	41
204	31	51	81	41
205	31	51	82	41
206	31	52	82	41
207	31	52	83	41
208	31	52	83	42
209	31	52	84	42
210	32	52	84	42
211	32	53	84	42
212	32	53	85	42
213	32	53	85	43
214	32	54	85	43
215	32	54	86	43
216	32	54	87	43
217	33	54	87	43
218	33	55	87	43
219	33	55	88	43
220	33	55	88	44
221	33	55	89	44
222	33	56	89	44
223	33	56	89	45
224	34	56	89	45
225	34	56	90	45
226	34	57	90	45
227	34	57	91	45
228	34	57	91	46
229	34	57	92	46
230	35	57	92	46
231	35	58	92	46
232	35	58	93	46
233	35	58	93	47
234	35	59	93	47
235	35	59	94	47
236	35	59	95	47
237	36	59	95	47
238	36	60	95	47
239	36	60	96	47
240	36	60	96	48
241	36	60	97	48
242	36	61	97	48
243	36	61	97	49
244	37	61	97	49
245	37	61	98	49
246	37	62	98	49
247	37	62	99	49
248	37	62	99	50
249	37	62	100	50
250	38	62	100	50
251	38	63	100	50
252	38	63	101	50
253	38	63	101	51
254	38	64	101	51
255	38	64	102	51
256	38	64	103	51
257	39	64	103	51
258	39	65	103	51
259	39	65	104	51
260	39	65	104	52
261	39	65	105	52
262	39	66	105	52
263	39	66	105	53
264	40	66	105	53
265	40	66	106	53

For M&IE rates greater than $265, allocate 15%, 25%, and 40% of the total to breakfast, lunch, and dinner, respectively. The remainder is the incidental expense allowance.

PART 302-1—APPLICABILITY, GENERAL RULES, AND ELIGIBILITY CONDITIONS

24. The authority citation for part 302–1 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–1.12 [Amended]

25. Section 302–1.12(b)(1) is amended by removing the phrase "the Commonwealth of Puerto Rico, or a territory or possession of the United States." and adding in its place "the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana islands, or a United States territory or possession.".

§ 302–1.12 [Amended]

26. Section 302–1.12(c)(1) is amended by removing the phrase "who claims residence at another location in the United States or its possessions or in the Commonwealth of Puerto Rico at time of appointment," and adding in its place "who claims residence at another location in the United States, the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, or a United States territory or possession at time of appointment,".

§ 302–1.12 [Amended]

27. Section 302–1.12(e)(1) is amended by removing the phrase "the Commonwealth of Puerto Rico, or the United States territories or possessions." and adding in its place "the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, or a United States territory or possession.".

§ 302–1.12 [Amended]

28. Section 302–1.12(e)(5) is amended by removing the phrase "the Commonwealth of Puerto Rico, or to a United States territory or possession" and adding in its place "the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, or a United States territory or possession".

§ 302–1.12 [Amended]

29. Section 302–1.12(e)(6) is amended by removing the phrase "the Commonwealth of Puerto Rico," and adding in its place "the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands,".

30. Section 302–1.13 is amended by revising the first sentence of paragraph (b)(3) to read as follows:

§ 302–1.13 Overseas tour renewal agreement travel.

* * * * *

(b) * * *

(3) *Alternate destination.* An employee and his/her family may travel to a location in the United States, the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, a United States territory or possession, or another country in which the place of actual residence is located other than the location of the place of actual residence; however, an employee whose actual residence is in the United States must spend a substantial amount of time in the United States, the Commonwealth of Puerto Rico or the

Commonwealth of the Northern Mariana Islands, or a United States territory or possession incident to travel under this section to be entitled to the allowance authorized. * * *

* * * * *

PART 302–2—ALLOWANCES FOR SUBSISTENCE AND TRANSPORTATION

31. The authority citation for part 302–2 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E. O. 11609, July 22, 1971 (36 FR 13747).

32. Section 302–2.1 is revised to read as follows:

§ 302–2.1 For the employee.

Except as specifically provided in this chapter, per diem, transportation costs, and other travel expenses of the employee shall be allowed in accordance with the provisions of 5 U.S.C. 5701–5709 and chapter 301 of this title; the maximum per diem rate allowable for travel within CONUS shall be the standard CONUS rate prescribed under § 301–7.3 of this title (see also § 301–7.6(a)(3) of this title). The prohibition on paying per diem for travel of 10 hours or less will apply to change of official station travel (see § 301–7.5(b) of this title). This part applies to travel of transferred employees, new appointees (including those covered in § 302–1.11 of this chapter), and employees assigned to posts of duty outside the continental United States in connection with either overseas tour renewal agreement travel or return travel to place of residence for the purpose of separation.

33. Section 302–2.2 is amended by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

§ 302–2.2 For members of an employee's immediate family.

(a) *Transportation.* Except as specifically provided in this chapter, allowable travel expenses for the employee's immediate family, including transportation, are governed by chapter 301 of this title. Travel of the immediate family may begin at the employee's old official station or some other point, or partially at both, and may end at the new official station or some other place selected by the employee, or partially at both. However, the cost to the Government for transportation of the immediate family shall not exceed the allowable cost by the usually traveled route between the employee's old and new official stations.

(b) *Per diem allowance when en route between employee's old and new official station.* When an employee is transferred, an allowance shall be paid for per diem expenses incurred by the employee's immediate family while traveling between the old and new official stations regardless of where the old and new stations are located. If the actual travel involves departure and/or destination points other than the old or new official station, the per diem allowance shall not exceed the amount to which members of the immediate family would have been entitled if they had traveled by a usually traveled route between the old and new official stations. In computing the per diem allowance under chapter 301 of this title, the prohibition on paying per diem for travel of 10 hours or less will apply to permanent change of station travel. The maximum allowable per diem rates are as follows:

* * * * *

PART 302–5—SUBSISTENCE WHILE OCCUPYING TEMPORARY QUARTERS

34. The authority citation for part 302–5 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E. O. 11609, July 22, 1971 (36 FR 13747).

35. Section 302–5.2 is amended by revising paragraphs (a)(1), (g) (1) and (2), and the first sentence of paragraph (i) to read as follows:

§ 302–5.2 Conditions and limitations for eligibility.

(a) * * *

(1) *Initial period of temporary quarters.* An employee for whom a permanent change of station is authorized or approved shall be allowed subsistence expenses for himself/herself and for each member of his/her immediate family (defined in § 302–1.4(e) of this chapter) for a period of not more than 60 consecutive days when occupancy of temporary quarters is determined to be necessary and the new official station is located within the United States, the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, a United States territory or possession, or the former Canal Zone area (i.e., areas and installations in the Republic of Panama made available to the United States under the Panama Canal Treaty of 1977 and related agreements (as described in section 3(a) of the Panama Canal Act of 1979)), provided a written agreement as required in § 302–1.5 of this chapter is signed in connection with the transfer. The period of consecutive days may be interrupted for the time that is allowed for travel between the old and new official stations; for circumstances attributable to official necessity as, for example, an intervening temporary duty assignment or military duty; or for non-official necessary interruptions such as hospitalization, approved sick leave, or other reason beyond the employee's control and acceptable to the agency concerned.

* * * * *

(g) * * *

(1) *Claim for temporary quarters when occupancy begins the same day en route travel ends.* The eligibility period for reimbursement for temporary quarters subsistence expenses shall start at the beginning of the same calendar day quarter in which en route travel per diem ends. (See paragraph (i) of this section regarding the prohibition on duplicating payment of subsistence expenses under both the en route travel and temporary quarters subsistence expense authorities.)

(2) *Claims for temporary quarters occupancy in all other cases.* In all cases other than those covered in paragraph (g)(1) of this section (e.g., when occupancy of temporary quarters occurs at the old official station or when reimbursement for occupancy of temporary quarters is not claimed on the same day that en route travel per diem begins or ends), the temporary quarters period shall start at 12:01 a.m. of the calendar day (see § 301–7.1(b)(1) of this title) in which temporary quarters subsistence expense reimbursement is claimed, provided the temporary quarters are occupied during that calendar day.

* * * * *

(i) *Duplication of other allowances.* In no cases shall subsistence expenses under these provisions be allowed which duplicate, in whole or in part, payments received under other parts of this subtitle or under other laws or regulations covering similar costs. * * *

36. Section 302–5.4 is amended by revising paragraphs (c) (1) (i) and (ii), by removing paragraph (c)(2)(v), and by revising paragraphs (c) (3) and (4) to read as follows:

§ 302–5.4 Allowable amount.

* * * * *

(c) * * *

(1) * * *

(i) For temporary quarters located in the continental United States the applicable maximum per diem rate is the standard CONUS rate prescribed under § 301–7.6(a)(3) of this title.

(ii) For temporary quarters in applicable locations outside the continental United States, the maximum

per diem rate is the rate prescribed by the Secretary of Defense or by the Secretary of State under § 301–7.3 (b) or (c) of this title for the locality of the temporary quarters.

* * * * *

(3) *For the second 30 days.* The daily rates for the second 30-day period for the employee and each member of the immediate family shall be three-fourths of the daily rates prescribed under paragraph (c)(2) of this section.

(4) *Additional 60 days.* When the agency authorizes an extension of time for occupancy of temporary quarters beyond the first 60 days (not to exceed an additional 60 days) due to compelling reasons as provided in § 302–5.2(a)(2), the additional days shall be computed at the same daily rates allowed for the second 30-day period in paragraph (c)(3) of this section for the employee and each member of the immediate family.

PART 302–6—ALLOWANCE FOR EXPENSES INCURRED IN CONNECTION WITH RESIDENCE TRANSACTIONS

37. The authority citation for part 302–6 continues to read as follows:

Authority: 5 U.S.C. 5721–5734; 20 U.S.C. 905(a); E.O. 11609, July 22, 1971 (36 FR 13747).

§ 302–6.1 [Amended]

38. Section 302–6.1(a) is amended by removing the phrase "the territories and possessions of the United States, the Commonwealth of Puerto Rico," and adding in its place "the Commonwealth of Puerto Rico or the Commonwealth of the Northern Mariana Islands, a United States territory or possession,".

Dated: August 13, 1990.

Richard G. Austin,

Administrator of General Services.

[FR Doc. 90-24097 Filed 10-11-90; 8:45am]

BILLING CODE 6820-24-D

DEPARTMENT OF ENERGY

Office of the Secretary

48 CFR Part 970

Acquisition Regulation; Management and Operating Contractors Leasing Arrangements

AGENCY: Department of Energy (DOE).

ACTION: Final rule.

SUMMARY: This final rule amends the Department of Energy Acquisition Regulation (DEAR), and establishes that the Department of Energy (DOE), under its Management and Operating (M&O) contracts, will not recognize, as allowable contract cost, imputed interest costs determined in accordance with generally accepted accounting principles (GAAP) when, under GAAP, the M&O contractors' leases are required to be classified and accounted for as capital leases, unless such capital lease arrangements are specifically authorized and approved, in advance, by the DOE.

EFFECTIVE DATE: This regulation will be effective October 12, 1990.

FOR FURTHER INFORMATION CONTACT:

Rudolph J. Schuhbauer, Business and Financial Policy Division (PR–122), Office of Procurement, Assistance and Program Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8175.

Judith A. Sukol, Office of the Assistant General Counsel for Procurement and Finance (GC–34), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–1526.

SUPPLEMENTARY INFORMATION:

I. Background
II. Procedural Requirements
A. Review Under Executive Order 12291
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act
D. Review Under the National Environmental Policy Act
E. Public Hearing
III. Public Comments

I. Background

Under section 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254), the Secretary of Energy is authorized to prescribe such procedural rules and regulations as may be deemed necessary or appropriate to accomplish the functions vested in that position. Accordingly, the DEAR was promulgated with an effective date of April 1, 1984 (49 FR 11922, March 28, 1984), 48 CFR chapter 9.

The purpose of this final rule is to revise the DEAR to clarify the DOE's policy concerning the allowability of lease payments, including imputed interest expenses determined in accordance with GAAP when, under GAAP, the lease must be accounted for as a capital lease, and to specifically preclude M&O contractors from entering into any such capital lease arrangements without first obtaining DOE authorization and approval to do so.

It is the DOE's intent to require specific DOE authorization and approval of all M&O contractor plans to lease property, plant or equipment under a capital lease arrangement before the M&O contractor enters into any such contractual lease arrangement and/or records a lease's imputed interest expense as an allowable contract cost. In such cases, the DOE's objective is to ensure that the decision to lease is, in fact, fully justified and proper in accordance with applicable DOE regulations and directives.

A brief description of the DEAR amendments to part 970 follows: Under subpart 970.31, Contract Costs Principles and Procedures, subsection 970.3102–15, "Procurement: Subcontracts and contractor affiliated sources," is amended to include a new provision setting forth conditions under which lease payments may be recognized as allowable cost.

Under DEAR subpart 970.52, Contract Clauses for Management and Operating Contracts, subsection 970.5204–13, "Allowable costs and fixed-fee (Management and Operating contracts)," and subsection 970.5204–14, "Allowable costs and fixed-fee (support contracts)," are amended to incorporate certain language clarifications and additions required to make imputed interest costs associated with certain DOE authorized lease arrangements an allowable contract cost. Also, the contract clause at DEAR subsection 970.5204–22, "Contractor purchasing system," is amended to include a new provision which prohibits the M&O contractor from entering into any lease arrangement which, under GAAP, is considered to be a capital lease, unless a capital leasing arrangement is specifically authorized and approved in advance by the DOE.

Under DEAR subpart 970.71, Management and Operating Contractor Purchasing, DEAR subsection 970.7104–4, "Leasing of Property, Plant or Equipment," is added to establish that M&O contractors are to seek the DOE's authorization and approval for any proposed lease arrangement which, under GAAP, is considered to be a capital lease.

II. Procedural Requirements

A. Review Under Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared prior to the promulgation of a "major rule." The DOE has concluded that this action is not a major rule because its promulgation will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects

on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete in domestic or export markets. Pursuant to OMB Bulletin 85–7, dated December 14, 1984, all procurement regulations, except those named therein, are not subject to the Office of Management and Budget (OMB) regulatory review. The DOE has determined that this action is not subject to OMB review.

B. Review Under the Regulatory Flexibility Act

This final rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. The DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No information collection or recording requirements are imposed by this final rulemaking. Accordingly, no OMB clearance is required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

D. Review Under the National Environmental Policy Act (NEPA)

The DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the NEPA of 1969 (42 U.S.C. *et seq.* (1976), or the Council on Environmental Quality regulations (40 CFR parts 1500–1508) and the DOE guidelines (10 CFR part 1021), and, therefore, does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

E. Review Under Executive Order 12612

Executive Order 12612, 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

Today's final rule will revise certain policy and procedural requirements. However, the DOE has determined that none of the revisions will have a substantial direct effect on the institutional interests or traditional functions of States.

III. Public Comments

This final rule is based on the Notice of Proposed Rulemaking (NOPR) that DOE published in the **Federal Register** on July 23, 1990 (55 FR 29863) wherein public comments were invited for the 30-day period ending August 22, 1990. Public comments were received from a university. The public comments, DOE's responses thereto and resulting actions taken are summarized below.

Comment: The commenter felt that the proposed phrases "is authorized by the DOE prior to execution in accordance with applicable DOE Procedures" was confusing. The commenter believed the rule would not be objectionable if DOE authorization in accordance with an approved automated data processing plan, as approved transportable facility, or an approval within the existing authorities granted the contractor within its last Contractor Procurement System Review (CPSR) satisfied this criteria. However, the rule would be objectionable if its intent was to have all "capital lease" contractual arrangements authorized and approved by DOE. Such actions would, in the commenter's view, impose additional burdens and programmatic time delays. The commenter believed that DOE-approved M&O contractor purchasing systems are fully sufficient to address issuance of capital leases, and that in such cases specific DOE-approval was not necessary. Editorial changes to that effect were recommended.

Response: The commenter's objections appear to be based on the erroneous premise that the thrust of DOE proposal was to establish a new requirement whereby the contractual lease between the M&O contractor and a third party must be authorized and approved by DOE. That was not the DOE's intent. Rather, it is the decision to acquire an asset by use of a capital lease, not the contractual leasing document(s) per se, that is addressed in this rule. The DOE approvals provided pursuant to existing DOE procedures which direct or authorize the M&O contractor to pursue a planned leasing arrangement would constitute such a review and approval. However, general DOE approval of a Contractor's Purchasing System (e.g., via a CPSR) would not constitute such approval or authorize an M&O contractor to enter into a capital leasing arrangement. The contractual leasing document itself continues to be subject to DOE authorization and approval in accordance with existing DOE procedures, i.e., indirectly through specific DOE approval of the Contractor's Purchasing System or directly for leasing actions in excess of delegated dollar levels of authority.

To clarify the forgoing distinction, the proposed language was changed in amended DEAR subsection 970.7104–4, DEAR paragraphs 970.3102–7(c) and 970.5204–22(g), and DEAR subparagraphs 970.5204–13(e)(15) and 970.5204–14(e)(13). In particular, as deemed appropriate, the words "lease" or "leasing arrangement" were revised and/or preceded with the phrase "the decision to enter into a capital." The proposed phraseology in DEAR subparagraphs 970.5204–13(e)(15) and 970.5204–14(e)(13) was also rearranged to make it clearer that it is the imputed interest cost that is being exempted from the general interest cost prohibition when the cited circumstances are met.

Comment: The commenter stated that the DOE laboratories depend on "* * * capital leases to obtain equipment items for which there are no monies available." Supercomputers and ADP resources were cited as examples where capital leases were being used. The commenter also stated that the proposed rule will "* * * limit the flexibility of contractors to use capital leases as an alternative to using capital funds." The commenter recommended deleting any such restrictive language.

Response: The unavailability of appropriated funds is not an acceptable justification for using a leasing arrangement to acquire assets under an M&O contract. Appropriated funds must be applied solely to the objects for which they were made (31 U.S.C. 628 (section 3678 of the Revised Statutes)). Therefore, no change in the proposed language relating to properly restricting the use of funds will be made.

List of Subjects in 48 CFR Part 970

Government procurement.

For the reasons set out in the preamble, chapter 9 of title 48 of the Code of Federal Regulations is amended, as set forth below.

Issued in Washington, DC on October 4, 1990.

Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

1. The authority citation for Part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), Sec. 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254), Sec. 201 of the Federal Civilian Employee and Contractor Travel Expenses Act of 1985 (41 U.S.C. 420) and Sec. 1534 of the Department of Defense Authorization Act, 1986, Pub. L. 99-145 (42 U.S.C. 7256a), as amended.

2. In subsection 970.3102-15, the section heading is revised and a new paragraph (c) is added as follows:

970.3102-15 Procurement: Subcontracts, contractor-affiliated sources, and leases.

* * * * *

(c) *Leases.* Contractor lease payments will be considered an allowable cost when a leasing arrangement is not prohibited by the contract terms (*e.g., see* 970.5204-22). If a lease for property, plant or equipment (land and/or depreciable assets) is required to be classified as a capital lease under generally accepted accounting principles (GAAP), imputed interest costs determined in accordance with GAAP for any such contractor lease shall be an allowable contract charge if the following are met:

(1) The specific decision to enter into a capital leasing arrangement is authorized by DOE in accordance with applicable DOE procedures, prior to execution of the lease,

(2) The lease is accounted for in accordance with GAAP, and

(3) The imputed interest costs are separately accounted for in special DOE accounts established for the recordation of such costs.

970.5204-13 [Amended]

3. In subsection 970.5204-13, the title to the clause and subparagraph (e)(15) are revised to read as follows:

Allowable Costs and fixed-fee (Management and operating contracts) (October 1990)

* * * * *

(e) * * *

(15) Interest, however represented (except (i) Interest incurred in compliance with the contract clause entitled "State and local Taxes" or, (ii) imputed interest costs relating to leases classified and accounted for as capital leases under generally accepted accounting principles (GAAP), provided that the decision to enter into a capital leasing arrangement has been specifically authorized and approved by the DOE in accordance with applicable procedures and such interest costs are recorded in an appropriately specified DOE account established for such purpose), bond discounts and expenses, and costs of financing and refinancing operations.

* * * * *

970.5204-14 [Amended]

4. In subsection 970.5204-14, the clause is amended by revising the title and subparagraph (e)(13) to read as follows:

Allowable Costs and Fixed-Fee (Support Contracts) (October 1990)

* * * * *

(e) * * *

(13) Interest, however represented (except (i) Interest incurred in compliance with the contract clause entitled "State and local Taxes" or, (ii) imputed interest costs relating to leases classified and accounted for as capital leases under generally accepted accounting principles (GAAP), provided that the decision to enter into a capital leasing arrangement has been specifically authorized and approved by the DOE in accordance with applicable procedures and such interest costs are recorded in an appropriately specified DOE account established for such purpose), bond discounts and expenses, and costs of financing and refinancing operations.

* * * * *

970.5204-22 [Amended]

5. In subsection § 970.5204-22, the clause is amended by revising the title and subparagraph (g) as follows:

Contractor Purchasing System (October 1990)

* * * * *

(g) [Name of Contractor] shall not enter into any lease for property, plant, or equipment when the lease must be classified and accounted for as a capital lease under generally accepted accounting principles, unless the decision to enter into a capital leasing arrangement is specifically authorized and approved in advance by the DOE.

6. Add new subsection 970.7104-42, as follows:

970.7104-4 Leasing of Property, Plant or Equipment.

Notwithstanding any prior purchasing system acceptance or thresholds that may be approved by the HCA, management and operating contractors are not permitted to enter into any lease for property, plant or equipment (land and/or depreciable assets) when the lease must be classified and accounted for as a capital lease under generally accepted accounting principles, unless the decision to enter into a capital leasing arrangement is specifically authorized and approved in advance by the DOE. Should the contractor determine that a capital lease arrangement may result in a cost advantage for the DOE, or is otherwise in the best interest of the DOE, the contractor must submit documentation justifying, on a case-by-case basis, each such decision, including a lease-versus-purchase analysis, to the DOE and request that an authorizing letter of approval be issued.

[FR Doc. 90-24011 Filed 10-11-90; 8:45 am]

BILLING CODE 6450-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 835

Testimony of Board Employees

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This revision to part 835 is designed to preclude an interpretation of § 835.3 which would permit employees to testify as experts or give any opinion testimony, and it sets forth in greater detail the administrative and policy considerations underlying the regulation of employee testimony. The revision was prompted by a judicial decision which concluded that § 835.3 did not prohibit all opinion testimony by Safety Board employees.

EFFECTIVE DATE: November 13, 1990.

FOR FURTHER INFORMATION CONTACT: Daniel D. Campbell, General Counsel, National Transportation Safety Board, room 818, 800 Independence Avenue SW., Washington, DC 20594 (202) 382-6540.

SUPPLEMENTARY INFORMATION: On July 30, 1990, the National Transportation Safety Board (NTSB) published in the Federal Register (55 FR 30941), a notice of proposed rulemaking to revise § 835.3 to prohibit Board employees from rendering any opinion testimony and to revise §§ 835.1 and 835.3 to elaborate on the rationale for restricting the scope of testimony. No comments have been received, and the NTSB is hereby adopting the proposed revisions without change. For convenience, part 835 is republished in its entirety. The only change is minor, i.e., the definitions in § 835.2 are now listed in alphabetical order to conform to current Federal Register format.

Regulatory Flexibility Act

Because this rulemaking will not have a significant economic impact on a substantial number of small entities, no Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) analysis is required.

E. O. 12291

The NTSB has determined that this is not a major rule as defined under section 1(b) of Executive Order 12291, Federal Regulation Requirements.

Paperwork Reduction Act

This regulation will not impose any additional information collection requirements requiring Office of Management and Budget approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 49 CFR Part 835

Courts, Government employees.

Accordingly, 49 part 835 is revised to read as follows:

PART 835—TESTIMONY OF BOARD EMPLOYEES

Sec.

835.1 Purpose.
835.2 Definitions.
835.3 Scope of permissible testimony.
835.4 Use of reports.
835.5 Manner in which testimony is given.
835.6 Request for testimony.
835.7 Testimony of former Board employees.
835.8 Procedure in the event of a subpoena.
835.9 Testimony in State or local investigations.

Authority: 5 U.S.C. 301; 49 U.S.C. 1441; and 49 U.S.C. 1901 *et seq.*

§ 835.1 Purpose.

This part prescribes the policies and procedures regarding the testimony of employees of the National Transportation Safety Board (Board) in suits or actions for damages and criminal proceedings arising out of transportation accidents. The purpose of this part is to ensure that the time of Board employees is used only for official purposes, to avoid embroiling the Board in controversial issues that are not related to its duties, to avoid spending public funds for non-Board purposes, to preserve the impartiality of the Board, and to prohibit the discovery of opinion testimony.

§ 835.2 Definitions.

Accident for purposes of this part includes "incident."

Board's accident report means the report containing the Board's determinations, including the probable cause of an accident, issued either as a narrative report or in a computer format (briefs of accidents). Pursuant to section 701(e) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1441(e)) (FA Act) and section 304(c) of the Independent Safety Board Act of 1974 (49 U.S.C. 1903(c)) (Safety Act), no part of these reports may be admitted as evidence or used in any suit or action for damages growing out of any matter mentioned in such reports.

Factual accident report means an investigator's report of his investigation of the accident.

§ 835.3 Scope of permissible testimony.

(a) Section 701(e) of the FA Act and section 304(c) of the Safety Act preclude the use or admission into evidence of Board accident reports in any suit or action for damages arising from accidents. These sections reflect Congress' "strong * * * desire to keep the Board free of the entanglement of such suits." Rep. No. 93–1192, 93d Cong., 2d Sess., 44 (1974), and serve to ensure that the Board does not exert an undue influence on litigation. The purposes of these sections would be defeated if expert opinion testimony of Board employees, which may be reflected in the views of the Board expressed in its reports, were admitted in evidence or used in litigation arising out of an accident. The Board relies heavily upon its investigators' opinions in its deliberations. Furthermore, the use of Board employees as experts to give opinion testimony would impose a significant administrative burden on the Board's investigative staff. Litigants must obtain their expert witnesses from other sources.

(b) For the reasons stated in paragraph (a) of this section and § 835.1, Board employees may only testify as to the factual information they obtained during the course of an investigation, including factual evaluations emobdied in their factual accident reports. However, they shall decline to testify regarding matters beyond the scope of their investigation, and they shall not give any expert or opinion testimony.

§ 835.4 Use of reports.

(a) A Board employee may use a copy of his factual accident report as a testimonial aid, and may refer to that report during his testimony or use it to refresh his memory.

(b) Consistent with section 701(e) of the FA Act and section 304(c) of the Safety Act, a Board employee may not use the Board's accident report for any purpose during his testimony.

§ 835.5 Manner in which testimony is given.

(a) Testimony of Board employees may be made available for use in actions or suits for damages arising out of accidents through depositions or written interrogatories. Board employees are not permitted to appear and testify in court in such actions.

(b) Normally, depositions will be taken and interrogatories answered at the Board's office to which the employee is assigned, and at a time arranged with the employee reasonably fixed to avoid substantial interference with the performance of his duties.

(c) Board employees are authorized to testify only once in connection with any investigation they have made of an accident. Consequently, when more than one lawsuit arises as a result of an accident, it shall be the duty of counsel seeking the employee's deposition to ascertain the identity of all parties to the multiple lawsuits and their counsel, and to advise them of the fact that a deposition has been granted, so that all interested parties may be afforded the opportunity to participate therein.

(d) Upon completion of the deposition of a Board employee, a copy of the transcript of the testimony will be furnished, at the expense of the party requesting the desposition, to the Board's Counsel for the Board files.

§ 835.6 Request for testimony.

(a) A request for testimony of a Board employee relating to an accident by deposition or interrogatories shall be addressed to the General Counsel, who may approve or deny the request. Such request shall set forth the title of the case, the court, the type of accident (aviation, railroad, etc.), the date and place of the accident, the reasons for desiring the testimony, and a showing that the information desired is not reasonably available from other sources.

(b) The General Counsel shall attach to his approval such reasonable conditions as he may deem appropriate in order that the testimony will be limited to the matters delineated in § 835.3, will not interfere with the performance of the duties of the employees as set forth in § 835.5, and will otherwise conform to the policies of this part.

(c) A subpoena shall not be served upon a Board employee in connection with the taking of his deposition.

§ 835.7 Testimony of former Board employees.

It is not necessary to request Board approval for testimony of a former Board employee. However, the scope of testimony of former Board employees is limited to the matters delineated in § 835.3, and use of reports as prescribed by § 835.4.

§ 835.8 Procedure in the event of a subpoena.

(a) If a Board employee has received a subpoena to appear and testify, a request for his deposition shall not be approved until the subpoena has been withdrawn.

(b) Upon receipt of a subpoena, the employee shall immediately notify the General Counsel and provide the data identifying the accident; the title of the case, the name of the judge, if available, and the title and address of the court; the type of accident (aviation, railroad, etc.); the date on which the employee is directed to appear; the name, address, and telephone number, if available, of the attorney representing the party who caused the issuance of the subpoena; the scope of the testimony, if known; and a statement as to whether a prior deposition on the same accident has been given.

(c) The General Counsel shall determine the course of action to be taken and will so advise the employee.

§ 835.9 Testimony in State of local investigations.

Board employees may testify at a coroner's inquest, grand jury, or criminal proceeding conducted by a State of local government. Testimony shall be limited to the matters delineated in § 835.3.

Signed at Washington, DC on this 5th day of October, 1990.

James L. Kolstad,

Chairman.

[FR Doc. 90–24053 Filed 10–11–90; 8:45 am]

BILLING CODE 7533–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 900511–0111]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustments.

SUMMARY: NOAA announces two inseason adjustments to the commercial fishery in the exclusive economic zone (EEZ) from Leadbetter Point, Washington, to Cape Falcon, Oregon, effective 0001 hours local time, September 25, 1990. The Director, Northwest Region, NMFS (Regional Director), has determined that: (1) The subarea quota for coho salmon should be increased from 23,600 to 24,600 fish, and (2) the landing limit for coho salmon should be increased to 100 fish per landing, with no more than one landing per day. This action is intended to maximize the harvest of coho salmon in this subarea without exceeding the total allowable non-treaty ocean harvest level for coho salmon north of Cape Falcon, Oregon.

DATES: *Effective:* Modification of the subarea quota and the landing limit for coho salmon in the commercial fishery from Leadbetter Point, Washington, to Cape Falcon, Oregon, is effective 0001 hours local time September 25, 1990. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23 (as amended May 1, 1989). *Comments:* Public comments are invited until October 22, 1990.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries are published at 50 CFR part 661. Management measures for 1990 were effective on May 1, 1990 (55 FR 18894, May 7, 1990). The 1990 commercial fishery for all salmon species in the subarea from Leadbetter Point, Washington, to Cape Falcon, Oregon, opened on August 30, subject to an adjusted quota of coho salmon of 23,600 fish (55 FR 39416, September 27, 1990) and a single daily landing limit of 50 coho salmon.

Of the four recreational fishing seasons scheduled north of Cape Falcon, Oregon, three subareas closed on September 9 upon the projected attainment of subarea coho salmon quotas, and only the subarea between the Queets River and Leadbetter Point, Washington, remained open through the scheduled season ending date of September 20. According to the best available information on recreational catches and analysis by the Salmon Technical Team following the closure of the recreational fishery north of Cape Falcon, by modifying the subarea quotas for the three subareas, which closed on September 9 to actual catch levels, 88,500 coho salmon were available for harvest in the subarea between the Queets River and Leadbetter Point, for the remainder of that season. When the subarea between the Queets River and Leadbetter Point closed on September 20, 1,982 fish remained unharvested of the 88,500 coho salmon available.

In accordance with the framework allocation provisions in 50 CFR part 661, inseason transfers may be permitted between commercial and recreational fishery quotas to reallocate fish not caught in one fishery to the other. The four recreational subarea quotas for coho salmon north of Cape Falcon are herein modified to equal the actual catch levels in each of the subareas. In order to achieve no net increase in impacts on critical Washington coastal and Puget Sound natural coho salmon stocks, the 1,982 fish not caught in the recreational fishery in the subarea between the Queets River and Leadbetter Point result in an increase of only 1,000 fish to the coho salmon quota for the commercial fishery in the subarea between Leadbetter Point, Washington, and Cape Falcon, Oregon, from 23,600 to 24,600 fish.

Based on the agreement of the affected states and the commercial fishing industry, and the analysis by the Salmon Technical Team, the Regional Director has determined that this inseason transfer of coho salmon is warranted. This action is intended to maximize the harvest of coho salmon without exceeding the total allowable non-treaty ocean harvest level for coho salmon north of Cape Falcon, Oregon.

The Regional Director also has determined that the restriction of a single daily landing limit of 50 coho salmon should be modified to 100 coho salmon per landing with no more than one landing per day. While this modified restriction changes only the number of coho salmon per landing, it also clarifies Table 1, Note D.5, 55 FR 18901 (May 7, 1990) (which does not require daily landings), limits the number of coho salmon per landing, and restricts landings to one per day. Inseason modification of landings restrictions is authorized by 50 CFR 661.21(b)(1)(ii).

In accordance with the revised inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice to fishermen was given prior to 0001 hours local time, September 25, 1990, by telephone hotline number (206) 526–6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF–FM and 2182 KHz. NOAA issues this notice of modification of the subarea quota and landing limit for coho salmon in the commercial fishery in the EEZ from Leadbetter Point, Washington, to Cape Falcon, Oregon, which is effective 0001 hours local time, September 25, 1990. This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in other areas.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Washington Department of Fisheries, and the Oregon Department of Fish and Wildlife regarding these inseason adjustments. The States of Washington and Oregon will manage the commercial fishery in State waters adjacent to this area of the EEZ in accordance with this federal action.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted for 15 days after filing with the Office of the Federal Register, through October 29, 1990.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: October 5, 1990.

David S. Crestin,

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

[FR Doc. 90-24054 Filed 10-5-90; 4:59 pm]

BILLING CODE 3510-22-M

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50 CFR Part 675

[Docket No. 91046-0006]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Prohibition of retention of groundfish.

SUMMARY: The Secretary of Commerce (Secretary) announces that he is prohibiting further retention of Pacific Ocean perch complex (POP) by vessels fishing in the Bering Sea (BS) subarea. This action is necessary to prevent the total allowable catch (TAC) for POP in the Bering Sea subarea from being exceeded before the end of the year. The intent of this action is to ensure optimum use of groundfish while conserving POP stocks.

EFFECTIVE DATES: 12:00 noon, A.l.t., October 5, 1990, through midnight, A.l.t., December 31, 1990.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907-586-7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Bering Sea/Aleutian Islands Area Groundfish (FMP) governs the groundfish fishery in the exclusive economic zone within the Bering Sea and Aleutian Islands (BSAI) management area under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council and is implemented by regulations codified at 50 CFR § 611.93 and part 675.

Section 675.20(a)(1) of the implementing regulations establishes an optimum yield (OY) range of 1.4 to 2.0 million metric tons (mt) for all groundfish species in the BSAI management area. Total allowable catches (TACs) for target species and the "other species" category are specified annually within the OY range and apportioned by subarea under § 675.20(a)(2).

Under § 675.20(a)(3), 15 percent of the TAC for each target species and the "other species" category is automatically placed in a reserve, and the remaining 85 percent of the TAC for each target species and the "other species" category is apportioned between domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF). The reserve is not designated by species or species group and any amount of the reserve may be apportioned to a target species or the "other species" category provided that such apportionments are consistent with § 675.20(a)(2)(i) and do not result in overfishing of a target species or the "other species" category.

The initial 1990 TAC specified for POP in the Bering Sea subarea was 5,355 mt (55 FR 1434, January 16, 1990), all of which was apportioned to DAP. On September 12, 1990, it was determined that fishermen in DAP operations would need amounts of the operational reserve, and therefore, under § 675.20(b)(1)(i), the Secretary apportioned 945 mt of reserve to DAP for POP (55 FR 38331, September 18, 1990), bringing the current TAC for management to 6,300 mt which is equal to the allowable biological catch for POP.

The Regional Director has determined that the TAC for POP has been reached. Therefore, the Secretary is issuing this notice under authority of § 675.20(a)(9) and (c) and is prohibiting retention of POP by vessels in the Bering Sea subarea from noon, A.l.t., October 5, 1990 through midnight, A.l.t., December 31, 1990.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice.

This action is taken under § 675.20(a)(9) and (c) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Recordkeeping and reporting requirements.

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

Dated: October 5, 1990.

David S. Crestin,

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

[FR Doc. 90-24055 Filed 10-5-90; 4:59 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 198
Friday, October 12, 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-AAL-9]

Proposed Establishment of VOR Federal Airway; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish new VOR Federal Airway V-357 located between Kodiak and Homer, AK. This proposal would improve the flow of traffic between Kodiak and Homer, AK, by providing an additional navigable airway for departures with suficient divergence from arrivals to reduce delays at Kodiak. The establishment of this airway would improve the flow of traffic between Kodiak and Homer, AK, and reduce controller workload.

DATES: Comments must be received on or before November 12, 1990.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AAL-500, Docket No. 90-AAL-9, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined durng normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 90-AAL-9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 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 also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish new VOR Federal Airway V-357 located between Kodiak and Homer, AK. Departures from Kodiak are often delayed by arrivals due to the lack of a navigable airway with sufficient divergence to apply the required lateral separation between opposite direction traffic. Due to the limitatins of radar coverage in this area, an alternate route with a lower minimum en route altitude is essential to enhance safety, reduce delays, and reduce controller workload. Section 71.125 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. It, therefore—(1) Is not a '"major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

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.

§ 71.125 [Amended]

2. Section 71.125 is amended as follows:

V–357 [New]

From Kodiak, AK, 27 miles 12 AGL, 24 miles 35 MSL, 4 miles 65 MSL, INT Kodiak 033°T(010°M) and Homer, AK, 179°(155°M) radials, 30 miles 65 MSL, 40 miles 12 AGL, to Homer.

Issued in Washington, DC, on September 2, 1990.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 90–24082 Filed 10–11–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 43

[PS–069–90]

RIN 1545–AP03

Tax on Transportation by Water

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a notice of proposed rulemaking relating to definitions under section 4472 of the Internal Revenue Code for purposes of the tax on the transportation of passengers on covered voyages by certain vessels under sections 4471 and 4472 as enacted by section 7504 of the Revenue Reconciliation Act of 1989 (Pub. L. 101–239,103 Stat. 2106, 2362).

DATES: Written comments and requests for a public hearing must be received by December 11, 1990.

ADDRESSES: Send written comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Room 4429, Attn: CC:CORP:T:R (PS–069–90), Washington, DC 20044. In the alternative, comments and requests may be hand delivered to: CC:CORP:T:R (PS–069–90), Internal Revenue Service, Room 4429, 1111 Constitution Avenue, NW., Washington DC 20224.

FOR FURTHER INFORMATION CONTACT: Edward B. Madden Jr., 202–566–4077 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains a proposed regulation on the Excise Tax on Transportation by Water (26 CFR part 43) under section 4472 of the Internal Revenue Code.

Explanation of Provisions

The proposed regulation would provide taxpayers with definitions of terms under section 4472 for purpsoes of the tax imposed by section 4471 of the Code. Section 4471 of the Code imposes a tax of $3 per passenger on a covered voyage, as that term is defined in section 4472, to be paid by the person providing the covered voyage. The tax is to be imposed only once for each passenger on a covered voyage, either at the time of first embarkation or disembarkation in the United States. Under section 4472(1) of the Code, the term "covered voyage" means a voyage of (a) a commercial passenger vessel that extends over one or more nights, or (b) a commercial vessel transporting passengers engaged in gambling aboard the vessel beyond the territorial waters of the United States. Proposed § 43.4472–1(b) defines the term "voyage" as an outward and a homeward passage of the vessel, but states that a voyage may be a covered voyage with respect to a passenger even if the passenger does not make both an outward and a homeward passage. Under proposed § 43.4472–1(c) a voyage extends over 1 or more nights if it extends for 18 or more hours including midnight. Under proposed § 43.4472–1(d) of the regulations a passenger on a commercial vessel will be considered to be engaged in gambling aboard the vessel if that person is participating as a player in a game of chance, for money or other things of value, that is conducted, sponsored, or operated by the owner or operator of the vessel. There is an exception for persons who participate with other passengers in casual, "friendly" games of chance to which the owner or operator of the vessel is not connected. Under proposed § 43.4472–1(e), a vessel is considered to be beyond the territorial waters of the United States if it is beyond the international boundary line between the United States and any contiguous foreign country or it is over 3 nautical miles (3.45 statute miles) from the low tide on the coastline. The regulations provide for a 3 nautical mile territorial limit to coincide with existing federal and state jurisdiction over gambling activities.

Special Analyses

It has been determined that this proposed rule is not a major rule as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to this regulation, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be scheduled and held upon written requests by any person who submits written comments on the proposed rules. Notice of the time and place for the hearings will be published in the **Federal Register.**

Drafting Information

The principal author of this regulation is Edward B. Madden, Jr., Office of Assistant Chief Counsel (Passthroughts & Special Industries), Internal Revenue Service. Other personnel from the Service and Treasury Department, however, participated in its development.

List of Subjects in 26 CFR part 43

Excise taxes, Gambling, Transportation by water, Vessels.

Proposed Regulations

Accordingly, title 26, part 43, of the Code of Federal Regulations is amended as follows:

PART 43—[AMENDED]

Paragraph 1. The authority for part 43 continues to read in part:

Authority: 26 U.S.C. 7805. * * *.

Par. 2. A new § 43.4472–1 is added to read as follows:

§ 43.4472–1 Definitions.

(a) *In general.* For definitions of the terms "covered voyage" and "passenger vessel," see sections 4472(1) and (2).

(b) *Voyage.* For purposes of this section the term "voyage" means a journey of a vessel that includes the outward and homeward trips or passages. The voyage commences when the vessel begins to load passengers and continues during the entire ensuing period until the vessel has made one outward and one homeward passage (including intermediate passages, if

made). A voyage may be a covered voyage with respect to a passenger even if the passenger does not make both an outward and homeward passage or if the point of first embarkation or disembarkation by the passenger in the United States is at an intermediate stop of the vessel.

(c) *Over 1 of more nights.* A voyage is considered to extend over 1 or more nights if it extends for 18 or more hours including midnight.

(d) *Engaged in gambling.* A passenger is engaged in gambling aboard a vessel if that person is participating as a player in any policy game or other lottery, or any other game of chance, for money or other thing of value, provided that the policy game, other lottery, or game of chance is conducted, sponsored, or operated by the owner or operator of the vessel, as either principal or agent, or by an employee, agent, or franchisee of the owner or operator of the vessel. A passenger is not engaged in gambling abroad a vessel if the passenger participates with other passengers in a casual, "friendly" game of chance that is not conducted, sponsored, or operated by the owner or operator of the vessel or by an employee, agent, or franchisee of the owner or operator.

(e) *Territorial waters.* For purposes of sections 4471 and 4472, the territorial waters of the United States are those waters within the international boundary line between the United States and my contiguous foreign country or within 3 nautical miles (3.45 statute miles) from low tide on the coastline. No inference is intended as to the extent of the territorial limits for other federal tax purposes.

Charles H. Brennan,

Acting Commissioner of Internal Revenue.

[FR Doc. 90–24050 Filed 10–5–90; 4:35 pm]

BILLING CODE 4830–01–M

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26 CFR Part 43

[PS–003–90]

RIN 1545–A041

Proposed Regulations Regarding the Tax on Transportation by Water

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing final and temporary regulations that implement the tax on the transportation of passengers on covered voyages by certain vessels under sections 4471 and 4472 of the Internal Revenue Code as enacted by section 7504 of the Revenue Reconciliation Act of 1989 (Pub. L. 101–239, 103 Stat. 2106, 2362). The text of the final and temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be received by December 11, 1990.

ADDRESSES: Send written comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, room 4429, Attn: CC:CORP:T:R (PS–003–90), Washington, DC 20044. In the alternative, comments and requests may be hand delivered to: CC:COPR:T:R (PS–003–90), Internal Revenue Service, room 4429, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Edward B. Madden, Jr., 202–566–4077 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations on the Excise Tax on Transportation by Water (26 CFR part 43) under sections 4471 and 4472 of the Internal Revenue Code. Final and temporary regulations containing the text of the proposed regulations are published in the Rules and Regulations portion of this issue of the **Federal Register**, see T.D. 8314. The temporary regulations contain rules concerning the excise tax on the initial embarkation or disembarkation of passengers on certain commercial passenger vessels and on certain other commercial vessels transporting passengers engaged in gambling. The preamble to the final and temporary regulations explains the regulations.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulations was submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be scheduled and held upon written request by any person who submits written comments on the proposed rules. Notice of the time and place for the hearings will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Edward B. Madden, Jr., Office of the Assistant Chief Counsel (Passthroughs & Special Industries), Internal Revenue Service. Other persons from the Service and Treasury Department, however, participated in their development.

Charles H. Brennan,

Acting Commissioner of Internal Revenue.

[FR Doc. 90–24051 Filed 10–5–90; 4:34 pm]

BILLING CODE 4830–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD–FRL–3851–6]

Preparation, Adoption, and Submittal of State Implementation Plans; Method for Measurement of Condensible Particulate Emissions from Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: On April 17, 1990 EPA promulgated two methods for measuring particulate matter (PM) with an aerodynamic diameter of 10 μm or less (PM_{10}). Since condensible particulate matter (CPM) emissions form very fine particles in the PM_{10} size range and are considered PM_{10} emissions, the Agency proposes to add a method for measuring CPM emissions from stationary sources, to appendix M in 40 CFR part 51. The purpose of this proposed rule is to provide the States with a method for measuring CPM.

A public hearing will be held, if necessary, to provide interested persons an opportunity for oral presentation of

data, views, or arguments concerning the proposed rule.

DATES: *Comments.* Comments must be received on or before December 17, 1990.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by November 2, 1990, a public hearing will be held November 26, 1990 at 10:00 a.m. Persons interested in attending the hearing should call the contact mentioned under ADDRESSES to verify that a hearing will be held.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by November 2, 1990.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Air Docket (LE–131), Attention: Docket Number A–90–03, U.S. Environmental Protection Agency, Room M–1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Emission Measurement Laboratory Building, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Candace Sorrell, Emission Measurement Branch (MD–19), Technical Support Division, U.S. Environmental protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–1064.

Docket. Docket No. A–90–03, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket, Room M–1500, 1st Floor, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

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

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

The EPA is proposing to add a method for measuring CPM emissions to appendix M in 40 CFR part 51 to provide a method that States can use in their State Implementation Plans.

II. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed rulemaking in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Air Docket address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal hours at EPA's Air Docket in Washington, DC. (see ADDRESSES section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principle purposes of the docket are to: (1) Allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process, and (2) serve as the record in case of judicial review except for interagency review materials.

(Section 307(d)(7)(A)

C. Office of Management and Budget Review

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This rulemaking would not result in any of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a "major rule." It will neither have an annual effect on the economy of $100 million or more, nor will it result in a major increase in costs or prices. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rulemaking was submitted to the Office of Management and Budget (OMB) for review as review as required by Executive Order 12291.

D. Regulatory Flexibility Act Compliance

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will not have any economic impact on small entities because no additional costs will be incurred.

This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Dated: September 27, 1990.

Michael Shapiro,

Acting Assistant Administrator for Air and Radiation.

The EPA proposes to amend title 40, chapter I, part 51 of the Code of Federal Regulations as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: Section 110 of the Clean Air Act as amended (42 U.S.C. 7410).

2. Appendix M in the Table of Contents is amended by adding an entry to read as follows:

Method 202—Determination of Condensible Particulate Emissions from Stationary Sources

3. By adding Method 202 to Appendix M in part 51 to read as follows:

Method 202—Determination of Condensible Particulate Emissions from Stationary Sources

1. Applicability and Principle

1.1 Applicability. This method applies to the determination of condensible particulate matter (CPM) emissions from stationary sources. It is intended to represent condensible matter as material that condenses after passing through an in-stack filter and as measured by this method (Note: The filter catch can be analyzed according to Method 17 procedures). This method may be used in conjunction with Method 201 or 201A if the probes are glass lined. This method may also be modified to measure material that condenses at other temperatures by specifying the filter and probe temperature.

1.2 Principle. The CPM is collected in the impinger portion of a Method 17 (Appendix A, 40 CFR Part 60) type sampling train. The impinger contents are immediately purged after the run with nitrogen (N_2) to remove dissolved sulfur dioxide (SO_2) gases from the impinger contents. The impinger solution is then extracted with methylene chloride ($MeCl_2$). The organic and aqueous fractions are then taken to dryness and the residues weighed. The total of both fractions represents the CPM.

2. Precision and Interference

2.1 Precision. The precisions based on method development tests at a wood waste burner and two coal-fired boilers are 13.0 ± 2.1 mg/m^3, 3.5 ± 1.1 mg/m^3, and 39.5 ± 9.0 mg/m^3, respectively.

2.2 Interference. Ammonia. In sources that use ammonia injection as a control technique for hydrogen chloride (HCl), the ammonia interferes by reacting with HCl in the gas stream to form ammonium chloride (NH_4Cl) which would be measured as CPM. The sample may be analyzed for chloride and the equivalent amount of NH_4Cl can be subtracted from the CPM weight.

3. Apparatus

3.1 Sampling Train. Same as in Method 17, Section 2.1, with the following exceptions noted below (see Figure 202–1).

Note: Mention of trade names or specific products does not constitute endorsement by EPA.

3.1.1 The probe extension shall be glass-lined.

3.1.2 Both the first and second impingers shall be of the Greenburg-Smith design with the standard tip.

3.1.3 All sampling train glassware shall be cleaned prior to the test with soap and tap water, water, and rinsed using tap water, water, acetone, and finally, $MeCl_2$. It is important to remove completely all silicone grease from areas that will be exposed to the $MeCl_2$ during sample recovery.

3.2 Sample Recovery. Same as in Method 5, Section 2.2, with the following additions:

BILLING CODE 6560-50-M

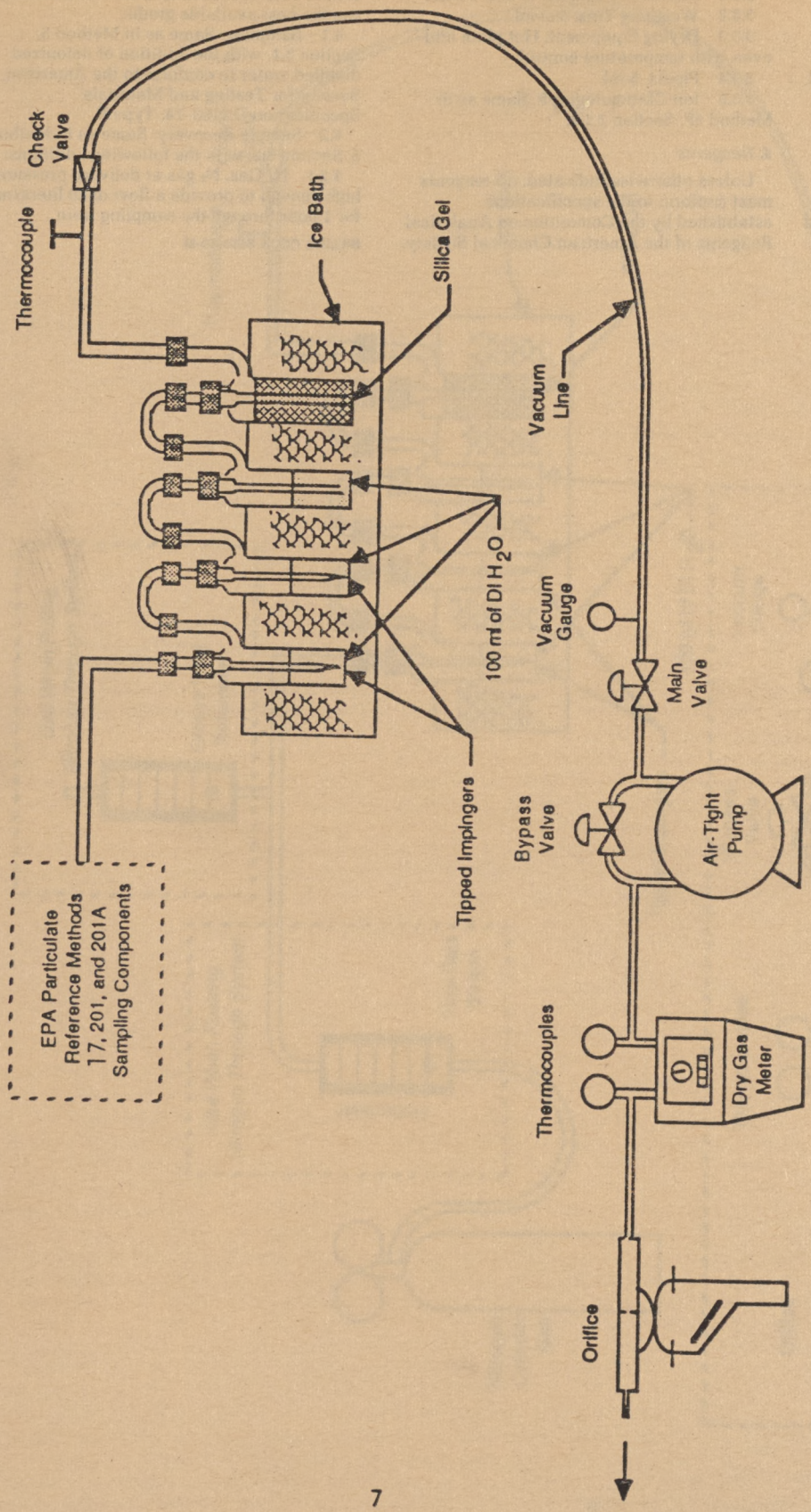


Figure 202-1. Schematic of condensible particulate sampling train.

BILLING CODE 6560-50-C

3.2.1 N_2 Purge Line. Inert tubing and fittings capable of delivering 0 to 28 liters/min of N_2 gas to the impinger train from a standard gas cylinder (see Figure 202–2). Standard 0.95 cm (⅜-inch) plastic tubing and compression fittings in conjunction with an adjustable pressure regulator and needle valve may be used.

3.2.2 Rotameter. Capable of measuring gas flow at 20 liters/min.

3.3 Analysis. The following equipment is necessary in addition to that listed in Method 5, Section 2.3:

3.3.1 Separatory Funnel. Glass, 1-liter.

3.3.2 Weighing Tins. 350-ml.

3.3.3 Drying Equipment. Hot plate and oven with temperature control.

3.3.4 Pipets. 5-ml.

3.3.5 Ion Chromatograph. Same as in Method 5F, Section 2.1.6.

4. Reagents

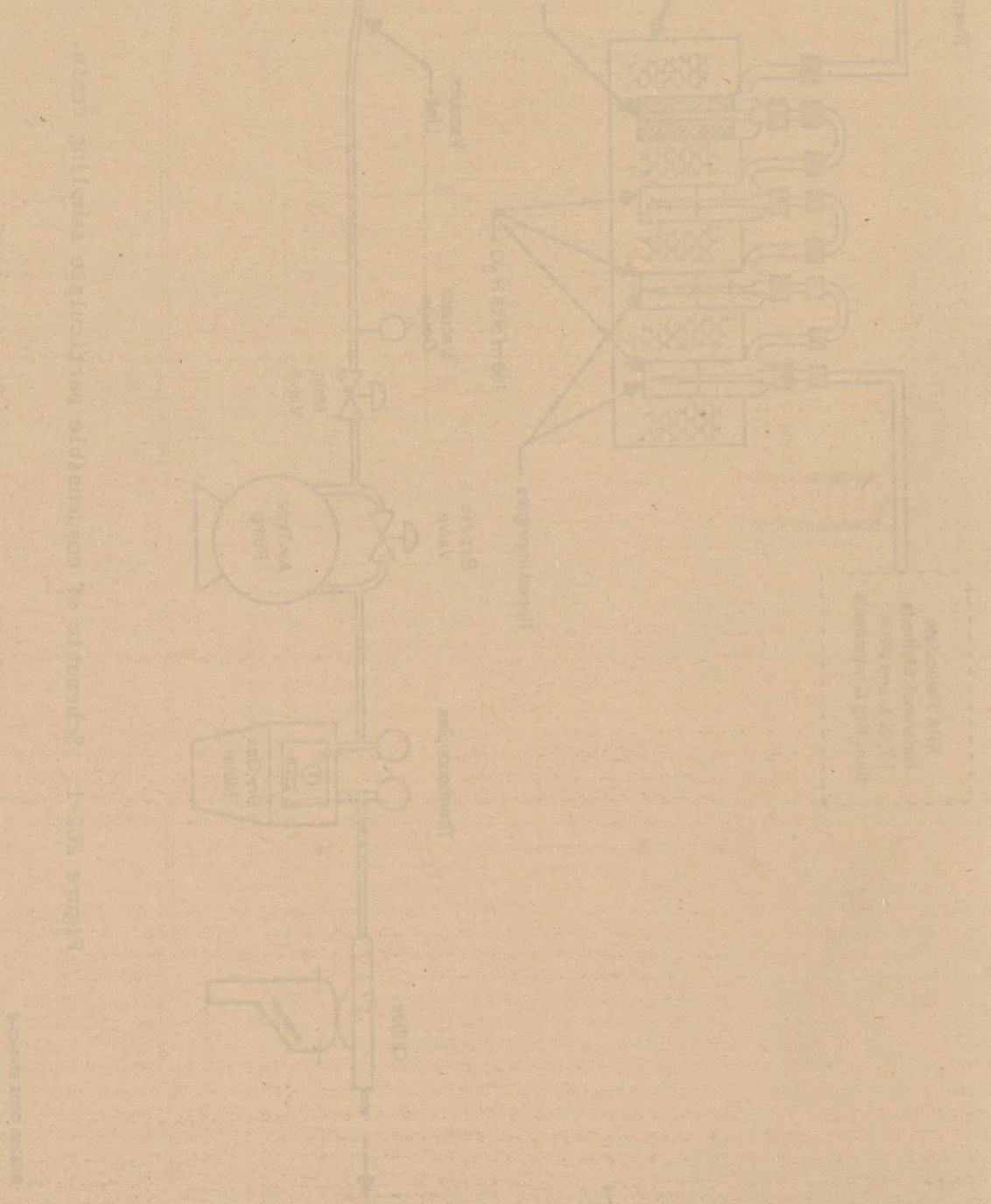
Unless otherwise indicated, all reagents must conform to the specifications established by the Committee on Analytical Reagents of the American Chemical Society. Where such specifications are not available use the best available grade.

4.1 Sampling. Same as in Method 5, Section 3.1, with the addition of deionized distilled water to conform to the American Society for Testing and Materials Specification D 1193–74, Type II.

4.2 Sample Recovery. Same as in Method 5, Section 3.2, with the following additions:

4.2.1 N_2 Gas. N_2 gas at delivery pressures high enough to provide a flow of 20 liters/min for 1 hour through the sampling train.

BILLING CODE 6560–50–M



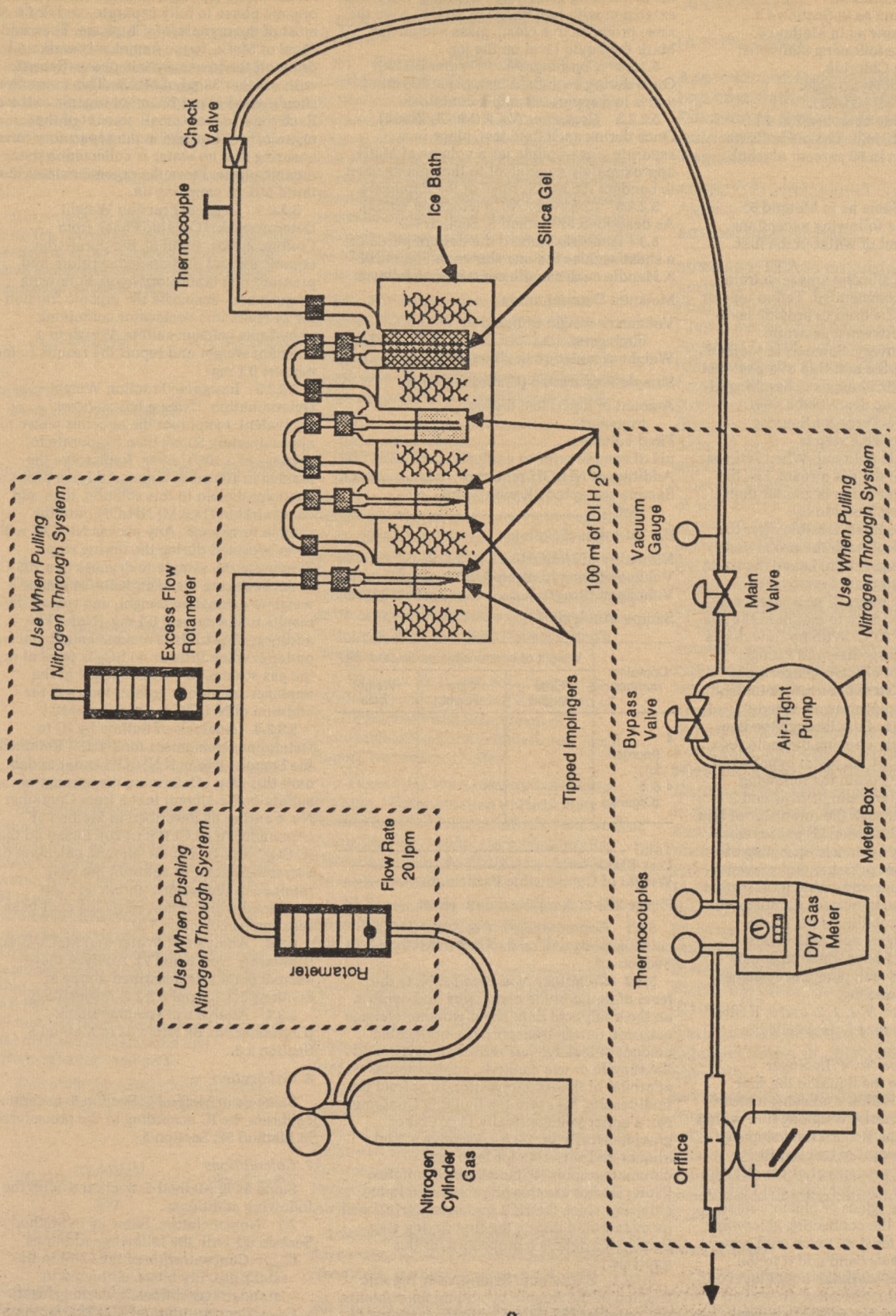


Figure 202-2. Schematic of post-test nitrogen purge system.

BILLING CODE 6560-50-C

4.2.2 Methylene Chloride.

4.2.3 Water. Same as in Section 4.1.

4.3 Analysis. Same as in Method 5, Section 3.3, with the following additions:

4.3.1 Methylene Chloride.

4.3.2 Ammonium Hydroxide. Concentrated (14.8 M) NH_4OH.

4.3.3 Water. Same as in Section 4.1.

4.3.4 Phenolphthalein. The pH indicator solution, 1.0 percent in 60 percent alcohol.

5. Procedure

5.1. Sampling. Same as in Method 5, Section 4.1, with the following exceptions:

5.1.1 Place 100 ml of water in the first three impingers.

5.1.2 The use of silicone grease in train assembly is not recommended. Teflon tape or similar means may be used to provide leak-free connections between glassware.

5.2 Sample Recovery. Same as in Method 17, Section 4.2 with the addition of a post-test N_2 purge and specific changes in handling of individual samples as described below.

5.2.1 Post-test N_2 Purge for Sources Emitting SO_2. (*Note:* This step is recommended, but is optional. When little or no SO_2 is present in the gas stream, i.e., the pH of the impinger solution is greater than 4.5, purging has been found to be unnecessary.) As soon as possible after the post-test leak check, detach the probe and filter from the impinger train. Leave the ice in the impinger box to prevent removal of moisture during the purge. If necessary, add more ice during the purge to maintain the gas temperature below 20°C. With no flow of gas through the clean purge line and fittings, attach it to the input of the impinger train (see Figure 202–2). To avoid over- or under-pressurizing the impinger array, slowly commence the N_2 gas flow through the line while simultaneously opening the meter box pump valve(s). Adjust the pump bypass and N_2 delivery rates to obtain the following conditions: (1) 20 liters/min or $\Delta H_@$ and (2) an overflow rate through the rotameter of less than 2 liters/min. Condition (2) guarantees that the N_2 delivery system is operating at greater than ambient pressure and prevents that possibility of passing ambient air (rather than N_2) through the impingers. Continue the purge under these conditions for 1 hour, checking the rotameter and ΔH value(s) periodically. After 1 hour, simultaneously turn off the delivery and pumping systems.

5.2.2 Sample Handling.

5.2.2.1 *Container Nos. 1, 2, and 3.* If filter catch is to be determined, as detailed in Method 5, Section 4.2.

5.2.2.2 *Container No. 4* (Impinger Contents). Measure the liquid in the first three impingers to within 1 ml using a clean graduated cylinder or by weighing it to within 0.5 g using a balance. Record the volume or weight of liquid present to be used to calculate the moisture content of the effluent gas. Quantitatively transfer this liquid into a clean sample bottle (glass or plastic); rinse each impinger and the connecting glassware, including probe extension, twice with water. recover the rinse water and add it to the same sample bottle. Mark the liquid level on the bottle.

5.2.2.3 *Container No. 5* ($MeCl_2$ Rinse). Follow the water rinses of each impinger and the connecting glassware, including the probe extension with two rinses of $MeCl_2$; save the rinse products in a clean, glass sample jar. Mark the liquid level on the jar.

5.2.2.4 *Container No. 6* (Water Blank). Once during each field test, place 500 ml of water in a separate sample container.

5.2.2.5 *Container No. 7* ($MeCl_2$ Blank). Once during each field test, place in a separate glass sample jar a volume of $MeCl_2$ approximately equivalent to the volume used to conduct the $MeCl_2$ rinse of the impingers.

5.2.2.6 *Container No. 8* (Acetone Blank). As described in Method 5, Section 4.2.

5.3 Analysis. Record the data required on a sheet such as the one shown in Figure 202–3. Handle each sample container as follows:

Moisture Determination

Volume or weight of liquid in impingers.....ml or g
Weight of moisture in silica gel.....g

Sample Preparation (Container No. 4)

Amount of liquid lost during transport.....ml
Final volume.....ml
pH of sample prior to analysis.....ml
Addition of NH_4OH required?.....ml
Sample extracted 2X with 75 ml $MeCl_2$?.....ml

For Titration of Sulfate

Normality of NH_4OH.....N
Volume of sample titrated.....ml
Volume of titrant.....ml

Sample Analysis

Container number	Weight of condensible particulate, mg		
	Final weight	Tare weight	Weight gain
4 (Inorganic)			
4 & 5 (Organic)			

Total _____
Less Blank _____
Weight of Condensible Particulate _____

Figure 202–3. Analytical data sheet.

5.3.1 *Container Nos. 1, 2, and 3.* If filter catch is analyzed, as detailed in Method 5, Section 4.3.

5.3.2 *Container Nos. 4 and 5.* Note the level of liquid in the containers and confirm on the analytical data sheet whether leakage occurred during transport. If a noticeable amount of leakage has occurred, either void the sample or use methods, subject to the approval of the Administrator, to correct the final results. Measure the liquid in Container No. 4 either volumetrically to ±1 ml or gravimetrically to ±0.5 g. Remove a 5-ml aliquot and set aside for later ion chromatographic (IC) analysis of sulfates. (Note: Do not use this aliquot to determine chlorides since the HC1 and some NH_4Cl will be evaporated during the first drying step; Section 8.2 details a procedure for this analysis.)

5.3.2.1 Extraction. Separate the organic fraction of the sample by adding the contents of Container No. 5 ($NeCl_2$) to the contents of Container No. 4 in a 1000-ml separatory funnel. After mixing, allow the aqueous and organic phase to fully separate, and drain off most of the organic/$MeCl_2$ phase. Then add 75 ml of $MeCl_2$ to the funnel, mix well, and drain off the lower organic phase. Repeat with another 75 ml of $MeCl_2$. This extraction should yield about 250 ml of organic extract. Each time, leave a small amount of the organic/$MeCl_2$ phase in the separatory funnel ensuring that no water is collected in the organic phase. Place the organic extract in a tared 350-ml weighing tin.

5.3.2.3 Organic Fraction Weight Determination (Organic Phase from Container Nos. 4 and 5). Evaporate the organic extract at room temperature and pressure in a laboratory hood. Following evaporation, desiccate the organic fraction for 24 hours in a desiccator containing anhydrous calcium sulfate. Weigh to a constant weight and report the results to the nearest 0.1 mg.

5.3.2.3 Inorganic Fraction Weight Determination. Using a hot plate, or equivalent, evaporate the aqueous phase to approximately 50 ml; then evaporate to dryness in a 105°C oven. Redissolve the residue in 100 ml of water. Add five drops of phenolphthalein to this solution, then add concentrated (14.8 M) NH_4OH until the sample turns pink. Any excess NH_4OH will be evaporated during the drying step. Evaporate the sample to dryness in a 105°C oven, desiccate the sample for 24 hours, weigh to a constant weight, and record the results to the nearest 0.1 mg. (Note: The addition of NH_4OH is recommended, but is optional when little or no SO_2 is present in the gas stream, i.e., when the pH of the impinger solution is greater than 4.5, the addition of NH_4OH is not necessary.)

5.3.2.4 Analysis of Sulfate by IC to Determine Ammonium Ion (NH_4^+) Retained in the Sample. (Note: If NH_4OH is not added, omit this step.) Determine the amount of sulfate in the aliquot taken from Container No. 4 earlier as described in Method 5F (Appendix A, 40 CFR part 60). Based on the IC $SO_4^=$ analysis of the aliquot, calculate the correction factor to subtract the NH_4^+ retained in the sample and to add the combined water removed by the acid-base reaction (see Section 7.2).

5.3.3 Analysis of Water and $MeCl_2$ Blanks (Container Nos. 6 and 7). Analyze these sample blanks as described above in Sections 5.3.2.3 and 5.3.2.2, respectively.

5.3.4 Analysis of Acetone Blank (Container No. 8). Same as in Method 5, Section 4.3.

6. Calibration

Same as in Method 5, Section 5, except calibrate the IC according to the procedures in Method 5F, Section 5.

7. Calculations

Same as in Method 5, Section 6, with the following additions:

7.1 Nomenclature. Same as in Method 5, Section 6.1 with the following additions.

C_{cpm} = Concentration of the CPM in the stack gas, dry basis, corrected to standard conditions, g/dscm (g/dscf).

C_{so4} = Concentration of $SO_4^=$ in the sample, mg/ml.

m_b = Sum of the mass of the water and $MeCl_2$ blanks, mg.
m_c = Mass of the NH_4^+ added to sample to form ammonium sulfate, mg.
m_i = Mass of inorganic CPM matter, mg.
m_o = Mass of organic CPM, mg.
m_r = Mass of dried sample from inorganic fraction, mg.
V_b = Volume of aliquot taken for IC analysis, ml.
V_{ic} = Volume of impinger contents sample, ml.

7.2 Correction for NH_4^+ and H_2O. Calculate the correction factor to subtract the NH_4^+ retained in the sample and to add the combined water removed by the acid-base reaction based on the IC $SO_4^=$.

$$m_c = KC_{SO4}V_{ic} \qquad \text{Eq. 202-1}$$

where:
K = 0.020502
7.3 Mass of Inorganic CPM.

$$m_i = m_r\left[\frac{V_{ic}}{V_{ic}-V_b}\right] + m_c \qquad \text{Eq. 202-2}$$

7.4 Concentration of CPM.

$$C_{cpm} = \frac{m_o + m_i - m_b}{V_{m\ std}} \qquad \text{Eq. 202-3}$$

8. Alternative Procedures

8.1 Determination of NH_4^+ Retained in Sample by Titration.

8.1.1 An alternative procedure to determine the amount of NH_4^+ added to the inorganic fraction by titration may be used. After dissolving the inorganic residue in 100 ml of water, titrate the solution with 0.1 N NH_4OH is made as follows: Add 7 ml of concentrated (14.8 M) NH_4OH to 1 liter of water. Standardize against standardized 0.1 N H_2SO_4 and calculate the exact normality using a procedure parallel to that described in Section 5.5 of Method 6 (Appendix A, 40 CFR part 60). Alternatively, purchase 0.1 N NH_4OH that has been standardized against a National Institute of Standards and Technology reference material.

8.1.2 Calculate the concentration of $SO_4^=$ in the sample using the following equation.

$$C_{SO4} = \frac{48.03V_tN}{100} \qquad \text{Eq. 202-4}$$

where.
N = Normality of the NH_4OH, mg/ml.
V_t = Volume of NH_4OH titrant, ml.
48.03 = mg/meq.
100 = Volume of solution, ml.

8.1.3 Calculate the CPM as described in Section 7.

8.2 Analysis of Chlorides by IC. At the conclusion of the final weighing as described in Section 5.3.2.3, redissolve the inorganic fraction in 100 ml of water. Analyze an aliquot of the redissolved sample for chlorides by IC using techniques similar to those described in Method 5F for sulfates. Previous drying of the sample should have removed all HCl. Therefore, the remaining chlorides measured by IC can be assumed to be NH_4Cl, and this weight can be subtracted from the weight determined for CPM.

8.3 Air Purge to Remove SO_2 from Impinger Contents. As an alternative to the post-test N_2 purge described in Seciton 5.2.1, the tester may opt to conduct the post-test purge with air at 20 liter/min. Note: The use of an air purge is not as effective as a N_2 purge.

9. Bibliography

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[FR Doc. 90-24023 Filed 10-11-90; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-1-FRL-38503]

Approval and Promulgation of Implementation Plans, Massachusetts; Revision to Massachusetts' Automobile Surface Coating Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve portions of the State Implementation Plan (SIP) revisions submitted by the Commonwealth of Massachusetts on August 17, 1989, which amend the Massachusetts Automobile Surface Coating Regulation, 310 CMR 7.18(7). Additionally, EPA is proposing to disapprove portions of the compliance dats for the topcoat and final repair applications in the Automobile Surface Coating Regulation. The intended effect of this action is to propose both approval and disapproval of different portions of Massachusetts' revised SIP for ozone. This action is being taken under section 110 of the Clean Air Act.

DATES: Comments must be received on or before November 13, 1990. Public comments on this document are requested and will be considered before taking action on this SIP revision.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Pesticides, and Toxics Management Division, room 2313, Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, Region I, room 2311, JFK Federal Bldg., Boston, Massachusetts 02203 and the Division of Air Quality Control, Massachusetts Department of Environmental Protection, One Winter Street, 8th Floor, Boston, Massachusetts 02108.

FOR FURTHER INFORMATION CONTACT: Emanual Souza, Jr., (617) 565-3248; FTS 835-3246.

SUPPLEMENTARY INFORMATION: On August 17, 1989, the Massachusetts DEP submitted revisions to its SIP for its Ozone Attainment Plan. The submittal included the Massachusetts Automobile Surface Coating Regulation, 310 CMR 7.18(7).

Background

On November 24, 1987, EPA proposed a new policy on how EPA and the States should address the failure of many areas to attain the National Ambient Air

Quality Standards (NAAQS) for ozone and carbon monoxide (CO), two major contributors to urban air pollution. On May 3, 1988, EPA released the latest data on the degree to which areas throughout the nation have attained the standards. The data indicate that the entire Commonwealth of Massachusetts has failed to attain the ozone standard despite the passage of the December 31, 1987 attainment date in the Clean Air Act.

On May 25, 1988, EPA sent a letter to Governor Dukakis indicating that the Massachusetts SIP is substantially inadequate to attain the ozone standard. The SIP call letter requested that the State respond in two phases. The first phase includes correcting deficiencies and inconsistencies in existing regulations, adopting regulations previously required or committed to but never adopted, and updating the base year emission inventory for those areas identified as nonattainment. The second phase of the response will follow promulgation of EPA's final policy on post-1987 ozone and CO nonattainment or amendments to the Clean Air Act.

On June 16, 1988, EPA sent a letter to the Acting Director of the Massachusetts Department of Environmental Quality Engineering's (now Massachusetts Department of Environmental Protection (DEP)) Division of Air Quality Control and identified the corrections that needed to be made in the existing regulations for the control of volatile organic compound (VOC) emissions.

The Commonwealth of Massachusetts submitted two SIP revision packages on August 17, 1989: Revised regulations controlling VOC emissions and the Automobile Surface Coating Regulation. EPA is proposing approval of these SIPs in two separate actions. Today's action proposes to approve portions of the Automobile Surface Coating Regulation and to disapprove the final compliance dates for the topcoat and final repair. In a separate action, EPA is proposing to approve the revised regulations controlling VOC emissions.

Content of Revised Regulation

Massachusetts' DEP made the following changes to the Automobile Surface Coating Regulation:

(1) Five definitions were changed to improve the clarity of the State's Automobile Surface Coating Regulation and to make the definitions consistent with EPA's national guidance and requirements. These definitions were submitted concurrently under a separate cover with the remainder of the amended VOC regulations. EPA is proposing to approve them in a separate notice.

(2) Light duty trucks have been included under the applicability section of this regulation. Language was also added which requires any person who *operates* an automobile and/or light duty truck manufacturing plant to be subject to the regulation.

(3) The applicability cutoff has been reduced to 15 pounds of VOC per day. This will subject all automobile/light duty truck manufacturing plants in the State to the regulation. In addition, the DEP has added recordkeeping requirements, and continuous compliance and daily compliance averaging times. The emission limits are in units of pounds of VOC per gallon of solids applied and are to be met on a daily weighted average basis.

(4) The compliance dates for topcoat and final repair applications, that were extended to August 31, 1987 in a December 30, 1985 submittal and disapproved by EPA in the **Federal Register** on September 16, 1988 (53 FR 36011), were submitted again.

(5) Testing requirements were added which require that transfer efficiency testing be conducted in accordance with the EPA protocol document entitled *Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations (EPA–450/3–88–018).*

For further details on these changes, please refer to the Technical Support Document prepared for this revision which may be obtained from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

Amendments Necessary Prior to Final Rulemaking

EPA has reviewed the submittal and has determined that the regulation is consistent with EPA's national guidance and requirements with the exception of three issues. These issues are discussed below:

(1) The DEP must amend this regulation to clarify that the EPA's *Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations* (EPA–450/3–88–018) is to be used for calculating the daily topcoat emission rate, and not just for transfer efficiency testing as specified in the regulation.

(2) The emission limit for the topcoat application must be listed in Table 2 as "15 pounds of VOC per gallon of solids deposited." Footnote 2 should further specify that 15 pounds of VOC per gallon of solids deposited, at a transfer efficiency of 30% is equivalent to 4.5 pounds of VOC per gallon of solids applied.

(3) Footnote 1 should be further clarified so that it states that compliance is determined on a line-by-line basis and that compliance with the noted emission limitations shall be determined through the daily weighted average of the coatings used in each coating operation for each separate line.

Unapprovable Section of Revised Regulation

The compliance date extensions for topcoat and final repair applications are not approvable. The reasons why these dates are not approvable are explained in the **Federal Register** notice dated September 16, 1988 (53 FR 36011) and will not be restated here. That notice disapproved the compliance date extensions applicable to the General Motors facility in Framingham, Massachusetts. Since this regulation has already been approved on September 16, 1990 (45 FR 61293), the federally approved compliance dates for the topcoat and final repair applications are still enforceable.

EPA is soliciting public comments on the issues discussed in this notice and on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the **ADDRESSES** section of this notice.

Proposed Action: EPA is proposing to approve the Massachusetts' Automobile Surface Coating Regulation provided that the necessary changes are made as stated in this notice. EPA is also proposing to disapprove the compliance date extensions for topcoat and final repair applications.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities since the automobile surface coating regulation is only applicable to one facility in the State.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

The Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirements of section 110(a)(2) (A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone,

Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7642.

Dated: February 9, 1990.

Julie D. Belaga,

Regional Administrator, Region I.

[FR Doc. 90–24024 Filed 10–11–90; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF LABOR

Wage and Hour Division

41 CFR Part 50–202

Adjustment to Walsh-Healey Public Contracts Act; Minimum Wage Determinations To Reflect the Fair Labor Standards Amendments of 1989

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Proposed rule; wage determination under the Walsh-Healey Public Contracts Act.

SUMMARY: The Walsh-Healey Public Contracts Act (PCA) requires payment of minimum wages on Federal and District of Columbia contracts over $10,000 which call for manufacturing or the furnishing of materials, supplies, articles, or equipment. Wage determinations historically issued under the PCA have required payment of not less than the minimum wage prescribed by the Fair Labor Standards Act of 1938, as amended (FLSA). The Fair Labor Standards Amendments of 1989 increased the minimum wage required to be paid under the FLSA. The Department therefore proposes to increase the minimum wage required to be paid under PCA to correspond to the FLSA minimum wage requirements contained in the 1989 FLSA Amendments.

DATES: Any request for a hearing must be received on or before November 13, 1990.

ADDRESSES: Address requests for hearings to Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3502, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3502, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 523–8305 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Effective April 1, 1990, the Fair Labor Standards Amendments of 1989 (Pub. L. 101–157; 103 Stat. 938) provide for the payment of a minimum wage of not less than $3.80 per hour, except as otherwise provided, to each employee who is engaged in commerce or in the production of goods for commerce (as these terms are defined in the FLSA), or who is employed in certain enterprises so engaged, and who does not come within the terms of one of the FLSA's exemptions from the minimum wage requirements. The 1989 FLSA Amendments further increase the minimum wage to $4.25 per hour beginning on April 1, 1991.

Based upon the experience of over 50 years of administration, investigations, and litigation under the FLSA, including administration and enforcement of 16 previous statutory minimum wage increases, economic studies and statutory reports to the Congress, it is the Department's informed judgment that, for the most part, employees working on contracts calling for the manufacturing or furnishing of materials, supplies, articles, or equipment which would be covered by the PCA would also be covered concurrently today by the FLSA's minimum wage provisions. Employees working on contracts covered by the PCA would normally themselves be individually engaged in commerce or in the production of goods for commerce, or employed in covered enterprises so engaged, such that the FLSA's statutory tests for minimum wage coverage would be satisfied. Accordingly, in order to simplify the problems of compliance and the administration and enforcement of the two Acts, the Department proposes to find, under section 7(d) of the Administrative Procedure Act (5 U.S.C. 556(d)), that the level of prevailing minimum wages payable in any of the industries operating in any locality in which materials, supplies, articles, or equipment are to be manufactured or furnished under any contracts subject to the PCA shall be raised to $3.80 per hour (the FLSA section 6(a)(1) minimum wage effective on April 1, 1990), and shall be further raised to $4.25 effective on April 1, 1991. It is proposed that a final prevailing minimum wage determination will be made under section 1(b) of the PCA (41 U.S.C. 35(b)), which will be codified at 41 CFR 50–202.2, to reflect the foregoing statutory increases in the FLSA minimum wage prescribed by the 1989 FLSA Amendments.

In accordance with section 10(b) of the PCA (41 U.S.C. 43a(b)), any person adversely affected or aggrieved by the adoption of this proposal (who shall be deemed to include any manufacturer of, or regular dealer in, materials, supplies, articles, or equipment purchased or to be purchased by the Government from any source, who is in any industry to which this proposal is applicable, and any employee or representative of employees of any such person) shall have a hearing and an opportunity to make a showing contrary to the facts officially noticed herein as provided in section 7(d) of the Administrative Procedure Act (5 U.S.C. 556(d)), upon the submission of a timely request for a hearing. Such requests for a hearing shall be written and filed (in triplicate) with the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, room S–3502, 200 Constitution Avenue, NW., Washington, DC, 20210, by no later than November 13, 1990. Any such request shall contain a clear and concise statement of the facts as to which the applicant will make a showing, setting forth in detail the minimum wage the applicant will show to be prevailing in the applicable industry and locality and the basis therefor. Each such request shall have attached to it a copy of each document the applicant intends to introduce in evidence at the hearing, an identification of each witness the applicant intends to call, a summary of the testimony the applicant intends to develop from each such witness, the name and address of the person selected to present such evidence, and the applicant's estimate of the time such presentation will require. A hearing will be scheduled only in response to a request that is timely filed which contains all of the information specified above.

Executive Order 12291

This proposed rule is not a "major rule" under Executive Order 12291 on Federal Regulations because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

Regulatory Flexibility Act

This proposed rule will have no "significant economic impact on a

substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Public Law 96–354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary of Labor has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory flexibility analysis is required.

Paperwork Reduction Act

This proposed rule is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h), since it does not involve the collection of information from the public.

Document Preparation

This document was prepared under the direction and control of Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

In the absence of requests for hearings, it is proposed to amend the wage determination in § 50–202.2 of title 41 to read as set forth below.

List of Subjects in 41 CFR Part 50–202

Government contracts, Minimum wages, Wages.

Signed at Washington, DC, on this 9th day of October, 1990.

Samuel D. Walker,

Acting Administrator, Wage and Hour Division.

PART 50–202—MINIMUM WAGE DETERMINATIONS

1. The authority citation for part 50–202 is revised to read as follows:

Authority: Secs. 1, 4, and 6, 49 Stat. 2036, 2038; 41 U.S.C. 35, 38, 40. Sec. 10, 66 Stat. 308; 41 U.S.C. 43a.

2. Section 50–202.2 is proposed to be revised to read as follows:

§ 50–202.2 Minimum wage in all industries.

In all industries, the minimum wage applicable to employees described in § 50–201.102 of this chapter shall be not less than $3.35 per hour commencing January 1, 1981, $3.80 per hour commencing April 1, 1990, and $4.25 per hour commencing April 1, 1991.

§ 50–202.16 [Removed and reserved]

3. Subpart C, consisting of § 50–202.16, is proposed to be removed and reserved.

[FR Doc. 90–24121 Filed 10–11–90; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 73–20; Notice 14]

RIN–2127–AD47

Fuel System Integrity; Alcohol Fuels

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Increasing attention is being given to the use of alternative fuels in motor vehicles to help achieve a cleaner and more healthy environment. Under the authority of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (the Act), NHTSA is responsible for establishing motor vehicle safety standards for new vehicles and equipment to reduce motor vehicle accidents, deaths, and injuries. In this regard, NHTSA wishes to have any necessary safety standards in place, that would support the safe introduction and operation of alternative fuel vehicles, and not impede the development and advancement of such vehicles and the associated technology. The purpose of this notice is to solicit comments to help NHRSA determine whether Standard 301, Fuel System Integrity, should be amended to set specialized requirements for vehicles using methanol or ethanol as a motor fuel.

DATES: Comments on this notice must be received by NHTSA no later than December 11, 1990.

ADDRESSES: Comments should refer to the docket number and notice number shown above and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, room 5111, 400 Seventh Street SW., Washington, DC 20590. Telephone (202) 366–9422. Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Gary R. Woodford, NRM–01.01, Special Projects Staff, Rulemaking, National Highway Traffic Safety Administration, room 5320, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–4804.

SUPPLEMENTARY INFORMATION:

I. Introduction

The National Highway Traffic Safety Administration (NHTSA) is considering whether there is a need for regulating fuel system integrity performance for vehicles using alternative motor fuels. The alternative fuels under consideration in this ANPRM are two alcohol fuels: Methanol and ethanol.

Increasing attention is being given to the use of such alternative fuels in motor vehicles to help achieve a cleaner and more healthy environment. In addition to legislation on this subject there are already more stringent emissions standards for trucks and buses, which become effective in 1991 and 1994. The new standards call for major reductions in both particulate matter and nitrogen oxides. The automotive, and truck and bus industries are actively engaged in research and demonstration programs involving such cleaner burning fuels.

The Department of Energy (DOE), under the authority of the Alternative Motor Fuels Act of 1988, is conducting a number of demonstration programs to encourage the use of alternative motor fuels, particularly natural gas, methanol, and ethanol. The Urban Mass Transportation Administration (UMTA) of the U.S. Department of Transportation, through its Alternative Fuels Initiative program, is also encouraging the use of such fuels among local transit authorities.

The Alternative Motor Fuels Act of 1988 also called for the establishment of a minimum driving range for the operation of dual energy and natural gas dual energy passenger automobiles when operated on non-petroleum fuel. Dual energy passenger automobiles are those capable of operating on alcohol and on either gasoline or diesel fuel. Natural gas dual energy passenger automobiles are those capable of operating on natural gas and on either gasoline or diesel fuel. A final rule was published by NHRSA on April 26, 1990, which established the minimum range for dual energy passenger automobiles at 200 miles and the minimum range for natural gas dual energy passenger automobiles at 100 miles. A new passenger automobile which meets the applicable range and other criteria established by the 1988 amendments qualifies to have its fuel economy calculated according to a special procedure. Under that procedure, a relatively high fuel economy figure is assigned the vehicle. This encourages the production of such vehicles by facilitating a manufacturer's compliance with the Corporate Average Fuel Economy Standards.

On April 11, 1989, EPA published a final rule on Standards for Emissions From Methanol-Fueled Motor Vehicles and Motor Vehicle Engines. The rule provides emission standards and test procedures for vehicles operating on methanol fuels. The evaporative and

exhaust emission standards apply to the following new motor vehicles:

- Light-duty methanol cars,
- Light-duty methanol trucks,
- Heavy-duty methanol vehicles and engines, and
- Methanol motorcycles.

With few exceptions the standards for these vehicles set exhaust and evaporative emission levels comparable to those of current petroleum-fueled diesel engines or gasoline fueled vehicles. The regulations are effective beginning with the 1990 model year. The new rule noted that this action was taken to remove the possibility that the absence of emission standards could hinder the development of methanol as a transportation fuel.

Under the authority of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (the Act), NHTSA is responsible for establishing motor vehicle safety standards for new vehicles and equipment to reduce motor vehicle accidents, deaths, and injuries. In this regard, NHTSA wishes to have any necessary safety standards in place that would support the safe introduction and operation of alternative fuel vehicles, and not impede the development and advancement of such vehicles and the associated technology. Therefore, NHTSA must determine if adequate safety requirements for these vehicles are provided by existing safety requirements or if new requirements should be developed.

The purpose of this notice is to solicit comments to help NHTSA determine whether Standard 301 should be amended to set specialized requirements for vehicles using methanol or ethanol as a motor fuel.

II. Background

NHTSA currently has a fuel system integrity standard, Standard No. 301, the purpose of which is to reduce deaths and injuries occurring from fires that result from fuel spillage during and after motor vehicle crashes. The standard applies to vehicles which use fuel with a boiling point above 32 degrees Fahrenheit. These include the conventional motor fuels, gasoline and diesel fuel, as well as methanol and ethanol.

Standard No. 301 specifies requirements for the integrity of the entire fuel system, including the fuel tanks, emission controls, lines, and connections, by requiring front, rear moving, or lateral moving barrier crash tests of the vehicle. These tests apply to passenger cars, multipurpose passenger vehicles, school buses, trucks, and buses (other than school buses) with GVWR of 10,000 pounds or less. Manufacturers must be able to demonstrate that fuel loss will not exceed one ounce per minute in a static rollover test following the barrier crash tests, and will not exceed these limits after, and incidental to, the crash tests. The standard also requires a moving contoured barrier crash test for school buses over 10,000 pounds GVWR.

For purposes of reference throughout this notice, definitions of the following terms are provided (49 CFR 571.3):

Bus means a motor vehicle designed for carrying more than 10 persons.

Multipurpose passenger vehicle (MPV) means a motor vehicle designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

Passenger car means a motor vehicle, except a multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less.

School bus means a motor vehicle designed for carrying more than 10 persons that is sold for purposes that include carrying school children, except common carriers in urban transportation.

Truck means a motor vehicle, except a trailer, designed primarily for the transportation of property or special purpose equipment.

Truck tractor means a truck designed primarily for drawing other motor vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and the load so drawn.

III. Description of Fuel System

The fuel systems of vehicles being introduced today to run on alcohol fuels are similar to those in use with the more conventional fuels: Gasoline or diesel fuel. They are, however, somewhat more complex. One major reason for the similarity is that, as with gasoline or diesel fuel, methanol and ethanol are both liquids at ambient temperature and pressure conditions. Thus, the method of on-board vehicle storage of these fuels is the same as for conventional fuels. However, one reason for the increased complexity of the fuel system is that many of the vehicles being introduced today for use with methanol or ethanol are capable of operating on an alcohol fuel, conventional fuel, or some combination thereof. This requires a sensor on-board the vehicle to detect what percentage of alcohol is present in the fuel at a given time so that engine parameters, e.g., spark timing, can be adjusted accordingly for optimum engine performance. These vehicles are referred to as flexible-fueled vehicles, FFVs, or variable-fueled vehicles, VFVs.

There are also alternative fueled vehicles being made, particularly for various experimental and demonstration programs, which are dual-fuel or dedicated. The dual-fuel type operates on the alternative fuel or conventional fuel, but not various combinations of the two fuels. The dedicated alternative fuel vehicle operates on one fuel blend only, such as 100 percent methanol (M100), 85 percent methanol with 15 percent gasoline (M85), or ethanol, etc.

IV. Potential Problem Areas and Possible Solutions

As stated earlier, the purpose of this notice is to solicit comments to help NHTSA determine whether specific rulemaking is needed relative to the fuel system integrity of vehicles using methanol or ethanol as a motor fuel.

Although vehicles using methanol or ethanol are covered under current Standard No. 301, Fuel System Integrity, there are certain properties of these fuels which are different than those of gasoline or diesel fuel, and may not be addressed under this Standards. The safety performance of these unique properties needs to be examined to assure adequate fuel system integrity of vehicles using such fuels. These properties are discussed under the following categories below:

A. Flame and Explosive Characteristics
B. Toxicity
C. Flame Luminosity
D. Energy Potential
E. Corrosiveness
F. Other Characteristics
G. General Issues

For categories A though E, a short description of the potential safety problems is presented, along with factors influencing those problems. Some possible solutions or general approaches are discussed, and specific questions are posed. It is hoped that responses to these questions will provide NHTSA with additional information and insight on this subject to help in determining whether any rulemaking is needed with respect to the use of methanol or ethanol as a motor fuel.

Category F, Other Characteristics, is an open category for commenters to provide information on potential safety problems which are not addressed in Categories A through E. Category G, General Issues, poses questions which are not specific to any one of the other categories, A through F.

Information and comments are requested from users and suppliers, manufacturers, government agencies, and all other interested parties. Motor vehicle safety standards established by

NHTSA, under the authority of the Act, are by definition performance type standards in that they establish a minimum level or performance for a motor vehicle or an item of motor vehicle equipment. In commenting on a particular option or in responding to a particular question, interested parties are requested to provide all relevant and factual information to support their conclusions or opinions. This should include, but is not limited to, statistical data, estimated costs and benefits, necessary manufacturer leadtimes, availability of technology, accident data, including vehicles fires, injuries, and deaths, and the sources of such information.

Methanol and ethanol are presented together because of their great similarities. Both are alcohol base fuels. However, where appropriate, their differences are pointed out.

NHTSA emphasizes that this is an advance notice of proposed rulemaking. If the agency were ultimately to issue a final rule, it would do so only after further notice of proposed rulemaking and an opprtunity to comment. It is also pointed out that whatever upgrade the agency will consider for alcohol fuels may also be considered for conventional fuels.

A. Flame and Explosive Characteristics

There are significant differences in the flammability and ignition characteristics of various fuels, because of their differing properties. Flame and ignition characteristics are also a function of whether the fire occurs in an open or enclosed area. An open area such as outdoors typically has greater ventilation, which makes difficult the accumulation of fuel vapor. Examples of open areas with limited or poor ventilation include mechanic pits or engine compartments. Enclosed areas would be situations such as sealed fuel containers and fuel tanks.

In open air situations, both well ventilated and poorly ventilated, diesel fuel is the least likely to ignite, when compared to gasoline M85, and M100. This is due primarily to the relatively low volatility of diesel fuel. On the contrary, gasoline represents a significant flammability hazard in open air situations. Its volatility allows for the production of combustible concentrations of fuel vapor when the fuel is exposed to the atmosphere at any temperature above approximately −43 degrees Centrigrade. M85 is expected to act similar to gasoline in open air situations. In contrast, methanol (M100) is less likely to ignite than gasoline in open air situations. Its vapor is produced at a slower rate and disperses more rapidly than that of gasoline.

In enclosed spaces gasoline is virtually incombustible. In a fuel tank, for example, the vapor/air mixture is typically too rich for ignition to occur. M85 would act more like gasoline in this situation. In contrast to gasoline, M85, and diesel fuel; M100 is the most likely to ignite in an enclosed space based on its fuel properties. Its volatility and flammability limits allow a combustabile mixture to exist in the fuel tank between approximately 45 and 108 degress Fahrenheit. Ethanol fuel is also flammable inside a fuel tank between approximately 5 and 108 degress Fahrenheit.

With respect to fire serverity gasoline's high volatility enables immediate eruption of a fully developed fire. Although diesel fuel fires begin slowly due to the fuel's extremely low volatility, additional fuel is quickly vaporized causing and actual burn to progress much more violently. Thus, with the exception of volatility, once ignition occurs, gasoline and diesel fuel fires are violent and severe. The heat release rates of gasoline and diesel fuel fires are also relatively high. M100 represents the other extreme, burning at a slower rate and in a much more controlled manner. Its heat release rate, ignoring situational effects such as flame geometry, is estimated to be approximately one-eighth that of gasoline. M85 likely represents a compromise between methanol and gasoline in aspects related to the hazard of a fire once it occurs. Its volatility is high enough to cause the fire to develop fully, immediately following ignition, but its other properties tend to limit the severity with which it burns.

There are a number of precautions that could be taken to reduce the chance of methanol or ethanol ignition in the fuel tank:

- Removing electric fuel pumps and fuel level sending units from contact with the fuel tank vapor space, thereby eliminating internal ignition sources;
- Extending the filler neck to the bottom of the tank thereby cutting off external ignition sources from contact with the vapor space;
- Applying flame arresters to the fuel tank vents and filler neck, preventing fire from progressing into the fuel tank; and
- Installing a bladder type fuel tank to effectively eliminate the vapor space, such as with race bars. Foam fillers within the tank are another option.

Questions:

(1) Should a specific level of vehicle fuel tank flame arrester performance be required, in light of the increased flammability of alcohol base fuels within confined spaces? What should this level or performance be? Should such requirements differ for vehicles using M100 vs. those using M85 or other combinations of gasoline and alcohol?

(2) What technology is currently available to effect such requirements with respect to fuel tank flame arrester preformance? To what extent is this technology being applied among current vehicles using alcohol fuels? How do current flame arresters operate, and where in the vehicle fuel system are they located? What is the feasibility of using fuel tank foam fillers and bladder type fuel tanks in improving vehicle fuel system safety?

(3) If fuel tank flame arrester performance should be required, on which vehicle types, e.g., passengers car, MPV, truck, truck tractor, bus, and school bus, should this requirement be applied?

(4) What has been the experience of users of alcohol fuel powered vehicles in (1) crash and (2) non-crash situations, relative to the flammability of alcohol fuels in fuel tanks, i.e., fires, accidents, deaths, and injuries?

(5) If fuel tank flame arrester performance was to be required among vehicles using alcohol fuels, what leadtime, costs, and benefits would be involved? How would these leadtimes, costs, and benefits vary among various vehicle types, i.e., passenger car, MPV, truck, truck tractor, bus, and school bus?

(6) How would fuel tank flame arrester performance be tested for compliance e.g., fuel tank full level, temperature, ignition source, and methodolgy?

B. Toxicity

Available information indicates that while the ingestion toxicity of gasoline causes it to be of concern, the increased toxicity of methanol highlights this concern. Methanol is an extremely toxic substance when ingested or absorbed through the skin. If it is accidentally swallowed, for example, during fuel siphoning, or absorbed through the skin when fuel spills, it could, in some cases, cause blindness or death. Momentary splashes on the skin should evaporate before they can become a serious concern, and incidental spitbacks should not be a major concern unless they soak a significant amount of clothing which is not subsequently removed. In any case, vehicle occupant contact and pedestrian contact with the fuel in an accident need to be avoided.

As these vehicles are introduced, toxicity protection could be achieved by

mandating that warning labels be placed at appropriate locations on the vehicle, e.g., near the filler neck. Another precaution could be to assure adequate protection of the vehicle's occupant space from seepage of the fuel. An additional means of minimizing contact with the fuel may be the installation of "anti-spitback" or "anti-siphoning" devices in the filler neck system of the fuel tank.

Spillage during refueling may be less of a concern among large truck and bus operators, where trained personnel are employed to re-fuel vehicles. Some centralized fueling facilities employ the use of specialized "dry break" nozzles that eliminate fuel spills during refueling. One such device, employed by the Southern California Rapid Transit District, Los Angeles, California, provides a positive lock between the fuel nozzle and vehicle filler neck, along with a vapor recovery line back to the underground fuel supply tank.

Questions

(7) Is the increased toxicity of alcohol fuels over conventional fuels a potentially serious safety problem requiring NHTSA's attention? Should there be performance requirements for vehicle labeling, "antispitback" or "anti-siphoning" devices, or increased occupant compartment protection, due to the toxicity level of alcohol fuels? Can flame arresters, referenced above, also serve effectively as "anti-siphoning" or "anti-spitback" devices? If so, what type of flame arresters?

(8) How should these requirements differ among various vehicle types, e.g., passenger car, MPV, truck, truck tractor, bus, and school bus. Should these requirements apply to conventional fuels, i.e., gasoline or diesel fuel?

(9) What has been the experience of users relative to the toxicity of methanol and ethonol in motor fuel applications?

C. Flame Luminosity

Methanol, M100, burns with a light blue flame which is invisible in daylight with no contaminants present and with nothing else burning along with the fuel. With other combustibles involved in the fire, there should be varying degrees of smoke emanating from the product being burned. However, recent testing by Transport Canada [1] indicates that oils in asphalt are not adequate to provide lumninosity to M100 flame, at least not shortly after the spill. Ethanol flames are fairly luminous even in broad daylight, burning with a yellowish flame. M85, if properly blended, should remain visible throughout the burn. Although the visibility of M85 diminshes with time, it can be considered readily visible in daylight. Lack of flame luminosity could lead to crash occupants or other persons being burned by a source which, at least initially, cannot be seen. Development of an additive which would increase the flame luminosity is a possible solution.

Questions

(10) How frequently would fires not be luminous, i.e., no other combustibles involved? Could the lack of flame luminosity cause potentially more, or less, serious effects from motor vehicle crashes which result in fires? What are the advantages to the lack of smoke production? Is lack of flame luminosity a potentially serious safety problem requiring NHTSA's or other federal agency's attention? If so, please specify. What additives are currently available which would provide flame luminosity?

D. Energy Potential

One of the major differences between methanol or ethanol, and gasoline or diesel fuel, is their energy content. The energy contents of methanol and ethanol are about 50 and 60 percent, respectively, that of gasoline or diesel fuel. Therefore, approximately twice as much methanol or ethanol is needed to produce the same energy as gasoline. In order to make the distance travelled per tank of methanol or ethanol comparable to that of gasoline, the fuel tank capacity of the vehicle would have to be approximately doubled, assuming equal engine efficiency. Possible efficiency gains with the use of methanol and ethanol could negate some of this reduction in energy content.

In the event the increased use of these alcohol based fuels leads to larger tanks, it may be appropriate to examine the vehicle safety implications of having this increased amount of fuel on-board with its corresponding weight. This is of special concern for flexible-fueled vehicles since larger tanks may lead to additional gasoline and/or diesel fuel being transported, potentially allowing larger fuel spills. Based on comments received in response to NHTSA's rulemaking on minimum driving range for dual energy passenger automobiles, manufacturers likely will not move toward the larger fuel tanks in the near future, since this would require major vehicle design changes and a long leadtime.

Questions

(11) In light of the lower energy density of alcohol base fuels relative to gasoline or diesel fuel, can the size of vehicle fuel tanks be expected to increase appreciably through 1995? If so, how much of an increase can be expected during this time? What impact will such an increase have on motor vehicle safety? Is there a potentially serious safety problem requiring NHTSA's attention?

E. Corrosiveness

When designing a vehicle to run on alcohol fuel, its corrosive properties must be taken into account. Components which can affect safety and which come into contact with the fuel should be adequately protected from degeneration. Since alcohol fuel will deteriorate various metal, plastic, and rubber components which are designed for use with gasoline, the vehicles must be equipped with fuel tanks, fuel lines, and injector nozzles that are resistant to such deterioration. Appropriate protection may also have to be considered for non-fuel related components which are nearby, critical to vehicle safety, and may be detrimentally affected by the fuel, should a leak occur.

Questions

(12) What modifications to the vehicle fuel system and related components are necessary to assure fuel system integrity in light of the increased corrosiveness of alcohol fuel? Please specify? Is this a potentially serious safety problem requiring NHTSA's attention?

F. Other

As stated earlier, this category is an open category for commenters to provide information on potential safety problems which are not addressed in Categories A through E. In describing any additional safety problems relative to the use of methanol or ethanol as motor fuels, commenters are requested to limit their discussion to those areas which could be addressed through a possible safety performance standard under NHTSA's purview. For each such category the following information is requested.

Questions

(13) A description of the potential safety problem, and its consequences to motor vehicle safety in (1) crash and (2) non-crash situations.

(14) A description of how the potential safety problem should be addressed through a Federal motor vehicle safety performance requirement.

(15) The leadtimes, costs, and benefits of implementing such a performance requirement.

[1] "Study of Safety Aspects of the Use of Alcohol Fuels in Road Vehicles—Phase II", H. J. Campbell, E. W. Simmons, R. J. Lederle, March 31, 1989.

G. General

As stated earlier, there are a number of questions which fall into a more general category, and are not specific to the categories discussed above. The general questions which apply to all of these areas are listed below. Please provide information, as appropriate, for each of the categories A through F discussed above.

Questions

(16) Should any of the requirements above differ among the types of vehicles which can be expected to use methanol or ethanol as a motor fuel, i.e., passenger car, MPV, truck, truck tractor, bus, school bus, and motorcycle?

(17) Should any of the requirements discussed above differ among the types of vehicle fuel systems expected to use methanol or ethanol as a motor fuel?

- Dual fuel (alcohol and gasoline or diesel fuel)
- Flexible fuel (methanol, ethanol, gasoline, or combinations thereof)
- M100
- M85 (85% methanol, 15% gasoline)

(18) Are there special considerations among manufacturers of vehicles built in multiple stages, i.e., multi-stage manufacturers? If so, please specify.

(19) What are the current vehicle populations and projected market demands through 1995 for alcohol fuel powered vehicles with respect to each of the following categories? Within each category please provide current populations and projected demands according to fuel system type (dual fuel, flexible fuel, or dedicated) and alcohol fuel (M100, M85, ethanol, etc.).

- Passenger cars
- Light trucks
- Medium trucks
- Heavy trucks
- School buses
- Transit buses
- Motorcycles

(20) How would the kind of requirements discussed above affect the consumer acceptance of these vehicles?

(21) Should there be different compliance test requirements among the various vehicle categories referenced above? Are there any special considerations with respect to vehicles built in multiple stages? Please specify.

(22) With respect to the issues of toxicity and flame luminosity, should NHTSA's role extend to requirements for safety related additives to alcohol fuels, i.e., to impart odor, taste, flame luminosity, etc.? If so, please explain. If not, why?

V. Potential Regulatory Impacts

This ANPRM is not subject to Executive Order 12291, since that order applies to notices of proposed rulemaking and final rules only.

NHTSA believes that this advance notice is a "significant" rulemaking action under the Department of Transportation regulatory policies and procedures. The notice concerns a matter in which there is substantial public interest. Most, if not all, of the alcohol fueled vehicles built for demonstration purposes have been designed and produced with features that address some or all of the unique characteristics of alcohol fuels discussed in this notice, i.e., flame arresters, corrosiveness, etc.). To the extent that performance standards which address these characteristics are adopted by NHTSA, the costs of application to these vehicles would be minimal. However, a number of issues are discussed in this notice concerning alcohol fuels, and the agency does not have sufficient information to identify specific costs associated with each of the possible performance options which may be developed as a result of this notice. One of the purposes of the notice is to seek comments and information from the public on the costs, benefits, and feasibility of the various options presented. However, based on available information, the agency believes that the costs which would be associated with the various performance options presented in this notice, would not be significantly more than those now being incurred by manufacturers and users of current alcohol fueled vehicles built for demonstration purposes.

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

The agency will review any future rulemaking notice under the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) to determine whether any provisions would have a significant impact on the quality of the human environment.

Review of this notice under the Regulatory Flexibility Act is not required because the Regulatory Flexibility Act does not apply to an advance notice of proposed rulemaking. Should the agency decide to proceed with a notice of proposed rulemaking, review of that notice under the Regulatory Flexibility Act would be made that time.

VI. Comments

NHTSA solicits public comments on this notice. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 552.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

All comments received before the close of business on the comment closing date indicated above for the advance proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on the advance proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the post card by mail.

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.

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

Issued: October 5, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-24025 Filed 10-11-90; 8:45 am]

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49 CFR Part 571

[Docket No. 73-20; Notice 15]

RIN 2127-AD48

Fuel System Integrity; Compressed Natural Gas (CNG) and Liquefied Petroleum Gas (LPG)

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

ACTION: Advance notice of proposed rulemaking, and notice of public meeting.

SUMMARY: This advance notice of proposed rulemaking requests comments on potential safety-related issues associated with the use of CNG or LPG (such as propane) as a motor fuel and solicits ideas on whether NHTSA needs to, and if so how it might address those problems through a possible new or amended fuel system integrity standard. NHTSA also announces a public meeting on these issues. NHTSA desires that any safety performance standard, which may be established for the fuel system integrity of vehicles using CNG or LPG as a motor fuel, be in harmony with the activities and regulatory authority of others to the extent possible. The information gathered at this meeting will help in deciding what further action NHTSA should take in this area.

DATES: Comments on the ANPRM must be received by NHTSA's docket section no later than December 11, 1990.

The public meeting will be held on November 28, 1990. If additional time is needed, the meeting will be continued on November 29, 1990. For the public meeting, those persons or organizations desiring to make presentations at the meeting should let the agency, through Mr. Gary R. Woodford at the address shown below, know by November 14, 1990. Copies of the presentations, or an outline thereof, should be submitted to the contact person shown below by November 21, 1990. Written comments on the subjects discussed at the meeting must be received not later than December 11, 1990.

ADDRESSES: The public meeting, which will begin at 9:30 a.m., will be held at the following address: Third Floor Auditorium, FAA Building, 800 Independence Ave., SW., Washington, DC.

Requests to make a presentation and a copy of the presentation, or outline thereof, should be sent to: Mr. Gary R. Woodford, NRM-01.01, Special Projects Staff, Rulemaking, National Highway Traffic Safety Administration, room 5320, 400 Seventh Street, SW., Washington, DC 20590.

Written comments on the meeting or on the ANPRM should refer to the docket number and notice number shown above and be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, room 5111, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-9422. Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Gary R. Woodford, NRM-01.01, Special Projects Staff, Rulemaking, National Highway Traffic Safety Administration, room 5320, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-4804.

SUPPLEMENTARY INFORMATION:

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Introduction

The National Highway Traffic Safety Administration (NHTSA) is considering possible rulemaking with respect to fuel system integrity among vehicles using alternative motor fuels. The alternative fuels under consideration include the gaseous fuels: Compressed natural gas (CNG) and liquefied petroleum gas (LPG), which this notice addresses.

Increasing attention is being given to the use of such alternative fuels in motor vehicles to help achieve a cleaner and more healthy environment. In addition to legislation on this subject, which is described below, there are already more stringent emissions standards for trucks and buses, which become effective in 1991 and 1994. The automotive, and truck and bus industries are actively engaged in research and demonstration programs involving such cleaner burning fuels.

Additionally, the Department of Energy (DOE), under the authority of the Alternative Motor Fuels Act of 1988, is involved in a number of demonstration programs to encourage the use of alternative motor fuels, particularly natural gas, methanol, and ethanol. The Urban Mass Transportation Administration (UMTA) of the U.S. Department of Transportation, through its Alternative Fuels Initiative program, is also encouraging the use of such fuels among local transit authorities. There are an estimated 30,000 CNG and 300,000 LPG vehicles in commercial application in the United States.

The Alternative Motor Fuels Act of 1988 also called for the establishment of a minimum driving range for the operation of dual energy and natural gas dual energy passenger automobiles when operated on non-petroleum fuel. Dual energy passenger automobiles are those capable of operating on alcohol and either gasoline or diesel fuel. Natural gas dual energy passenger automobiles are those capable of operating on natural gas and either gasoline or diesel fuel. A final rule was published by NHTSA on April 26, 1990, which established the minimum range for dual energy passenger automobiles at 200 miles and the minimum range for natural gas dual energy passenger automobiles at 100 miles. A new passenger automobile which meets the applicable range and other criteria established by the 1988 amendments qualifies to have its fuel economy calculated according to a special procedure. Under that procedure, a relatively high fuel economy figure is assigned the vehicle. This encourages the production of such vehicles by facilitating a manufacturer's compliance with the Corporate Average Fuel Economy Standards.

Under the authority of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (the Act), NHTSA is responsible for establishing motor vehicle safety performance standards for new vehicles and equipment to reduce motor vehicle accidents, deaths, and injuries. In this regard NHTSA wishes to have appropriate safety standards in place, to support the safe introduction and operation of alternative fuel vehicles, and to not impede the development and advancement of such vehicles and the associated technology.

The purposes of this notice are to announce a public meeting to obtain comments on potential regulations for the safety of CNG and LPG powered vehicles, and to explore approaches that might be used if the agency were to

establish a safety performance standard for the fuel system integrity of vehicles using CNG or LPG as a motor fuel.

Public Meeting

All interested persons are invited to attend the meeting. To assist interested parties to prepare for the meeting, the agency has an outline, presented below, of the three major topics to be covered at the meeting. The agency intends to conduct the meeting informally. The agency will begin the discussion of each topic by first summarizing what is currently happening in the area in terms of issues, testing, and safety practices. Then, persons wishing to make a presentation can do so, and are asked to limit their remarks to 20 minutes. A verbatim transcript of the meeting will be prepared and placed in the docket.

The agency requests that persons planning to use visual aids, such as slides or motion pictures, in their presentation indicate those plans to the agency by November 14, 1990, and provide a copy of the visual aid for the docket by the comment closing date of this notice.

Outline of Topics for Public Meeting

I. Crash Integrity—Vehicle Fuel System for CNG and LPG
II. Integrity—Fuel Storage Cylinder for CNG and LPG
III. Pressure Relief—Storage Cylinders for CNG and LPG

Background

NHTSA currently has a fuel system integrity standard, Standard No. 301. The purpose of Standard No. 301 is to reduce deaths and injuries occurring from fires that result from fuel spillage during and after motor vehicle crashes. However, CNG and LPG powered vehicles are not covered under the current requirements of Standard No. 301. That Standard applies only to vehicles that use fuels which have boiling points above 32 degrees Fahrenheit, while the boiling points of natural gas (methane) and LPG (propane) are −259 degrees and −44 degrees Fahrenheit, respectively.

This notice addresses two gaseous motor fuels, CNG and LPG. Gaseous motor fuels are those which exist as a vapor at standard temperature and pressure. Standard temperature and pressure are 32 degrees Fahrenheit and 14.7 lb./sq. in. (one atmosphere), respectively. NHTSA recognizes that there are gaseous fuels other than CNG and LPG which are used as motor fuels. However, this ANPRM will focus on CNG and LPG because of their increasing use and prominence as alternative motor fuels. At the same time, however, NHTSA welcomes comments on other gaseous fuels; these comments may be considered for future rulemaking.

For purposes of reference throughout this notice, definitions of the following terms are provided (49 CFR 571.3):

Bus means a motor vehicle designed for carrying more than 10 persons.

Multipurpose passenger vehicle (MPV) means a motor vehicle designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

Passenger car means a motor vehicle, except a multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less.

School bus means a motor vehicle designed for carrying more than 10 persons that is sold for purposes that include carrying school children, except common carriers in urban transportation.

Truck means a motor vehicle, except a trailer, designed primarily for the transportation of property or special purpose equipment.

Truck tractor means a truck designed primarily for drawing other motor vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and the load so drawn.

Description of Fuel System

CNG, when used as a motor fuel, is natural gas that is typically stored on board the vehicle in cylindrical tanks at a pressure of approximately 3,000 psig and at ambient temperature. Natural gas at standard temperature and pressure is a vapor which is lighter than air. It is stored on board the vehicle in this compressed state to attain a sufficient quantity of the fuel for a driving range comparable to that of conventional fuels.

The principal LPG gases are propane and butane. LPG that is commonly used in automotive engines is a special grade known as HD–5. HD–5 consists of a minimum of 95 percent propane. However, there may be other grades of LPG used in automotive applications, and therefore the term LPG is used throughout this notice. LPG is also a vapor at standard temperature and pressure, but is heavier than air. As with CNG, LPG is stored on board the vehicle in cylindrical tanks, when used as a motor fuel. In the case of LPG, however, the storage pressure is approximately 250 psig. At this storage pressure, LPG exists as a liquid.

Potential Problem Areas and Possible Solutions

There are a number of potential safety problems to be addressed in determining whether to establish a safety performance standard for the fuel system integrity of vehicles using CNG or LPG as a motor fuel. These potential problems can be divided into three categories:

I. Crash Integrity—Vehicle Fuel System
II. Integrity—Fuel Storage Cylinder
III. Pressure Relief—Storage Cylinders

Presented below for each of these categories is a short description of the potential safety problems involved, based on currently available information, along with factors influencing those problems. Possible solutions or optional approaches are also given, and specific questions are posed. It is hoped that responses to these questions will help NHTSA gain additional information and insight on this subject. Although there are various options presented, these are not intended to be mutually exclusive. Instead, the agency will consider combinations of approaches in its assessment of whether to establish a fuel system integrity standard for vehicles using CNG or LPG as a motor fuel.

Information and comments are requested from users and suppliers, manufacturers, government agencies, and all other interested parties, to assist NHTSA in considering relevant potential safety problems and their possible solutions. Motor vehicle safety standards established by NHTSA, under the authority of the Act, are by definition performance type standards in that they establish a minimum level of performance for a motor vehicle or an item of motor vehicle equipment. In commenting on a particular option or in responding to a particular question, interested parties are requested to provide all relevant and factual information to support their conclusions or opinions. This should include, but is not limited to, statistical data, estimated costs and benefits, necessary manufacturer leadtimes, availability of technology, accident data, including vehicle fires, injuries, and deaths, and the sources of such information.

In addition to specific questions which apply to each of the various options described below, there are a number of questions which fall into a more general category. These are listed later in this notice.

I. Crash Integrity—Vehicle Fuel System

Because of the relatively high pressure under which CNG or LPG is stored on board the vehicle, NHTSA is concerned about the potential for fuel leakage and catastrophic fire or explosion in a crash situation. The location and safety performance of fuel lines and fittings, fuel components, and fuel storage cylinders, along with that of the mounting hardware for these components, must be such that fuel leakage is minimized during and after a crash. The following are possible approaches to assure a minimum level of safety performance for CNG or LPG vehicles in a crash situation.

Option A

This option would require a level of performance comparable to that of current Standard No. 301, the purpose of which is to reduce deaths and injuries occurring from fires that result from spillage during and after motor vhicle crashes of those fuels with a boiling point above 32 degrees Fahrenheit.

Each passenger car, multipurpose passenger vehicle, truck, and bus with a GVWR of 10,000 pounds or less would have to be capable of meeting the requirements of frontal, rear moving, or lateral moving barrier crash tests followed by a static rollover test, without alteration of the fuel system during the test sequence. A particular vehicle would not have to meet further requirements after having been subjected to a single barrier crash test and a static rollover test. Each school bus with a GVWR exceeding 10,000 pounds would have to be capable of meeting the requirements of the moving contoured barrier crash test. In any of the tests the fuel storage cylinders would not be allowed to become detached from the vehicle at any attachment point.

The frontal, rear moving, lateral moving, and moving contoured barrier crash tests, and static rollover test, would be as currently specified in Standard No. 301 with the exception of the performance requirement for fuel leakage, which would be as specified below. Procedures would include use of the 50th-percentile test dummies, as specified in Standard No. 301, for the frontal, rear moving barrier, and lateral moving barrier crash tests. A copy of Standard No. 301 is available at NHTSA's Docket Section, at the address cited above.

There would be no allowable fuel leakage *during* the barrier crashes or static rollover tests. In the case of the barrier crash tests, there also would be no fuel leakage allowed for up to 30 minutes *after* motion of the vehicle has ceased.

The requirement for no allowable fuel leakage is similar to the vehicle fuel system integrity requirements of Canadian Motor Vehicle Safety Standards 301.1 and 301.2 for LPG and CNG, respectively. These two standards were issued by Transport Canada in July 1982 and became effective in January 1983. The standards apply to all motor vehicles except motorcycles. The requirements include 30 mph frontal, rear moving, and lateral moving barrier crash tests for vehicles with a GVWR of 10,000 pounds or less. For vehicles with a GVWR greater than 10,000 pounds the requirements include a 30 mph moving contoured barrier crash test at any impact angle to the vehicle.

Test conditions would also be as specified in Standard No. 301, i.e., the fuel storage cylinders would be filled to any level from 90 to 95 percent of service pressure. However, for testing safety purposes, nonflammable gases would be used for compliance testing. These gases should have properties similar to CNG and LPG. All testing would be done within an ambient temperature range of 60 to 70 degrees Fahrenheit.

Questions

(1) In light of available technology, are the requirements in Option A appropriate for those vehicles expected to use CNG or LPG as a motor fuel?

(2) Vehicle applicability in Option A is consistent with current Standard No. 301 requirements. Standard 301 specifies that each passenger car, MPV, school bus, truck, and bus (other than school bus) with a GVWR of 10,000 pounds or less must be capable of meeting the requirements of the frontal, rear moving, or lateral moving barrier crash tests, followed by the static rollover test. Additionally, each school bus with a GVWR exceeding 10,000 pounds must be capable of meeting the requirements of the moving contoured barrier crash test. Are these appropriate? What vehicle types, e.g., passenger car, MPV, truck, truck tractor, bus, and school bus, should be required to meet each of the barrier crash and rollover tests specified in Option A?

(3) Should there be no allowable fuel leakage during and after the test sequences described in Option A? If some leakage should be allowed, what levels should be established and how should the leakage be measured for each of the test sequences described? Is 90 to 95 percent of service pressure for the fuel storage cylinder appropriate for compliance test purposes, or should a lower pressure range be specified? Should a fuel system overpressurization test be added, following the following referenced barrier crash and rollover tests?

(4) For both CNG fuel systems and for LPG fuel systems, what nonflammable gas or vapor should be used in the vehicle fuel system and fuel storage cylinders for compliance test purposes? What other precautions should be followed to assure the safety of compliance test personnel?

(5) At what temperatures should the testing in Option A be performed for compliance purposes? Is the 60 to 70 degree ambient temperature range for testing appropriate, or should this range be widened, e.g., 32 to 100 degrees?

(6) What leadtimes, benefits, and costs per vehicle type would be involved if Option A were to be adopted? How would these leadtimes, benefits, and costs vary among vehicle types, e.g., passenger car, MPV, truck, bus, and school bus?

Option B

Option B would involve the adoption of selected portions of two standards of the National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA 02269. The purposes of the NFPA include promoting the science and improving the methods of fire protection and prevention, and obtaining and circulating information on these subjects. Its primary effort toward meeting its purposes is in developing and updating standards covering all areas of fire safety. The NFPA has no enforcement power. Its standards are advisory in nature.

The two standards are NFPA 52, Standard for Compressed Natural Gas (CNG) Vehicular Fuel Systems, 1988 edition, and NFPA 58, Standard for the Storage and Handling of Liquefied Petroleum Gases, 1989 edition. Each standard contains sections which pertain to engine fuel systems for vehicles. Copies of these sections of the two standards are available at the NHTSA Docket. Both standards are voluntary industry guidelines, and have been approved by the American National Standards Institute. NFPA has no authority to enforce compliance to the standards.

In the case of vehicles using CNG as a motor fuel, Option B would adopt those portions of NFPA 52 which are relevant to the safe performance, location and securement of fuel system components and storage cylinders, for purposes of vehicle fuel system crash integrity. These would include the following sections from NFPA 52. Modifications

are contained in brackets, []. Omitted portions are indicated as ( ).

3–3.1 Fuel supply containers on vehicles may be located within, below or above the driver or passenger compartment, provided all connections to the container(s) are external to, or sealed and vented from, these compartments.

3–3.2 ( ). No part of a [fuel supply] container or its appurtenances shall protrude beyond the sides or top of the vehicle [periphery] at the point where it is installed.

3–3.2.1 The fuel system shall be installed with as much road clearance as practical but not less than the minimum road clearance of the vehicle when loaded to its gross vehicle weight rating. This minimum clearance shall be measured from the lowest part of the fuel system.

3–3.2.2 No portion of a fuel supply container or container appurtenance shall be located ahead of the front axle or behind the rear bumper mounting face of a vehicle. ( ).

3–3.3 Each container rack shall be secured to the vehicle body, bed or frame to prevent damage from road hazards, slippage, loosening or rotation using a method capable of withstanding a static force in the six principal directions [Figure 3–3.3, NFPA 52] of eight times the weight of a fully pressurized container(s).

3–3.3.1 Each fuel supply container in the rack shall be secured to its cradle in such a manner that it is capable of withstanding a static force applied in the six principal directions [Figure 3–3.3, NFPA 52] of eight times the weight of the fully pressurized container with a maximum displacement of ½ in. (12.7 mm).

3–3.4 The container weight shall not be supported by outlet valves, manifolds, or other fuel connections.

3–3.5 Fuel supply containers located less than 8 in. (203 mm) from the exhaust system shall be shielded against direct heat.

3–3.6 The mounting system shall ( ). [preclude] fretting corrosion [i.e., corrosion due to abrasion] between the container and the mounting system.

3–5.6 ( ). A supply line shall be supported at least every 24 in. (610 mm).

3–7.2 A pressure gauge installed outside a driver or passenger compartment shall be equipped with a limiting orifice, a shatterproof dial lens and a body relief.

3–8.3 Regulators shall be installed so that their weight is not placed on, or supported by, the attached gaslines.

Sections 3–6.2.6 through 3–6.2.9 of NFPA 58 for vehicles using LPG as a motor fuel contain similar requirements with some variations. LPG fuel containers must be mounted on the vehicle such that the container fastenings can withstand without permanent visible deformation static loading in any direction equal to four times (rather than eight times) the weight of the container filled with fuel. NFPA 58 also has a specific section on the location of fuel containers mounted in the interior of vehicles.

Questions

(7) Are NFPA Standards 52 and 58 appropriate for the types of vehicles expected to use CNG or LPG as a motor fuel? Please specify. For example, locating the fuel storage cylinders on top of the vehicle may not be appropriate in all cases. Section 393.65(b)(6) of the Federal Motor Carrier Safety Regulations prohibits any part of the fuel system of a bus manufactured on or after January 1, 1973, to be located within or above the passenger compartment of a commercial motor vehicle which is subject to those regulations.

(8) Should there be other sections of NFPA Standards 52 and 58 included in Option B in order to provide adequate vehicle fuel system integrity in crash situations? If so, please specify.

(9) What vehicle types should have to meet the requirements specified in Option B, e.g., passenger car, MPV, truck, truck tractor, bus, and school bus?

(10) To what extent are NFPA Standards 52 and 58 currently being used among fleet users and others?

(11) Are the static force requirements for securing fuel supply containers (four to eight times their weight when filled with fuel), as specified in NFPA Standards 52 and 58, adequate for crash situations? Should these forces be increased to 20 or 30 times the weight of the fuel supply containers when full. What has been the experience of users of vehicles built to NFPA 52 and 58 requirements in accident situations?

(12) What leadtimes, benefits, and costs per vehicle would be involved if Option B was to be adopted? How would these leadtimes, benefits, and costs vary among vehicle types?

Option C

Option C would involve the adoption of selected portions of a set of requirements issued in 1985, by the American Gas Association (AGA) Laboratories, 8501 East Pleasant Valley Road, Cleveland, OH 44131.

These are titled, A.G.A. Requirements For Natural Gas Vehicle (CNG) Conversion Kits, No. 1–85, August 20, 1985, and form the basis for an AGA program to certify natural gas vehicle conversion systems. The requirements apply to on-board CNG equipment designed to operate a dual fuel gasoline/CNG vehicle or dedicated CNG vehicle. The requirements are divided into two major sections. Part I presents criteria for evaluating minimal physical attributes of component materials, labelling, and instructional material considered necessary for reasonable system life, proper identification of responsible parties, and safe installation. Part II covers performance requirements and methods of test for CNG vehicle converson kits.

Option C would use those portions from part II of the AGA requirements which are relevant to the safe performance, location, and securement of fuel system components and storage cylinders, i.e., vehicle fuel system crash integrity. These would include the following sections and could be used in conjunction with NFPA 52 requirements referenced in Option B: AGA No. 1–85 sections 2.2.1, 2.3.1, 2.3.2, 2.4, 2.5, 2.6.1, 2.8.1, and 2.8.3. A copy of the complete AGA requirements is available at the NHTSA Docket.

Questions

(13) Are AGA No. 1–85 requirements appropriate for the types of vehicles expected to use CNG or LPG as a motor fuel?

(14) Should there be other sections of AGA No. 1–85 included in Option C in order to provide adequate vehicle fuel system integrity in crash situations? If so, please specify.

(15) What vehicle types should have to meet the requirements specified in Option C, e.g., passenger car, MPV, truck, truck tractor, bus, and school bus?

(16) To what extent are AGA No. 1–85 requirements currently being used among fleet users and others?

(17) Are the requirements specified in AGA No. 1–85 sufficient to provide for adequate vehicle fuel system integrity in crash situations? What has been the experience of users of vehicles built to these requirements in accident situations?

(18) What leadtimes, benefits, and costs per vehicle would be involved if Option C was to be adopted? How would these leadtimes, benefits, and costs vary among vehicle types?

II. Integrity—Fuel Storage Cylinder

While the previous section of this notice focuses on the entire fuel system, additional performance requirements may be appropriate for the fuel storage cylinder. This issue is addressed here.

CNG and LPG are stored on-board the vehicle in cylindrical containers at relatively high pressures, approximately 3000 psig for CNG and 250 psig for LPG. The fuels are stored in this compressed state to attain sufficient quantities for vehicle driving range to be comparable to that of conventional fuels. Because of these relatively high pressures, the integrity of the cylinders in which the fuels are stored is critical to vehicle safety, both in crash situations and under normal use. The relatively high fuel storage pressures could greatly increase the magnitude of any accident or fire.

There are several factors that can influence the integrity of these storage cylinders. One is gas quality, or the level of impurities found in the fuel. Because the cylinders are often mounted horizontally, any condensation of contaminants settles on the lowest sidewall. If, for example, compounds such as hydrogen sulfide (H_2S) and water (H_2) are present in the fuel, stress-corrosion cracking can result and possibly lead to cylinder failure. Another factor influencing cylinder integrity is the repeated pressure cycling to which the cylinders are exposed over their lifetime due to refueling, i.e., empty-to-full. This can also produce stress cracks in the cylinder walls. As the cylinders age, the stress cracks can propagate, thereby increasing the potential for cylinder failure.

Based on these potential problems, any performance standard which NHTSA would consider adopting to assure cylinder integrity should meet both strength and durability requirements. The strength requirements would have to assure a minimum level of integrity in vehicle crash situations and because of the relatively high fuel storage pressures. The durability requirements would have to assure a minimum level of cylinder performance against contaminant stress-corrosion cracking and repeated pressure cycling.

Currently, there are a number of standards in existence specifying requirements for CNG and LPG cylinders. These include standards issued by (1) the Office of Hazardous Materials Transportation within the Department of Transportation's Research and Special Programs Administration (RSPA), and those referenced by (2) NFPA in its Standards 52 and 58, and AGA in its No. 1–85 requirements for CNG vehicle conversion kits.

RSPA establishes and enforces specifications and standards for cylinders used to transport hazardous materials, including CNG and LPG. This application of the cylinders is different from that of being used for on-board storage of motor fuels. In the latter application the cylinders are attached to the vehicle like a conventional fuel tank. In transport applications, however, the cylinders are used as shipping containers to transport the fuel or other hazardous material from one destination to another. Here the cylinders are not permanently fixed to the vehicle. Under RSPA regulations, the cylinders used for transport must be marked and certified to DOT specifications, and periodically retested and reinspected. This is done under the authority of the Hazardous Materials Transportation Act. However, this authority does not apply when such cylinders are used for on-board vehicle storage of a motor fuel. In other words, there are no federal fuel system integrity standards involving these fuels when used as motor fuels on-board vehicles.

The RSPA standards for cylinders are very specific in their requirements. They include specifications for the design, manufacture, performance testing, and inspection of new cylinders. For commonly used steel cylinders these standards are DOT–4B, 4BA, and 4BW for LPG, and DOT–3AA for CNG, which are described in 49 CFR 178.50, 178.51, 178.61, and 178.37, respectively. For lighter weight cylinders, made with an aluminum liner rather than the steel construction, there are two RSPA standards, DOT FRP–1 and FRP–2. Cylinders built to Standard FRP–1 have resin impregnated continuous filament windings in both the longitudinal and circumferential directions (full wrapped) over a seamless aluminum liner. Cylinders built to Standard FRP–2 are made of the same materials except that the continuous filament windings are in the circumferential direction only (hoop wrapped). Finally, RSPA has cylinder qualification, maintenance, and use requirements, which are described in 49 CFR 173.34. These include requirements for the retesting of used cylinders, including retest intervals. Retest intervals are five years for steel cylinders and three years for the aluminum liner cylinders.

In the case of NFPA Standards 57 and 58, and AGA No. 1–85 requirements, reference is made to the cylinder standards and regulations of others, including DOT, CTC (Canadian Transport Commission), and ASME (The American Society of Mechanical Engineers). See section 2–4 of NFPA 52, Section 3–6.2.2 of NFPA 58, and section 1.3.1 of AGA No. 1–85 (available at NHTSA docket).

The following are possible approaches or performance options which could be taken to assure a minimum level of strength and durability for cylinders used to store LPG or CNG as a motor fuel. These are examples taken from RSPA Standard FRP–1, referenced above, and aluminum liner cylinder used in CNG applicatons. Cylinder capacity is not over 200 lbs. water, and service pressure is at least 900 psig but not greater than 5000 psig. Such cylinders are becoming more commonly used in motor vehicle applications, in contrast to steel cylinders, because of their lighter weight. The types of RSPA performance tests required of these cylinders are considered representative of other cylinder requirements referenced above. However, certain of the test requirements may have to be modified for purposes of on-board storage of fuel. This is because the standards were developed for a different purpose, that is, the transport of fuel in a cylinder that is consistently full. NHTSA encourages the submission of data from cylinder designers and manufacturers concerning any recommended changes or increases in the test requirements. Section numbers, when shown below, refer to those in FRP–1. Items in brackets, [], indicate modifications made by NHTSA in this ANPRM. Omitted portions are indicated as (. . . .). Options D, E, and F pertain to cylinder strength performance, while Options G and H pertain to durability performance. Complete copies of RSPA Standards FRP–1 and FRP–2 are available at the NHTSA Docket.

Option D

This option would involve cylinder strength requirements.

178.AA–11(a) Hydrostatic Test

(1) By water-jacket, operated so as to obtain accurate data. Pressure gauge must permit reading to accuracy of 1 percent in the range of 80 percent to 120 percent of test pressure. Expansion gauge must permit reading of total expansion to accuracy either 1 percent of 0.1 cubic centimeter.

(2) The accuracy of the test equipment must be maintained by periodic reclaibration. Records must be maintained to verify that the test equipment is calibrated on a regular basis.

(i) A calibration cylinder capable of verifying the equipment accuracy for the material, size and test pressure of the cylinders to be tested must be used for checking the equipment at the beginning of each day.

(3) Pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion. Any internal

pressure applied after autofrettage [1] and previous to the official test must not exceed 90 percent of the test pressure. If, due to failure of the test apparatus, the test pressure can not be maintained, the test may be repeated at a pressure increased by 10 percent or 100 pounds per square inch, whichever is the lower. Not mote than 2 such repeated tests are permitted.

(4) Each cylinder must be tested to at least 5/3 times service pressure. In no case may the test pressure exceed the autofrettage pressure.

178.AA–13(a) Acceptable Results of Tests

(1) The permanent volumetric expansion of the cylinder must not exceed 5 percent of the total volumetric expansion at test pressure.

(2) All cylinders failing to pass the hydrostatic test must be rejected.

178.AA–18(e) Hydraulic Burst Test

(1) One representative cylinder shall be hydrostatically pressurized to failure as follows: Pressure shall be increased at a uniform rate up to minimum prescribed burst pressure, held constant at minimum burst pressure for 60 seconds; and increased to failure. The pressurizaton rate throughout the test must not exceed 200 psi per second.

(2) Burst pressure must be at least 3 times the service pressure, and in no case less than the value necessary to meet the stress criteria of 178.AA–7(b). Failure must initiate in the side wall. Cylinders with marked service pressure not exceeding 2200 psig must remain in one piece. Actual burst pressure must be recorded.

Option E

This option would involve cylinder strength requirements.

178.AA–12(a) Physical Test-Applies to Aluminum Liner Only

(1) To determine yield strength, tensile strength and elongation of the aluminum liner material. Required on 2 specimens cut form one liner taken at random out of each lot of 200 liners or less. [However, all liners must be capable of meeting the test requirements.]

(2) Specimens must be: Gauge length 2 inches with width not over 1½ inches; or gauge length 4 times the specimen diameter (4D bar); provided, that gauge length at least 24 times thickness with width not over 6 times thickness is authorized when liner wall is not over 3/16 inches thick. The specimen, exclusive of grip ends must not be flattened. Grip ends may be flattened to within one inch of each end of the reduced section. When size of liner does not permit securing straight specimens, the specimens may be taken in any location of direction and may be straightened or flattened cold, by pressure only, not by blows. ( ). Heating of specimens for any purpose is not authorized.

(3) The yield strength in tension shall be the stress corresponding to a permanent strain of 0.2 percent of the gauge length. [The procedure for yield strength determination shall be in accordance with 178.AA–12(3)(i) through 178.AA–12(3)(IV).]

10178.AA–13 (b) Acceptable Results of Tests

(1) Elongation must be at least 14 percent; except that an elongation of 10 percent is acceptable when the authorized specimen size is 24t×6t.

(2) When the test results fail to meet requirements, the liner lot must be rejected.

(3) A retest of a rejected lot is authorized if an improper test was made due to the presence of a defect in the specimen or if the equipment or procedure was faulty. The retest must be performed on specimens taken from the same cylinder liner.

178.AA–7 Wall Thickness

(a) Minimum thickness of the liner must be such that after autofrettage, the compressive stress in the sidewall of the liner at zero pressure will not exceed 95 percent of the minimum yield strength of the aluminum as determined in 178.AA–12(a) or 95 percent of the minimum design yield strength shown in 178.AA–18(h). The maximum tensile stress of the liner at operating pressure must not exceed 60 percent of the yield strength.

(b) The maximum filament stress at service pressure must not exceed 30 percent of the filament stress at the virgin burst pressure of the lot test cylinder.

(c) The end designs must incorporate added materials to assure the stresses in these areas are less than the stresses found in the cylindrical portion.

(d) Stresses shall be computed from Computer Code NASA CF–72124 "Computer Program for the Analysis of Filament-Wound Reinforced Metal Shell Pressure Vessels" May 1966, or other suitable analysis techniques.

Option F

This option would involve cylinder strength requirements. The purpose of this test is to avoid fragmentation failure.

178.AA–18(f) Gunfire Test

One representative cylinder charged with air or nitrogen to service pressure shall be impacted by a 0.30 caliber armor-piercing projectile having a velocity of approximately 2800 feet per second. Cylinder shall be so positioned that the projectile impact point is in the cylinder sidewall at approximately 45 degree angle and aimed to exit at the cylinder sidewall. Distance from firing location to test cylinder not to exceed 50 yards. Tested cylinder shall reveal no evidence of a fragmentation failure. Approximate size of entrance and exit openings must be recorded.

Question

(19) In addition to a gunfire test with an armor piercing round to test fuel tank ductility, would a gunfire test at low tank pressure with a standard round also be appropriate to analyze puncture resistance?

Option G

This option would involve cylinder durability requirements.

178.AA–12(b) Cycling Test

(1) One cylinder taken at random out of each lot of 200 cylinders must be subjected to cyclic pressurization test by hydrostatically pressurizing the cylinder between approximately zero psig and the designated pressure at a rate not to exceed 4 cycles per minute. Adequate recording instrumentation must be provided if the equipment is to be left unattended for periods of time. All cylinders used in the cycle test must be destroyed.

178.AA–13(c) Acceptable Results of Tests

(2) When the test cylinder fails to withstand the cycle test, the lot represented must be rejected.

178.AA–18(d)

(1) Cycling test at ambient temperature. One representative cylinder shall be cycle tested at ambient temperature without showing evidence of distortion, deterioration or failure, as follows: Pressurize from 0 to service pressure for 10,000 cycles; then pressurize from 0 to test pressure for 30 cycles. After successfully passing this test the cylinder must be pressurized to burst in accordance with paragraph (e) (1) of this section and the burst pressure recorded.

(2) Environmental cycling test. One representative cylinder free of any

[1] Autofrettage refers to an increase in the yield point of a material, after compressive residual stresses have been induced in the material due to tensile load.

protective coating shall be cycle tested without showing evidence of distortion, deterioration or failure, as follows:

(i) Condition for 48 hours at zero pressure, 140 degrees Fahrenheit or higher and 95 percent or greater relative humidity.

(ii) Pressurize from zero to service pressure for 5,000 cycles at 140 degrees Fahrenheit or higher and 95 percent or greater relative humidity.

(iii) Stabilize at zero pressure and ambient conditions.

(iv) Then pressurize from zero to service pressure for 5,000 cycles at −60 degrees Fahrenheit or lower.

(v) Stabilize at zero pressure and ambient conditions.

(vi) Then pressurize from zero to test pressure for 30 cycles at ambient temperature.

Any cylinder subjected to this cycling test must be destroyed.

(3) Thermal cycling test. One representative cylinder shall be tested without showing evidence of distortion, deterioration or failure as follows:

(i) Cycle test, at ambient temperature, by performing 10,000 pressurizations from zero to service pressure and 30 pressurizations from zero to test pressure.

(ii) Then hydrostatically pressurize to service pressure; and submerge the pressurized cylinder in 200 degrees Fahrenheit fluid, soak for 10 minutes; transfer and submerge in −60 degrees Fahrenheit fluid and soak for 10 minutes. Subject the cylinder to 20 such cycles restricting the transfer time to at least one minute but not more than three minutes. The pressure in the cylinder may be controlled so that it does not exceed test pressure nor be less than marked service pressure.

After successfully passing this test, the cylinder must be pressurized to burst in accordance with paragraph (e)(1) of this section and burst pressure recorded.

Question

(20) At what level should the maximum number of pressurization cycles be set for cylinders used in CNG and LPG motor fuel applications? Should the 10,000 cycles described in Option G be modified to reflect the likely maximum number of vehicle refuelings over the operating life of the vehicle? Please specify.

Option H

This option would involve the kind of cycle testing of cylinders, described in Option G, but with the use of a liquid or vapor compound that would simulate fuel of minimum gas quality, i.e., maximum allowable impurities. The test would consist of an accelerated life cycle to determine minimum levels of cylinder performance under conditions of minimal gas quality.

In conjunction with this, NHTSA could consider requiring appropriate labeling on both the cylinder and at the vehicle fuel-filler connection, specifying minimum fuel quality levels for safe use in the vehicle fuel system.

Questions

For each question, please address each Option D through H individually.

(21) Are the test procedures or approaches described in Options D through H appropriate and sufficient for assuring cylinder integrity in motor vehicle applications, CNG or LPG? If not, why not? Could they be modified to better achieve the purpose? How?

(22) Are the minimum test results and performance levels described in Options D through G appropriate for cylinders used in CNG motor fuel applications? The results and performance levels shown were taken, by example, from RSPA Standard FRP–1. FRP–1, however, is for cylinder transport applications. Additionally, how should these results and performance levels be modified for LPG motor fuel applications?

(23) Should hoop wrapped composite cylinders, built to Standard FRP–2, also be considered here? If so, how should the above proposed testing requirements, which have been taken in part from RSPA Standard FRP–1 (full wrapped composite cylinders), be modified for use with the hoop wrapped composite cylinders? Please specify.

(24) Is the kind of test described in Option H feasible? What gas quality limits are appropriate for test purposes in light of commercially available CNG for motor fuel applications? Similarly, what gas quality levels are appropriate for test purposes with LPG? Please specify. Also see question 44.

(25) Would it be appropriate to adopt such cylinder requirements for all vehicle types, e.g., passenger car, MPV, truck, truck tractor, bus, and school bus? If not, which vehicle types should be included.

(26) In light of available technology, are the requirements in Options D through H appropriate for those vehicles expected to use CNG or LPG as a motor fuel?

(27) What leadtimes, benefits, and costs per vehicle would be involved if Options D through H were to be adopted? How would these leadtimes, benefits, and costs vary among vehicle types, i.e., passenger car, MPV, truck, truck tractor, bus, and school bus?

(28) What has been the experience of users of cylinders which were built to current RSPA Standards and used in motor fuel applications, with respect to fires, explosions, and accidents?

(29) Should storage cylinders used in CNG and LPG motor fuel applications be periodically inspected and retested, or is it feasible to design and manufacture the cylinders from materials which are not susceptible to stress corrosion cracking? Please explain.

(30) If the fuel storage cylinders should be periodically inspected and retested, which agency and at what level should these be performed, i.e., federal, state, local, voluntary, etc.? Please specify. What technology is currently available for performing such inspection and retest, and how much time and cost would be involved in each case? What should be the retest intervals?

III. Pressure Relief—Storage Cylinders

As referenced above, CNG and LPG are stored on-board the vehicle in cylindrical containers at relatively high pressures, approximately 3000 psig for CNG and 250 psig for LPG.

In any motor vehicle crash situation there is the potential for fire. If a cylinder and its contents were to increase in temperature, due to a vehicle fire for example, pressure inside the cylinder would increase. If this pressure becomes too high, the cylinder could burst due to high stresses. The high temperatures could also weaken the cylinder to the point of rupture. Therefore, there is a need to have a means of pressure relief for the storage cylinders, to reduce the possibility of an explosion. The pressure relief system would provide a means of venting the cylinder contents at a controlled rate, rather than possibly having the cylinder burst with an accompanying explosion of its contents. Pressure relief may also be needed to prevent overfill during refueling operations.

Under current RSPA regulations, cylinders used to transport CNG or LPG are required to have a pressure relief device. The requirements provide for a pressure relief device capable of preventing rupture of a fully charged cylinder under fire conditions. However, a relief device based on requirements for a fully charged cylinder, such as is the case when the fuel is being transported but not being used on-board, may not be adequate for use with a cylinder under partial charge. The latter is often the case with cylinders used to store motor fuels. A partially charged cylinder, under fire conditions, i.e., in an environment of high heat and fire from a crash, may require a longer time for the pressure of its contents to increase sufficiently to activate the pressure relief device. This longer period

of time, during which the cylinder is exposed to heat, may weaken the cylinder and cause failure before the relief device is activated. Thus, NHTSA requests information on whether CNG or LPG cylinders used in motor fuel applications should be equipped with a pressure relief system capable of preventing cylinder rupture, under fire conditions, and at all fill levels.

The RSPA regulations for pressure relief devices are described in 49 CFR 173.34(d). They require one or more pressure relief devices sized and selected as to type, location, and quantity and tested in accordance with CGA Pamphlet S–1.1 (Compressed Gas Association, 1235 Jefferson Davis Highway, Arlington, Virginia 22202). The pressure relief device system must be capable of preventing rupture of the normally or fully charged cylinder when subjected to a fire test conducted in accordance with CGA Pamphlet C–14. One exception to using the fire test described in CGA Pamphlet C–14 involves the aluminum liner cylinders made in accordance with RSPA Standards FRP–1 and FRP–2. For those cylinders the adequacy of the pressure relieving devices may be verified in accordance with a Bonfire test described in those standards.

NFPA Standards 52 and 52, and AGA No. 1–85 requirements refer to the cylinder and pressure relief device standards and regulations of others, including DOT, CTC, ASME, and CGA. NFPA 52 and 58, and AGA 1–85, include strength and locations of pressure relief vent lines on the vehicle, so that any vented fuel is directly away from passenger and luggage compartments. See sections 2–5 and 3–4 of NFPA 52, sections 3–6.2.3, 3–6.2.6(i), 3–6.2.7, 3–6.2.8(h), and appendix E of NFPA 58, and section 1.3.1 of AGA No. 1–85.

The following are possible approaches or performance options which NHTSA could require to assure a minimum level of pressure relief, under fire conditions or during refueling operations. These are examples, taken in part, from CGA, RSPA, and AGA standards and requirements.

Option I

This option would require that each cylinder used in CNG or LPG motor fuel applications be equipped with two pressure relief devices at each end of the cylinder: Two pressure sensitive and two temperature sensitive. Two of each kind would provide a safety factor in the event that one failed to function. Two of the pressure relief devices would be pressure sensitive, regardless of cylinder temperatures. These would provide for pressure relief of a fully charged cylinder, under fire conditions, or if the cylinder were to become overcharged during refueling. The devices could be set to activate at a predetermined cylinder pressure, i.e., higher than cylinder service pressure but much lower than burst pressure. The other two pressure relief devices would be sensitive to cylinder temperature, regardless of fuel pressure inside the cylinder. These would provide for pressure relief, under fire conditions and when the cylinder is at less than full charge, by relieving cylinder contents if the cylinder were to become overheated. These devices could be set to activate at a temperature well below the yield temperature of the cylinder material.

As stated earlier, CGA Pamphlet S–1.1, Pressure Relief Device Standards Part 1—Cylinders For Compressed Gases, describes various types of pressure relief devices, and their applications, design and construction, and testing procedures. Among the types of pressure relief devices listed in CGA Pamphlet S–1.1, are a Rupture Disc Device and a Fusible Plug Device. These would operate in the manner described above. CGA Pamphlet S–1.1 defines these as follows:

Rupture Disk Device: a non-closing pressure relief device actuated by inlet static pressure and designed to function by the bursting of a pressure containing disk.

Fusible Plug Device: a non-reclosing pressure relief device designed to function by the yielding or melting of a plug of suitable melting temperature material.

This option would require minimum flow capacity of these pressure relief devices when activated, such as the kind specified in sections 5.5 and 5.6 of CGA Pamphlet S–1.1 Similarly, it would require that such devices be tested in accordance with sections 6.1, 6.2, 6.3, and 6.6 of CGA Pamphlet S–1.1. The test procedures involve the selection and testing of samples from lots to assure that the devices activate at the intended pressure or temperature, and that once activated, flow capacity is as intended. A copy of CGA Pamphlet S–1.1 is available at the NHTSA Docket.

Questions

(31) Is there a problem that has been experienced or is anticipated with pressure relief? If so, should NHTSA regulate pressure relief?

(32) Are the pressure relief device tests described in CGA Pamphlet S–1.1 appropriate for pressure relief devices used in motor fuel applications? If not, how should they be modified?

(33) Are two each of the pressure sensitive and temperature sensitive pressure relief devices necessary to assure safe pressure relief of CNG or LPG motor fuel cylinders?

(34) At what specific temperature and pressure should the pressure relief stem devices be sent to assure adequate cylinder pressure relief under all conditions of cylinder charge level? How should these levels differ between CNG and LPG applications?

Option J

This option would require fire tests on cylinders fitted with the types of pressure relief devices described in Option I. The fire tests would first be conducted under fully charged conditions to verify performance of the pressure sensitive relief devices. The fire tests would then be repeated at a charge level less than one-half of full charge to verify performance of the temperature sensitive relief devices. These tests would, in effect, test the cylinder and pressure relief devices as a system, thereby verifying adequate pressure relief to preclude cylinder failure. The fire tests would be conducted in a manner similar to the Bonfire test described in RSPA Standard FRP–1:

178.AA–18(g) Bonfire Tests

Test cylinders must be fitted with pressure relief devices in accordance with the intended lading to the prescribed filling pressure or density. Charging with nitrogen or air to service pressure is authorized if cylinders are to be charged only with nonliquefied gases. Fire for tests shall be generated by kerosine-soaked wood, gasoline or JP–4 fuel. The lowest part of the cylinder shall be approximately 4 inches above the base of the fire when the wood fire is used and shall be approximately 4 inches above the liquid surface in the case of gasoline of JP–4 fuel. Test cylinder shall be exposed to fire until completely vented. Time-pressure readings must be recorded at 30 second intervals from start of fire until venting is completed. Test results are unacceptable if contents vent from any location other than through a pressure relief device. After satisfactorily passing the fire test, each cylinder must be pressurized to burst and burst pressure recorded. Tests must be performed as follows:

(1) Vertical test. Place the test cylinder in the upright position and subject to total fire engulfment but in no case shall the flame be allowed to impinge directly on any relief device. Shielding or pressure relief devices with a metal plate may be used but is not a requirement. For cylinders equipped

with relief devices on both ends, the bottom relief devices must be shielded from any flame impingement.

(2) Horizontal tests. Place the test cylinder in the horizontal position and subject the entire length to flame impingement except that flame shall not allowed to impinge directly on any relief device. Shielding of the pressure relief devices with a metal plate may be used but is not a requirement.

(3) Cylinders for liquefied gas service. At least one representative cylinder must be subjected to the horizontal test and two to the vertical test.

(4) Cylinders for non-liquefied gas service only. At least 2 cylinders must be subjected to the vertical test Horizontal test is not required.

An allowable alternative to using the bonfire test described in this option would be to use the fire test procedures descibed in CGA Pamphlet C–14, Procedures For Fire Testing of D.O.T. Cylinder Safety Device Systems. However, this option would still require on set of tests under fully charged conditions and one set of tests with the cylinder charge level at less than one-half, so that performance of both the pressure sensitive and temperature sensitive pressure relief devices could be verified. A copy of CGA Pamphlet C–14 is available at the NHTSA Docket.

Question

(35) Are these two tests, bonfire and CGA–14, appropriate for cylinder used in motor fuel applications? If not, why not? Is one of these two tests more appropriate than the other? If so, please specify. Are there other tests, or performance requirements for pressure relief, which would be better alternatives? Please specify.

Option K

This option would require the following with respect to vehicle pressure relief venting:

(a) All pressure relief devices shall be vented to the outside of the vehicle, and be directed away from passenger compartments, luggage, or other compartments which could result in the exposure of occupants to fuel.

(b) A vent line must not restrict the operation of a pressure relief device so as to reduce its required flow capacity.

Questions

(36) Should the requirements described in Option K be different for various vehicle types, i.e., passenger car, MPV, truck, truck tractor, bus, and school bus?

(37) With respect to Option K, how can an odor with CNG and LPG, when used as a motor fuel, always be assured so that fuel leakage can be more readily detected among users? If not, how could this be achieved? Please specify. In conjunction with this, would it be appropriate to require automatic shutoff of fuel from the storage cylinder(s) when the vehicle is not operating?

(38) If pressure relief devices are desirable, would it be appropriate to adopt such pressure relief device requirements for all vehicle types, i.e., passenger car, MPV, truck, truck tractor, bus, and school bus? If not, which vehicle types should be included?

(39) If all of the requirements in Options I through K were adopted, are the requirements appropriate, in light of available technology, for those vehicles expected to use CNG or LPG as a motor fuel?

(40) What leadtimes, benefits, and costs per vehicle would be involved if Option I, J, or K were to be adopted? How would these leadtimes, benefits, and costs apply to specific vehicle types, i.e., passenger car, MPV, truck, truck tractor, bus, and school bus?

General Questions

As mentioned earlier, there are a number of questions which fall into a more general category, and are not necessarily specific to the three major areas which have been discussed above. Those areas are:

(I) Crash Integrity—Vehicle Fuel System
(II) Integrity—Fuel Storage Cylinder
(III) Pressure Relief—Storage Cylinder

The general questions which apply to all of these areas are listed below.

Questions

(41) Are there other potential problem areas which NHTSA should consider in determining whether to adopt a fuel system integrity standard for CNG or LPG powered vehicles? For example, should there be a performance requirement involving the vibration testing of fuel lines and fittings to preclude fatigue failure of such components, or leak detection capability. Please specify.

(42) Are there any special considerations that should be given to dual fuel vehicles (gaseous and gasoline or diesel fuel) vs dedicated CNG or LPG fueled vehicles?

(43) Are there special considerations for vehicles built in multiple stages, i.e., by multi-stage manufacturers?

(44) How can gas quality levels be assured among users of CNG and LPG as motor fuels? What are the allowable impurities and their levels in each of these fuels while still assuring fuel system component integrity? Please specify. Should fuel quality be regulated at the Federal level? If so, by whom? Please specify.

(45) What are the current vehicle populations and projected market demands through 1995 for dual fuel vehicles (gaseous and gasoline or diesel fuel) and for dedicated gaseous fuel vehicles with respect to each of the following categories?

⅛ Passenger cars
⅛ Light trucks
⅛ Medium trucks
⅛ Heavy trucks
⅛ School buses
⅛ Other buses

(46) How would the existence of a fuel system integrity standard for CNG or LPG fueled vehicles affect the consumer acceptance of these vehicles?

(47) How can the above described tests be made more objective? Please specify, according to Option (A through K).

Potential Regulatory Impacts

This ANPRM is not subject to Executive Order 12291, since that order applies to notices of proposed rulemaking and final rules only.

NHTSA believes that this advance proposal is a "significant" rulemaking action under the Department of Transportation regulatory policies and procedures. The notice concerns a matter in which there is substantial public interest. Many of the CNG or LPG vehicles on the road have fuel systems that comply totally or in part with NFPA or other standards which are among those proposed in this ANPRM. To the extent that these standards are adopted by NHTSA, the costs of application to these vehicles would be minimal. However, many options are proposed in the ANPRM, of which the NFPA standards are only a part. Therefore, the agency does not have sufficient information to identify specific costs associated with each of the possible options which may be developed as a result of this notice. One of the purposes of the notice is to seek comments and information from the public on the costs, benefits, and feasibility of the various options presented. However, based on available information, the agency believes that the costs which would be associated with the various performance options presented in this notice, would not be significantly more than those now being incurred by manufacturers and users of current CNG or LPG powered vehicles.

NHTSA has considered the federalism implications of this action, as required by Executive Order 12612, and determined that the proposal does not have sufficient federalism implications

to warrant the preparation of a Federalism Assessment.

The agency will review any future rulemaking notice under the Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) to determine whether any provisions would have a significant impact on the qualify of the human environment.

Review of this notice under the Regulatory Flexibility Act is not required because the Regulatory Flexibility Act does not apply to an advance notice of proposed rulemaking. Should the agency decide to proceed with a notice of proposed rulemaking, review of that notice under the Regulatory Flexibility Act would be made at that time.

Comments

NHTSA solicits public comments on this notice. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

All comments received before the close of business on the comment closing date indicated above for the advance proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on the advance proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the post card by mail.

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.

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

Issued: October 5, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90–24026 Filed 10–11–90; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 900936–0236]

RIN 0648–AD26

Fee Schedule for Foreign Fishing

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

ACTION: Proposed rule.

SUMMARY: NOAA proposes the 1991 fee schedule for foreign vessels fishing in the U.S. exclusive economic zone (EEZ). NOAA proposes to adopt a fee schedule similar to fee schedules implemented from calendar years 1988 through 1990. Under these schedule, owners or operators of foreign vessels paid $354 per fishing permit application and poundage fees in foreign directed fisheries in relation to the exvessel value of the species taken. No surcharge was proposed for the Fishing Vessel and Gear Damage Compensation Fund. Comments are requested on this fee schedule proposal. This action complies with section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

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

ADDRESSES: Send comments to the Operations Support and Analysis Division, F/CM1, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910 or telex comments to telex no. 467856 US COM FISH CI. Mark envelopes "Foreign Fees."

Copies of a regulatory impact review (RIR) related to the impact of fees set at the levels proposed are available at this address.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, 301–427–2337.

SUPPLEMENTARY INFORMATION: NOAA proposes a schedule of permit application and poundage fees consistent with section 204(b)(10) of the Magnuson Fishery Conservation and Management Act (Magnuson Act) for fishing in 1991 by foreign vessels in the EEZ. Section 204(b)(10) requires that the fees recover costs of carrying out the purposes of the Magnuson Act which are attributed to foreign fishing. This schedule targets fee receipts of about $1.9 million in 1991.

No additional amounts are proposed to be collected under provisions of section 204(b)(10)(C). This paragraph requires that any fishing nation found to be harvesting anadromous species at a level that is unacceptable to the Secretary or failing to take sufficient action to benefit the conservation and development of the U.S. fisheries shall pay a higher rate of fees.

The bases for fee amounts are set forth below. NOAA has consulted with the Coast Guard and the Department of State (DOS) on this proposal. Neither agency has objected to its publication.

Background

Subparagraph 204(b)(10) of the Magnuson Act addresses the requirements for imposing fees on owners or operators of foreign vessels applying to fish in the EEZ. The provision requires that NOAA set a schedule to recover U.S. costs for such foreign fishing. Revisions of section 204(b)(10) have been considered in association with Congressional reauthorization of the Magnuson Act. To date, however, the Magnuson Act has not been so amended, and the current requirement to recover the costs of foreign fishing remains in effect. This proposed schedule is based on the current law and is designed to recover costs. NOAA is prepared to amend the fee schedule if section 204(b)(10) is amended.

The requirement specifies the minimum amounts to be collected by foreign fishing fees under current law and has been described in notices of proposed fees in prior years. (See for example 53 FR 44047, published on November 1, 1988.) Generally stated, the Magnuson Act requires that the

Secretary set a fee schedule to recover a portion of the Federal costs for carrying out the purposes of the Magnuson Act (i.e., Magnuson Act costs), determined by the ratio of the foreign catch in the EEZ during the prior year to the total catch in the EEZ and U.S. territorial waters during that year. U.S. territorial waters are defined to include the U.S. territorial sea and marine internal waters.

Until 1988, NMFS compiled data annually for determining the total Magnuson Act costs by surveying all its field units, other NOAA units, and requesting similar cost data from the Coast Guard and the Department of State. The fee-setting process was changed when NOAA prepared the 1989 fee schedule because allocations for directed foreign fishing were steadily being reduced and greater uncertainties were introduced in the amounts which would be made available for foreign directed fishing during that year. Current allocations now are less than two percent of the allocations for foreign directed fishing allowed in the early 1980s. The result of these reductions is that virtually all foreign directed fishing and a significant portion of the joint venture fishery (whereby foreign vessels purchase fish such as mackerel at-sea from U.S. fishermen) have been phased out of the EEZ.

The fee burden now falls almost exclusively on the foreign Atlantic mackerel fishery. Joint ventures are an integral part of the foreign fishing operations in this fishery, and the costs of the foreign directed fishery influence the ability of foreign owners and operators to purchase mackerel at-sea from U.S. fishermen at the current ex-vessel value. Fees set for directed fishing at prohibitively high levels could adversely affect U.S. fishermen engaged in joint ventures and U.S. opportunities to develop the mackerel fishery, for which markets currently exist only abroad. NOAA has therefore adopted a process designed to set fees at the lowest levels that will still recover an approximate amount estimated as the portion of the Magnuson Act costs related to foreign fishing.

The most recent catch statistics (i.e., for calendar year 1989) indicate that the foreign catch in the EEZ was 0.7 percent of the total catch taken in the EEZ and U.S. territorial waters. Past estimates of the total Federal costs for carrying out the purposes of the Magnuson Act were just under $200 million. Under the formula contained in paragraph (B) of section 204(b)(10), the fee schedule should, therefore, be designed to recover about $1.4 million to satisfy provisions of the Magnuson Act in 1991.

As indicated earlier, only Atlantic mackerel is currently available for directed foreign fishing, although a possibility still exists that a small directed fishing effort may be approved in the Bering Sea snail fishery. NOAA believes that a fee schedule which reasonably seeks to recover the required target without adversely affecting U.S. fishery development objectives in the Atlantic mackerel fishery is the most desirable schedule.

The Mid-Atlantic Fishery Management Council recently adopted 1991 fishery specifications under the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan (FMP). Under these specifications, 24,000 mt of Atlantic mackerel could be available for the total allowable level of foreign fishing (TALFF) and allocated for directed foreign fishing in certain circumstances. Foreign directed fishing in 1991 under other fishery management plans is presently not contemplated, except as mentioned possibly in the Bering Sea snails fishery.

The reduction in the fees required by the Magnuson Act from $2.2 million in 1990 to $1.4 million in 1991, while making the same amount of fish available in TALFF in 1991 as in 1990, provides an opportunity to reduce the poundage fees for Atlantic mackerel. NOAA is informed by representatives of foreign fishing nations and U.S. fishermen who operate with vessels of these nations in "joint ventures" that a reduction in the poundage fees for Atlantic mackerel would spur U.S. development of this fishery. NOAA has calculated that poundage fees of $58.33/mt for 24,000 mt of Atlantic mackerel would recover an amount of $1.4 million, if the entire amount of the mackerel TALFF is allocated and caught by foreign vessels.

Mackerel fishing also results in a limited bycatch of other species. NOAA has estimated that a directed fishery for 24,000 mt of Atlantic mackerel could result in a bycatch of as much as 13 percent of the mackerel caught, or 3,120 mt of other species. Holding bycatch fees at 1988–1990 levels and assuming an average fee of $150/mt for the bycatch species, NOAA estimates that an additional $468,000 might be collected if the entire amount of mackerel and the allowed bycatch of other species was taken in the mackerel fishery. Together with application fees of $129,000, the maximum receipts from foreign fishing fees in 1991 could amount to approximately $1.997 million under this schedule, plus an additional amount of up to $128,000 if Bering Sea snails are allocated and then taken in a directed fishery. Actual receipts from the bycatch in the mackerel fishery will likely fall well below the maximum amount estimated above since historical data indicate that bycatch rates actually run only about two percent in this fishery. Only $90,000 would be derived from the bycatch if past rates are continued in 1991, but the entire mackerel TALFF is taken. Similarly, past experience would indicate that there will not be any receipts from the snail fishery.

Nevertheless, NOAA concludes that a schedule which reduces the mackerel fee by $10.10/mt from the amount charged in 1990 but maintains the remaining poundage fees at 1990 levels for bycatch species (and snails if taken) offers a reasonable expectation that the required fee receipts of $1.4 million would be achieved in 1991. That amount might be achieved even if the entire 24,000 mt TALFF for Atlantic mackerel is not allocated since the bycatch fees, permit application fees (discussed below) and possibly receipts from the snails fishery could offset the reduction in the mackerel fee. Requirements of the Magnuson Act will be met while still promoting development of the U.S. mackerel fishery with the reduction in the fee for mackerel.

The Fee Target

Based on the above, NOAA proposes that the permit application fees and poundage fees for all bycatch or other allocated species, if any, except Atlantic mackerel be maintained at their current levels. NOAA proposes that the poundage fee for Atlantic mackerel be reduced to $58.33/mt in 1991. It concludes that such a fee schedule target, which would result in $1.9 million if all the Atlantic mackerel TALFF is taken, would satisfy requirements of the Magnuson Act.

Provisions of Subparagraph 204(b)(10)(C)

Subparagraph (C) of section 204(b)(10) requires higher fees for nations which meet criteria for such fees related to the taking of anadromous species of U.S. origin and to the conservation and development of U.S. fisheries. The higher fees are determined by assigning costs to foreign fishing as a portion of the total Magnuson Act costs determined by the ratio of the catch taken by foreign vessels in the EEZ to the total catch in the EEZ—that is, by removing the U.S. catch taken in U.S. territorial waters in the denominator of the ratio used in Subparagraph (B). The "higher fee" ratio (based on 1989

statistics) is 1.2 percent and increases the costs attributed to foreign fishing to $2.4 million, as compared to $1.4 million under the provisions of subparagraph (B). Using the methods applied in prior years for calculating the incremental amount to be paid by nations meeting the above criteria, NOAA has determined that such nations should pay an incremental amount of 71(%) percent of their poundage fees in addition to the poundage fees for fish harvested by their vessels. However, as in FY 1988, FY 1989, and FY 1990, NOAA has not required any nation to pay these higher fees. Therefore, NOAA proposes that no nation be assessed the higher fees in 1991, since the situation is not changed.

Lastly, NOAA proposes that the surcharge for the Fishing Vessel and Gear Damage Compensation Fund be effectively waived in 1990 as it was in 1988 and in 1989.

Classification

NOAA prepared a regulatory impact review (RIR) for the 1988 fee schedule which discussed the economic consequences and impacts of that fee schedule and alternatives. Copies of that RIR are available at the above address. Based on that RIR, the Administrator, NOAA, determined that the 1988 fee schedule complied with the requirements of section 2 of E.O. 12291. Since the species fees proposed for 1989 and 1990 were not changed, NOAA anticipated no new economic impacts. It has reached a similar conclusion for the 1991 schedule, particularly since fees are proposed to be reduced.

The General Counsel of the Department of Commerce has certified that the proposed fee schedule will not have significant economic impact upon a substantial number of small domestic entities for purposes of the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*). Because the proposed fee schedule will not have a significant economic impact upon a substantial number of small domestic entities, a regulatory flexibility analysis is not required, and has not been prepared.

NOAA Directive 02–10 published at 45 FR 49312 (July 24, 1980) adopts internal procedures to implement the National Environmental Policy Act (NEPA), as amended, (43 U.S.C. 4321 *et seq.*). Under those procedures, programmatic functions with no potential for significant environmental impacts are generally excluded from NEPA requirements. The proposed fee schedule has no significant environmental impact on the fishery resources in the EEZ. At most, the fee schedule might affect the harvesting strategy of foreign fishing vessels and result in a different species mix being removed from the environment; however, the proposed schedule meets the criterion that fees should minimize disruption of traditional fishing patterns on target species. The environmental impact of harvesting this very small TALFF is described in the fishery management plan for Squid, Butterfish and Mackerel. Consequently, no further environmental assessment is necessary.

This proposed rule has no information collection provisions covered by the Paperwork Reduction Act, (44 U.S.C. 3501, *et seq.*).

This proposed rule would not directly affect the coastal zone of any state with an approved Coastal Zone Management program. Neither does the proposed rule contain policies with federalism implications sufficient to warrant a federalism assessment under Executive Order 12612.

List of Subjects 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: October 5, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 611—[AMENDED]

For the reasons above, 50 CFR part 611 is proposed to be amended as follows:

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

§ 611.22 [Amended]

2. Paragraphs (b)(1), (c) and (d) of § 611.22 are revised as follows:

* * * * *

(b) *Poundage fees*—(1) *Rates.* If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table 1, plus the surcharge required by paragraph (d) of this section.

TABLE 1.—SPECIES AND POUNDAGE FEES

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	274.61
2. Hake, red	163.97
3. Hake, silver	174.63
4. Herring	61.76
5. Mackerel, Atlantic	58.33
6. Other groundfish	119.09
7. Squid, *Illex*	103.98
8. Squid, *Loligo*	245.73
Alaska fisheries:	
21. Snails	128.42

(c) *Incremental amount.* An additional incremental amount will be added to the poundage fee Bill for Collection for fish harvested by a nation during the first quarter of the next fiscal year following notification under paragraph (10)(C) of section 204(b) of the Magnuson Act (16 U.S.C. 1824(b)(10)(C)). This incremental amount will be added to all subsequent quarterly bills until the quarter specified when the Assistant Administrator notifies that nation that it has taken appropriate corrective action. The incremental amount in 1991 will be 71 percent of the total poundage fee in each quarter during which this provision applies.

(d) *Surcharges.* The owner or operator of each foreign vessel who accepts and pays permit application or poundage fees under paragraphs (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator has effectively waived the surcharge on 1991 fees.

* * * * *

[FR Doc. 90–24128 Filed 10–11–90; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 55, No. 198
Friday, October 12, 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

Office of the Secretary

Agricultural Biotechnology Research Advisory Committee; Meeting

In accordance with the Federal Advisory Committee Act of October 1972 (Pub. L. No. 92–463, 86 Stat. 770–776), the U.S. Department of Agriculture (USDA), Science and Education, announces the following advisory committee meeting:

Name: Agricultural Biotechnology Research Advisory Committee.

Date: November 26–27, 1990.

Time: 9 a.m. to approximately 5 p.m. on November 26. 9 a.m. to approximately 3 p.m. on November 27.

Place: The Mills House Hotel, Planter's Suite, 115 Meeting Street, Charleston, South Carolina 29401.

Type of Meeting: This meeting is open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person specified below.

Purpose: To review matters pertaining to agricultural biotechnology research and to develop advice for the Secretary through the Assistant Secretary for Science and Education with respect to policies, programs, operations and activities associated with the conduct of agricultural biotechnology research. The major item to be considered at this meeting is a summary of public comments on proposed Guidelines for Assessing the Environmental Impact of Research Involving the Planned Introduction into the Environment of Organisms with Deliberately Modified Hereditary Traits.

Contact Person: Dr. Alvin L. Young, Executive Secretary, Agricultural Biotechnology Research Advisory Committee, U.S. Department of Agriculture, Office of Agricultural Biotechnology, Room 321–A, Administration Building, 14th and Independence Avenue SW., Washington, DC 20250. Telephone (202) 447–9165.

Done at Washington, DC, this 27th day of September, 1990.

Charles E. Hess,

Assistant Secretary, Science and Education.

[FR Doc. 90–24126 Filed 10–11–90; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

MCTL Implementation Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the MCTL Implementation Technical Advisory Committee will be held November 1, 1990, at 9:30 a.m., in the Herbert C. Hoover Building, room 4830, 14th Street and Constitution Avenue NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis in the implementation of the Militarily Critical Technologies List (MCTL) into the Export Administration Regulations as needed.

Agenda: General Session

1. Opening Remarks by the Chairman.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Discussion of Work Plan for the Next Fiscal Year.
5. Report of the Committee Chairmen's Meeting.
6. CORE List Status Summary.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control programs and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, in order to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that you forward your public presentation materials two weeks prior to the meeting to the below listed address: Ms. Ruth D. Fitts, U.S. Department of Commerce/BXA, Office of Technology & Policy Analysis, 14th and Constitution Avenue NW., room 4069A, Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 13, 1989, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes call Ruth D. Fitts, 202–377–4959.

Dated: October 5, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology and Policy Analysis.

[FR Doc. 90–24027 Filed 10–11–90; 8:45 am]

BILLING CODE 3510–DT–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Termination of Bilateral Textile Agreement with the Government of Macau

October 8, 1990.

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

ACTION: Announcing the termination of the bilateral textile agreement with the Government of Macau.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

SUPPLEMENTARY INFORMATION:

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

Consultations were held September 26–28, 1990 between the Governments of the United States and Macau concerning circumvention of the Bilateral Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textile Agreement, effected by exchange of notes dated December 28, 1983 and January 9, 1984, as amended and extended. Inasmuch as the consultations did not result in a mutually satisfactory agreement, the U.S. Government advised the Government of Macau that, effective on January 1, 1991, it intends to terminate the existing bilateral agreement, in accordance with paragraph 19 of the agreement.

The U.S. Government reserves the right to withdraw the termination of the bilateral agreement prior to January 1, 1991 pending a satisfactory conclusion of consultations with the Government of Macau on circumvention of the bilateral agreement.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647–3889. (See 46 FR 57105, published on November 20, 1981.)

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–24199 Filed 10–10–90; 10:44 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

October 5, 1990.

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

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

EFFECTIVE DATES: October 15, 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 limits for certain categories are being adjusted, variously, for swing, carryover and special shift.

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.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 5, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, DC 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, 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 October 15, 1990, the directive of November 9, 1989 is being amended to adjust the limits for the following categories, under the terms of the current bilateral textile agreement between the Governments of the United States and the Philippines:

Category levels in group I	Adjusted 12-month limit [1]
237	496,184 dozen.
239	10,622,925 kilograms.
341/641	710,435 dozen.
351/651	410,901 dozen.
369–S [2]	167,969 kilograms.
443	12,055 numbers.
604	39,699 kilograms.
633	25,848 dozen.
634	271,714 dozen.
636	819,419 dozen.
638/639	1,541,631 dozen.
643	184,074 numbers.
645/646	463,050 dozen.

[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.

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

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90–24073 Filed 10–11–90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee on the Extension of Dormant Munitions Storage Life and Insensitive High Explosives Research and Development will meet on 7–9 November 1990, from 8 a.m. to 5 p.m. at the Ogden Air Logistics Center, Hill AFB UT.

The purpose of this meeting is to gather information in support of the SAB study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraph (1) and (4).

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

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–24089 Filed 10–11–90; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc Committee on the Extension of Dormant Munitions Storage Life and Insensitive High Explosives Research and Development will meet on 30–31 October 1990, from 8 a.m. to 5 p.m. at Sierra Army Depot, Herlong, CA.

The purpose of this meeting is to gather information in support of the SAB study.

The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraph (1).

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

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 90–24090 Filed 10–11–90; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Environmental Assessment, Kinetic Energy Anti-Satellite (KE ASAT) Demonstration/Validation (Dem/Val)

AGENCY: U.S. Army Strategic Defense Command (USASDC).

ACTION: Notice of Availability of Finding of No Significant Impact.

SUMMARY: Pursuant to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act (40 CFR parts 15000–1508), Department of Defense Directive 6050.1 and Army Regulation 200–2, the USASDC has conducted an assessment of the potential environmental consequences of the Dem/Val testing activities for the KE ASAT weapon system. A no-action alternative was also considered.

The ASAT Joint Program Office, within the U.S. Army Strategic Defense Command, has the responsibility of developing a land-based weapon system to satisfy the near-term KE ASAT requirements. The mission of the KE ASAT weapon system is to provide a capability to disrupt, degrade, or destroy hostile forces operating in space. The KE ASAT weapon system would use non-nuclear kill vehicles to intercept and destroy hostile space vehicles.

KE ASAT Dem/Val testing will evaluate the performance of certain critical aspects of the kill vehicle (KV) components through means of ground testing only.

DATES: Written comments are required on or before November 13, 1990.

POINT OF CONTACT: Mr. R.D. Barreneau Address: U.S. Army Strategic Defense Command, CSSDEN, Post Office Box 1500, Huntsville, AL 35807–3801, Fax: (205) 895–3958.

SUPPLEMENTARY INFORMATION: The KE ASAT Dem/Val testing will consist of analyses, simulations, and component/assembly testing. All test activities will be conducted in existing facilities, with no major modifications or new construction required.

Test activities will be conducted at two different facilities. A system development contractor, selected in August 1990, is responsible for KV test development, including simulated environmental testing of the KV, deployment and lethality testing of the KV's kill mechanism, hardware-in-the-loop computer simulations, and testing of the attitude control and divert propulsion system. Additionally, the U.S. Air Force Astronautics Laboratory at Edwards Air Force Base, California, will conduct systems integration flight simulation testing of the KV.

To assess the significance of potential environmental impacts of the KE ASAT Dem/Val program, the test requirements were compared with the adequacy of the facilities to be utilized at the proposed test locations and the sensitivity of their affected environments.

Potential impacts were evaluated for the following environmental components: air quality, biological resources, cultural resources, hazardous materials, and waste, health and safety, infrastructure, land use, noise, physical resources, socioeconomics, and water resources. As a result of the evaluation, consequences were assigned to one of the three categories: Not significant, potentially significant but mitigable, or potentially significant.

Environmental consequences were determined to be not significant if no serious concerns existed for the affected area. Consequences were deemed potentially significant but mitigable if concerns existed but it was determined that all of those concerns could be readily mitigated through standard procedures or by measures recommended in existing environmental documentation. If serious concerns were identified that could not be readily mitigated, the activity was determined to represent potentially significant consequences.

FINDINGS: Although the handling, storage, and transport of small quantities of the KE ASAT KV's liquid propellants at the system development contractor facilities could create potential hazardous materials/waste and health and safety impacts, the terms of the ASAT contract require that the contractor conduct all activities in compliance with all Federal, state and local hazardous materials/waste regulations. Prior to initiating any KE ASAT Dem/Val test activities, independent verification of contractor compliance by USASDC environmental personnel will ensure that there will be no significant hazardous materials and waste, or health and safety impacts from these activities.

ASAT activities at Edwards Air Force Base with potential environmental consequences are the handling of the KV's liquid propellants, the combustion of these fuels during flight simulation, and the flight simulation test itself. Because of the short duration, infrequency, and limited number of flight simulation tests, and because of the small amount of pollutants produced, there will be no significant impact to air quality. Because the small quantities of liquid propellants will be transferred using a totally contained system, stored and handled in adequate above-ground containment areas, and equipment to decontaminate and neutralize them is on site, there will be no significant hazardous materials and waste impacts. Because of facility safety features and mandatory safety requirements, there will be no significant impact to health and safety from the flight simulation test.

In summary, analysis of the proposed KE ASAT Dem/Val test activities results in a determination of no significant environmental consequences.

Robert D. Hammond,

Lieutenant General, USA.

[FR Doc. 90–24056 Filed 10–11–90; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Record of Decision for New Construction Dredging Projects at Naval Air Station Alameda and at Naval Supply Center, Oakland, CA

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department of the Navy announces its decision to award construction contracts for dredging projects P–202 at Naval Air Station Alameda and P–082 at Naval Supply Center Oakland, California. Final regulatory approval of the ocean disposal site is subject to specified conditions as discussed below. The Final Environmental Impact Statement (FEIS) addressing the impacts of this action was distributed for public review on August 24, 1990.

The action is to dredge a combined total of 1.6 million cubic yards of sediments from the Naval Air Station (NAS) Alameda and Naval Supply Center (NSC) Oakland in order to attain needed safe operating depths for Navy ships. Deeper depths are needed at NAS Alameda and at NSC Oakland to provide adequate clearance for aircraft carriers and supply ships, respectively. At NAS Alameda, new dredging will deepen the carrier berthing areas to –50 feet mean lower low water (MLLW) from the present –42 feet. At NSC Oakland, new dredging will deepen the present –35 feet maintenance level for supply ships to –38 feet and –41 feet MLLW in pier and channel areas respectively. Dredging quantity is approximately 600,000 cubic yards at NAS Alameda and 1,000,000 cubic yards at NSC Oakland. Sediments will be

dredged by clamshel. dredge and transported to an approved ocean disposal site for deposition by barge.

The alternative to the dredging action was that of not dredging below the current maintenance depths. This alternative would not meet the project needs and so was not selected. The greater project issues focused more on disposal site options and impacts. Several disposal site alternatives were considered. These included:

(1) Disposal at the approved sediment disposal site just west of Alcatraz Island (the Alcatraz site) in San Francisco Bay,

(2) Disposal at an ocean site. Nearshore options were considered but eliminated because of concerns over significant turbidity and fisheries impacts. A former Navy munitions site 40 miles offshore at an average depth of about 7,000 feet was selected as the most feasible site. Initial and supplemental Navy studies led to a conclusion that there are not likely to be significant impacts from disposal at this site,

(3) Disposal at an upland site. Several alternative locations were evaluated but eliminated out of concern for adverse effects. The site studied as most feasible was at the Navy Security Group Activity (NSGA) Skaggs Island facility at the north end of San Pablo Bay. Disposal could use up to 250 acres of the 3,000-acre facility, which is below sea level and protected from tidal flooding by dikes. Disposal could be configured to create wetlands of considerably greater value than the Navy-leased hay farming currently at the site, and

(4) The No-Action alternative of not conducting the proposed dredging. This would result in no disposal site impacts.

The Navy considered all oral and written public and agency comments received during the EIS process. In summary, there is considerable regulatory agency and public opposition to new construction dredge sediment disposal at the in-bay Alcatraz site out of concern for water and sediment quality, fisheries, and capacity/mounding issues. There is general support for either the ocean disposal site or the upland site, but with conditions. The ocean site appeared to the Navy to be free of prohibitive impacts under Section 103 of the Marine Protection, Research and Sanctuaries Act criteria for ocean disposal, and was acceptable to fishing associations and most other groups. The Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service, National Marine Fisheries Service, and the Bay Conservation and Development Commission requested the Navy to conduct additional studies to better define site characteristics at the ocean disposal site. The Navy agreed with this proposal and has conducted a number of the studies, with the remainder in progress. Results continue to support the conclusion that this site will meet ocean disposal criteria.

The upland appeared generally acceptable to most agencies and groups, but caused considerable concern among affected local landowners and public officials. It has also recently been confirmed to be considerably more expensive than the proposed ocean site and exceeds the Congressionally authorized budget by a large amount.

The Navy has concluded that the dredging action is not likely to result in significant adverse effects and that the ocean site is the only feasible disposal site for this project. Contract award regulations require that the disposal site be specified at the time of award and that sufficient funds be available prior to award. As a result, the Navy will award the construction contract using the ocean site for disposal. However, no dredging will occur until all needed additional studies are completed and until the regulatory agencies concur that the site is acceptable and issue needed permits for the dredging and disposal actions. The Navy will cooperate with the Army Corps of Engineers in the preparation of an EIS associated with the permit process. Mitigation in the form of monitoring sediment disposal to avoid physical impacts to the Gulf of the Farallones National Marine Sanctuary will be performed by the Navy. The Navy has further decided that disposal of new-construction dredged material from this project at the in-Bay Alcatraz site could result in significant adverse impacts and has eliminated this as a disposal alternative.

Dated: September 25, 1990.

Jacqueline E. Schafer,

Assistant Secretary of the Navy. (Installatiion and Environment).

Dated: October 25, 1990.

Guy B. Roberts,

LTCOL USMC, Federal Register Liaison Officer.

[FR Doc. 90-24019 Filed 10-11-90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 13, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to James O'Donnell, Department of Education, 400 Maryland Avenue SW., room 5624, Regional Office Building 3, Washington, DC 20202

FOR FURTHER INFORMATION CONTACT: James O'Donnell (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from James O'Donnell at the address specified above.

Dated: October 5, 1990.

James O'Donnell,

Acting Director, for Office of Information Resources Management.

Office of Planning, Budget and Evaluation

Type of Review: New.
Title: National Study of Before and After School Program.
Frequency: One time.
Affected Public: Individuals or households; State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations.
Reporting Burden:
Responses: 1624.
Burden Hours: 880.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0
Abstract: The purpose of this study is to examine the prevalence of such programs and to obtain extensive data on the programs's structural and programmatic features. The Department uses this information to report to Congress.

Office of Educational Research and Improvement

Type of Review: New.
Title: National Education Longitudinal Study of 1988, (NELS:88) Second Follow-up Survey Field Test and Main Survey.
Frequency: Biennially.
Affected Public: Individuals or households; State or local governments.
Reporting Burden:
Responses: 3858.
Burden Hours: 8564.
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0.
Abstract: The purpose of this study is to collect data from twelfth graders and their parents and school administrators to inform policy makers of the educational, vocational and personal development of these students.

Office of Educational Research and Improvement

Type of Review: Revision.
Title: National Household Education Survey (NHES).
Frequency: One time.
Affected Public Individuals or households.
Reporting Burden:
Responses: 86,000.
Burden Hours: 9,334.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This information will used to describe the early educational experiences of young children and the educational experiences of adults. The data will be used to monitor trends in these experiences and activities over time.

[FR Doc. 90-24028 Filed 10-11-90; 8:45 am]
BILLING CODE 4000-01-M

Indian Education National Advisory Council; Meeting

AGENCY: National Advisory Council on Indian Education, ED.

ACTION: Notice of Meeting and Issues Sessions.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting and issues sessions of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of opportunity to attend the meeting.

DATES:

October 14, 1990, 9 a.m. until 12 noon
October 15, 1990, 9 a.m. until 4:30 p.m.
October 16, 1990 9 a.m. until 6 p.m.

ADDRESSES: Town and Country Hotel, 500 Hotel Circle North, San Diego, California 92108 (619-291-7131).

FOR FURTHER INFORMATION CONTACT: Jo Jo Hunt, Executive Director, National Advisory Council on Indian Education, 330 C Street SW., Room 4072, Switzer Building, Washington, DC 20202-7556 (202-732-1353).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 5342 of the Indian Education Act of 1988 (25 U.S.C. 2642). The Council is established to, among other things, assist the Secretary of Education in carrying out responsibilities under the Indian Education Act of 1988 (Part C, Title V, Public Law 100-297) and to advise Congress and the Secretary of Education with regard to federal education programs in which Indian children or adults participate or from which they can benefit.

On October 14, 1990, the National Advisory Council on Indian Education will meet in open session, starting at approximately 9 a.m., for a general business session, including reports of the Chairman and Executive Director, action on previous minutes, election of officers of the Council, finalization of Council work agenda for fiscal year 1991, and other business. The meeting will end at the conclusion of business at approximately 12 noon.

On October 15-16, 1990, the Council will meet, in conjunction with the Indian Nations At Risk Task Force, to conduct special issues sessions. Each of the two days of sessions will be attended by at least one Council Member and one Task Force Member. Most of the sessions will be repeated to allow more opportunity for the public and American Indian/Alaska Native educators to present comments in small groups on a variety of issues.

During these sessions, the audience is invited to address the specific issue that is the subject of the session in a discussion format moderated by the chair of the session. Discussion should be limited to the subject issues for the session. The discussion format will allow the presentation and development of ideas with comments from a number of individuals as in a committee or council meeting. This format is expected to allow many people from all areas of the country to participate in an organized discussion of important issues.

Individuals interested in participating in the issues sessions will be asked to complete a brief identification card as they enter the session. The card will be used by participants to indicate to the session chair a desire to speak to the issue through a microphone. The chair will moderate the discussion by recognizing speakers and limiting the time of each speaker as necessary to ensure broad participation in the discussion. The intent is to allow maximum opportunity for the audience to address the issues and for the Task Force and Council Members to listen.

All discussions will be recorded for the public record and for use by the Council and Task Force in preparing reports and recommendatoins. The participants are not expected to have written comments.

The Council and Task Force are conducting these issues sessions in conjunction with the 22nd Annual Conference of the National Indian Education Association. Times and session topics are tentative and subject to change pending finalization of the conference schedule. Approximately 2 hours 30 minutes are scheduled for each topic.

On October 15, 1990, from 9 a.m. until 4:30 p.m., the theme is "Successes in American Indian/Alaska Native Education." The Task Force and the Council invite presentation and discussion of specific programmatic innovations and mehtods that have produced significant achievement in

critical areas of Native education. The time, location, and subject of each issues session are as follows:

9 a.m.–10:15 a.m.
- De Anza Room—Academic performance
- Mesa Room—Native culture and languages
- Adobe Room—Health, wellness, and substance abuse prevention
- El Camino Room—Teacher and administrator training, recruitment, and retention

10:45 a.m.—12 noon
- De Anza Room—Academic performance
- Mesa Room—Native culture and languages
- Adobe Room—Health, wellness, and substance abuse prevention
- El Camino Room—Teacher and administrator training, recruitment, and retention

1:30 p.m.–2:45 p.m.
- De Anza Room—Dropout prevention
- Mesa Room—Instructional technology
- Adobe Room—Education of exceptional children
- El Camino Room—Partnership of schools, tribes, communities, parents, and business

3:15 p.m.–4:30 p.m.
- De Anza Room—Dropout prevention
- Mesa Room—Instructional technology
- Adobe Room—Education of exceptional children
- El Camino Room—Partnership of schools, tribes, communities, parents, and business

On October 16, 1990, from 9 a.m. until 4:30 p.m., the theme is "Effective Strategies for Improvements in American Indian/Alaska Native Education." In addition, a general wrap-up session will be held at the end of the day. The Council and Task Force invite presentation and discussion of strategies and ideas to improve the educational achievement of Native students in specific levels of education through involvement of parents and Elders. The time, location, and subject of each issues session are as follows:

9 a.m.–10:15 a.m.
- De Anza Room—Early childhood education
- Mesa Room—Elementary school
- Adobe Room—Middle/high school
- El Camino Room—Parental involvement

10:45 a.m.–12 noon
- De Anza Room—Early childhood education
- Mesa Room—Elementary school
- Adobe Room—Middle/high school
- El Camino Room—Parental involvement

1:30 p.m.–2:45 p.m.
- De Anza Room—Adult and vocational/technical education
- Mesa Room—Postsecondary education
- Adobe Room—Special session for Elders to address the Task Force and Council
- El Camino Room—Open discussion with Council and Task Force Members

3:15 p.m.–4:30 p.m.
- De Anza Room—Adult and vocational/technical education
- Mesa Room—Postsecondary education
- Adobe Room—Special session for Elders to address the Task Force and Council
- El Camino Room—Open discussion with Council and Task Force Members

5 p.m.–6 p.m.
- De Anza Room—Wrap-up discussion with Task Force and Council Members

The public is being given less than 15 days notice due to the special nature of this meeting of the Council and the delay in approval of the meeting due to the lack of an approved continuing resolution.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 330 C Street SW., Room 4072, Washington, DC 20202–7556.

Dated: October 10, 1990.

Signed at Washington, DC.

Jo Jo Hunt,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 90–24262 Filed 10–11–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C 6272(c)(1)(A)(i)), the following meeting notice is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on Thursday, October 18, 1990, at the Hamilton Park Executive Conference Center, 175 Park Avenue, Florham Park, New Jersey 07923, beginning at 9 a.m. The agenda for the meeting is as follows:

1. Adoption of Agenda.
2. Approval of Record Notes of IAB Meetings of May 29 and August 30, 1990.
3. International oil supply/demand situation, particularly in IEA countries.
4. IAB organization.
5. Next meeting.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, the meeting is open only to representatives of members of the IAB, their counsel, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of Committees of the Congress, representatives of the IEA, representatives of the Commission of the European Communities, and invitees of the IAB, or the IEA.

Issued in Washington, DC, October 4, 1990.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 90–24012 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

American Statistical Association Committee on Energy Statistics; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: American Statistical Association's Committee on Energy Statistics, a utilized Federal Advisory Committee.

Date and Time:

Thursday, October 25, 1990, 1:45 p.m.–5:30 p.m.

Friday, October 26, 1990, 8:45 a.m.–1 p.m.

Place: Holiday Inn, 550 C Street, SW., Washington, DC.

Contact: Ms. Renee Miller, EIA Committee Liaison, U.S. Department of Energy, Energy Information Administration, EI–72, Washington, DC 20585, Telephone: (202) 586–2088.

Purpose of Committee: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

Tentative Agenda:

Thursday, October 25, 1990

A. Opening Remarks

B. Major Topics:
1. Update on the National Energy Modeling System
2. New Developments
   a. Renewables
   b. Experimental Economics as an Alternative to Forecasting

(Public Comments)

Friday, October 26, 1990

3. Model Evaluation
   a. Uncertainty and Sensitivity Analysis
   b. Confidence Intervals for the Transportation Model
   c. Model Acceptance Standard
4. Data Development: Industry Round Tables

(Public Comments)

C. Topics for Future Meetings

Public Participation: The meeting is open to the public. The chairperson of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. If there are any questions, please contract Ms. Renee Miller, EIA Committee Liaison, at the address or telephone number listed above or Ms. April Young at (202) 586–2315.

Transcripts: Available for public review and copying at the Public Reading Room, (room 1E–290), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6025, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued at Washington, DC on October 5, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90–24010 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP91–38–000]

Algonquin Gas Transmission Co.; Notice of Application

October 5, 1990.

Take notice that on October 3, 1990, Algonquin Gas Transmission Company (Algonquin) 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP91–38–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Algonquin to sell natural gas on a firm basis to Bay State Gas Company (Bay State) and Yankee Gas Services Company (Yankee) under proposed Rate Schedule LFS for a limited term of one year commencing November 1, 1990, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Algonquin states that Providence Gas Company (Providence), a Rhode Island LDC, chose to permanently convert its Rate Schedule F–4 entitlement from Algonquin to firm transportation service under Rate Schedule AFT–1 pursuant to Section 284.10 of the Commission's Regulations. It is states that Providence's conversion, effective November 1, 1990, results in the availability of up to 12,808 MMBtu per day (MMBtud) an 4,674,920 MMBtu annually of natural gas to Bay State and Yankee.

In anticipation of Providence's release of its Rate Schedule F–4 supply, Algonquin avers that it canvassed its firm sales customers to solicit nominations for the purchase of such undedicated supply. Algonquin states that this process resulted in Bay States and Yankee executing service agreements under Rate Schedule LFS for the full supply made available by Providence's conversion. According to Algonquin, it would sell on a firm basis up to 9,212 MMBtud by Bay State and up to 3,596 MMBtud to Yankee at Texas Eastern Transmission Corporation's (Texas Eastern) Lambertville, New Jersey delivery point to Algonquin.[1] Algonquin states that it would deliver the subject gas to such customers at existing points of delivery on its system on an interruptible basis. However, in light of the firm character of the sales service and the willingness of the customers to pay the demand charge for service under Rate Schedule LFS, Algonquin proposes that the delivery of gas under Rate Schedule LFS have priority over all other interruptible services. Algonquin states that the proposed Rate Schedule LFS would be available for one year commencing November 1, 1990.

Algonquin further states that Bay State and Yankee have executed service agreements in anticipation of receiving such service on November 1, 1990. It is submitted that Commencement of service after that date would reduce the value of the service and would hamper their ability to seek alternative supplies which may not be as secure.

Algonquin proposes to charge a three part rate for Rate Schedule LFS service which will consist of a demand charge ($8.562) and a commodity charge ($2.7023) reflecting Algonquin's average cost of gas on a rolled-in basis subject to PGA adjustment; and an interruptible commodity charge (29.79 cents), plus the ACA and GRI charges, for transportation on Algonquin's system. It is stated that such rates are based on Algonquin's Docket No. RP90–22 motion rates to be in effect as of October 1, 1990, and the currently effective cost of gas as reflected in Docket No. TM91–20–000.

It is stated that authorization of Algonquin's proposal herein will enable Bay State and Yankee to diversify their supply options. Algonquin states that this winter it will allow them to displace expensive supplemental fuels such as propane-air and liquefied natural gas, thus providing service at a more economical price for the benefit of their customers. According to Algonquin, Rate Schedule LFS service will also allow those customers to preserve their firm contract quantities and storage quantities until later in the heating season, potentially avoiding shortfalls if a colder than normal winter occurs.

In addition to the increased flexibility to Bay State and Yankee, Algonquin states that Rate Schedule LFS is in the public convenience and necessity as it will increase the natural gas available for consumption in the Northeast United States and relieve the pressure to purchase higher priced supplemental fuels which may be in short supply.

Finally, Algonquin requests that the Commission waive its regulations to the extent necessary to accept the related tariff sheets for effectiveness at the same time the service proposed herein is authorized.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 19, 1990, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 384.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held with further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

[1] Algonquin states that this is one of its principal receipt points from Texas Eastern.

convenience and necessity. If a motion for leave to invervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Algonquin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24041 Filed 10–11–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP90–22–000]

Algonquin Gas Transmission Co.; Informal Settlement Conference

October 4, 1990.

Take notice that an informal settlement conference will be convened in this proceeding on Thursday, October 25, 1990, at 1 p.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

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 Marc C. Denkinger (202) 208–2215 or David R. Cain (202) 208–0917.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24013 Filed 10–11–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–1–61–000]

Bayou Interstate Pipeline System; Proposed Change in Rates

October 4, 1990.

Take notice that on October 1, 1990, Bayou Interstate Pipeline System (Bayou) tendered as part of its FERC Gas Tariff, Original Volume No. 1, (Tariff) Nineteenth Revised Sheet No. 4 to be effective November 1, 1990.

The proposed tariff sheet is filed pursuant to the Purchased Gas Cost Adjustment provisions contained in section 15 of Bayou's tariff. Bayou states that a copy of this filing was mailed to Bayou's jurisdictional customer and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission (Commission), 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before October 12, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24014 Filed 10–11–90; 8:45 am]

BILLING CODE 6717–01–M

Caprock Pipeline Co.; Proposed Changes in FERC Gas Tariff

[Docket No. TM91–1–84–000]

October 5, 1990.

Take notice that on October 3, 1990 Caprock Pipeline Company, (Caprock Pipeline) filed proposed changes in its F.E.R.C. Gas Tariff. The purpose of these changes is to establish the ACA surcharge in its rates for fiscal year 1990.

Caprock states that a copy of this filing has been served upon all Caprock's customers.

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, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 15, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24072 Filed 10–11–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–3–21–000]

Columbia Gas Transmission Corp., Proposed Changes in FERC Gas Tariff

October 4, 1990.

Take notice that on October 1, 1990, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following proposed changes to its FERC Gas Tariff, First Revised Volume No. 1:

Fifth Revised Substitute Second Revised Sheet No. 26
Fifth Revised Substitute Second Revised Sheet No. 26A
Fourth Revised Substitute Second Revised Sheet No. 26B
Fourth Revised Substitute Second Revised Sheet No. 26C

The foregoing revised tariff sheets bear an issue date of October 1, 1990 and a proposed effective date of November 1, 1990.

Section 26.3 of the General Terms and Conditions of Columbia's FERC Gas Tariff, First Revised Volume No. 1, requires Columbia at the end of each 12 month billing period commencing August 1, 1988, to recalculate the volumetric surcharge to reflect revisions for the actual FERC published interest rates during such 12 month period. This instant filing is being made to reconcile the period August 1, 1989 through July 31, 1990. As reflected on Fifth Revised Substitute Second Revised Sheet Nos. 26, 26A; and Fourth Revised Substitute Second Revised Sheet Nos. 26B, and 26C, the adjusted volumetric surcharge is 4.29¢ per Dth. This results in a .07¢ reduction to the 4.36¢ surcharge filed in Docket No. RP90–108.

Columbia states that copies of the filing were served by the company upon each of its wholesale customers, interested state commissions and to each of the parties set forth on the Official Service List in this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 12, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Transmission's filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24015 Filed 10-11-90; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7192-003]

Eagle Hydro Partners; Notice Of Complaint

October 5, 1990.

Take notice that on July 25, 1989, the State of California, Department of Fish and Game (complainant) filed a complaint in which it contends that Eagle Hydro Partners (Eagle) has violated and continues to violate certain terms of Eagle's exemption for the Canyon Creek Hydroelectric Project, located in El Dorado County, California. Specifically, complainant alleges that these violations include, *inter alia*, an improperly operating fish screen, an inadequate flow gauge, incomplete and inadequate flow records, absence of an agency approved erosion control plan, and an unauthorized modification to the project.

Any person may submit comments or a protest regarding this complaint with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. The respondent, Eagle, shall file an answer to the complaint pursuant to Rules 206 and 213, 18 CFR 385.206 and 385.213. No replies to respondent's answer will be accepted. In determining the appropriate action to take, the Commission will consider all protests or other comments filed. Copies of the complaint are on file with the Commission and are available for public inspection.

Comments, protests, and the answer to the complaint are due on or before November 13, 1990.

For further information, contact William Blome at [202] 208-0462.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24043 Filed 10-11-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-5-000]

Natural Gas Pipeline Co. of America; Changes in Tariff

October 4, 1990.

Take notice that on October 2, 1990 Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, First Revised Volume No. 1A, (Tariff), the below listed tariff sheets to become effective November 1, 1990:

Original Sheet Nos. 119 and 120
Reserved for Future Use Sheet Nos. 121 through 200

Natural states the purpose of this filing is to add a penalty provision for Unauthorized Gas (section 16] to the Transportation General Terms and Conditions of this tariff.

Natural states that the penalty is required due to the significant amount of gas that has been tendered to Natural that is not part of Natural's system supply and gas that cannot be identified as being delivered pursuant to a valid transportation agreement. The penalty, as more fully explained in the filing, would take effect after three business days' notice on Natural's Electronic Bulletin Board. The charge would be 50¢ per MMBtu for gas not claimed within sixty days and $1.00 per MMBtu for gas not claimed within one hundred twenty calendar days. After one hundred twenty calendar days, Natural would purchase the unauthorized gas at a Market Index Price less the $1.00 penalty.

Natural states that a copy of the filing was mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before October 12, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24016 Filed 10-11-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-37-001]

Northwest Pipeline Corp; Notice of Proposed Change in FERC Gas Tariff

October 5, 1990.

Take notice that on October 3, 1990, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

First Reserved Volume No. 1

Seventy-Third Revised Sheet No. 10
Sixth Revised Sheet No. 10.1
Forty-First Revised Sheet No. 10-A

Original Volume No. 1-A

Thirtieth Revised Sheet No. 201

Original Volume No. 2

Eighteenth Revised Sheet No. 2.3
Twenty-First Revised Sheet No. 2-B

The Commission, by letter order issued on September 26, 1990 in the dockets referenced above, allowed Northwest to refile the referenced tariff sheets to increase the ACA surcharge rate from .19¢ per MMBtu to .22¢ per MMBtu. The .03¢ per MMBtu adjustment is further explained in the Commission's order in Docket Nos. RM87-3-000, TM91-1-20-000, *et al.* dated September 26, 1990.

Northwest states that a copy of this filing is being served upon Northwest's jurisdictional customer list and affected state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990]. All such protests should be filed on or before October 15, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24044 Filed 10-11-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-37-000]

Northwest Pipeline Corp.; Proposed Change in FERC Gas Tariff

October 3, 1990.

Take notice that on October 1, 1990, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

First Revised Volume No. 1

Seventy-Second Revised Sheet No. 10
Fifth Revised Sheet No. 10.1

Northwest states that the purpose of this filing is to eliminate the 13.95¢ per MMBtu SSP surcharge credit that relates to Northwest's sales rate schedules. The surcharge credit, effective only for the twelve months commencing November 1, 1989, relates to a $8.6 million buydown of Northwest's processing obligation under gas supply contracts with Amoco Production Company. The removal of the 13.95¢ per MMBtu credit, results in a revised positive SSP surcharge of 4.17¢ per MMBtu. The sales surcharge, as revised, will be equal to the SSP charge that applies to Northwest's transportation rates.

Northwest states that a copy of this filing is being mailed to all jurisdictional sales customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 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.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24020 Filed 10–11–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91–1–38–001]

Ringwood Gathering Co.; Proposed Changes in FERC Gas Tariff

October 4, 1990.

Take notice that on August 1, 1990, Ringwood Gathering Company (Ringwood), 4828 Loop Central Drive, Loop Central Three, Suite 850, Houston, Texas 77081, filed a Second Revised Sheet No. 4C to its FERC Gas Tariff and FERC Form No. 542–PGA pursuant to 18 CFR § 154.305 to become effective October 1, 1990.

Ringwood states that copies of the filing were served upon Ringwood jurisdictional customers and interested state agencies.

Ringwood's Annual PGA filing reflects an estimated $1.6812 per Mcf cost of gas, a current credit adjustment of ($.0012) per Mcf; a cumulative credit adjustment of ($.2437) per Mcf; a credit surcharge adjustment of ($.0012) per Mcf and a total sales rate of $2.0520 per Mcf.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 12, 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. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24017 Filed 10–11–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91–1–80–001]

Tarpon Transmission Co.; Notice of Compliance Tariff Filing

October 5, 1990.

Take notice that on October 3, 1990, Tarpon Transmission Company ("Tarpon") tendered for filing with the Commission as part of its FERC Gas Tariff, Original Volume No. 1, Fifth Revised Sheet No. 2A, to be effective on November 1, 1990. Tarpon states that this tariff sheet has been submitted pursuant to Ordering Paragraph (D) of the order issued by the Commission on September 26, 1990 in *Annual Charges Under the Omnibus Budget Reconciliation Act of 1986*, Docket No. RM87–3–000 in order to allow Tarpon to readjust its ACA surcharge from $0.0019 per Mcf (effective October 1, 1990) to $0.0022 per Mcf. Tarpon further states that it will include a billing adjustment in its November invoices to account for any ACA surcharge underrecoveries that occur during October.

Tarpon has requested that the Commission waive all applicable regulations to permit Fifth Revised Sheet No. 2A to be effective on November 1, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 15, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24045 Filed 10–11–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90–1–9–003]

Tennessee Gas Pipeline Co.; Notice of Tariff Filing

October 5, 1990.

Take notice that on October 3, 1990, Tennessee Gas Pipeline Company (Tennessee) tendered for filing Substitute Twenty-Sixth Revised Sheet No. 21 of Second Revised Volume No. 1 of its FERC Gas Tariff to be effective October 1, 1990.

The purpose of the filing is to revise Tennessee's 191 Account surcharge effective October 1, 1990 and to detail the amount credited to the refund subaccount of Account No. 191 as required by the September 18, 1990 Commission Order in Docket No. TA90–1–9–002. The Commission's Order requires Tennessee to remove $15,959,176 in costs which were included in the development of its surcharge effective January 1, 1990 in the above referenced docket. To the extent the currently effective surcharge has not collected the full amount from Tennessee's customers, Tennessee is required to make a credit to the refund subaccount of Account No. 191 of the amount actually collected plus carrying charges from January 1, 1990. Further, Tennessee is required to revise its surcharge prospectively.

As reflected on the Appendix A attached to the filing, Tennessee proposes to reduce its surcharge $.0947 effective October 1, 1990 from $.5166 to $.4219. Tennessee has also included in the filing as Appendix B a workpaper which details the credit, inclusive of carrying charges, to the refund subaccount of the 191 Account to refund the amount actually collected through September 1990. In addition, Tennessee will credit to the refund subaccount the amount collected for September 1990 invoices that will be paid by its customers in October 1990. Due to Tennessee's large debit balance in its refund subaccount of Account 191, the

credit as shown on Appendix B does not produce the refund disbursement requirements of Section 154.305 of the Commission's Regulations; however, it will reduce the basis of Tennessee's surcharge that will become effective January 1, 1991.

On September 18, 1990, Tennessee filed Third Revised Volume No. 1 in Docket No. GT90–46, to be effective October 18, 1990. Upon Commission acceptance of Third Revised Volume No. 1, Tennessee will make a compliance filing to conform those tariff sheets to reflect the outcome of this filing.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 15, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24046 Filed 10–11–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–1–29–000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

October 4, 1990.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on October 2, 1990, revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff, which tariff sheets are included in Appendix A attached to the filing. Such tariff sheets are proposed to be effective November 1, 1990.

The proposed tariff sheets reflect a 110.8¢ per dt increase in Transco's adjusted unit current commodity cost of gas compared to the annual Purchased Gas Adjustment (PGA) filing which became effective August 1, 1990 and a 147.9¢ per dt increase compared to Transco's Interim PGA filing of August 2, 1990 which became effective August 3, 1990. The instant PGA filing reflects an average cost of gas of 320.74¢ per dt for the quarterly period commencing November 1, 1990.

Transco requests a waiver of § 22.4 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1 and § 154.308(c) of the Commission's regulations in order to calculate the commodity Current Gas Cost Adjustment to its PGA affected rate schedules in the manner provided in the instant filing.

Transco states that it has filed the necessary schedules in order to comply with §§ 154.305, 154.308 and FERC Form 542. Transco has also filed a 9-track magnetic tape containing such schedules.

Transco states that copies of the instant filing are being mailed to its jurisdictional customers and interested State Commissions. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before October 12, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24018 Filed 10–11–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Conservation and Renewable Energy

Energy Conservation Program for Consumer Products; Application for Interim Waiver and Petition for Waiver of Furnace Test Procedures From Evcon Industries, Inc. (F–024)

AGENCY: Conservation and Renewable Energy Office, Department of Energy.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Evcon Industries, Inc. (Evcon) from the existing Department of Energy (DOE) test procedures for furnaces. DOE is granting an Interim Waiver regarding blower time delay on start up and blower time delay on shut-down for Evcon's 7900 B series mobile home furnaces.

Today's notice also publishes a "Petition for Waiver" from Evcon. Evcon's Petition for Waiver requests relief from the DOE test procedures relating to the blower time delay specification. Evcon seeks to test using a blower delay time of (i) 30 seconds on start up and (ii) 4 minutes delay time for shut-down for its 7900 B series mobile home furnaces instead of the specified 1.5 minute delay for start up and the specified 3 minute delay or until the temperature drops to a value of 40° F above the inlet air temperature for shut down. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than November 13, 1990.

ADDRESSES: Written comments and statements shall be sent to: Department of Energy, Office of Conservation and Renewable Energy, Case No. F–024, Mail Stop CE–43, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585

FOR FURTHER INFORMATION CONTACT:

Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–43, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Section GC–12, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent

of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions. These test procedures appear at 10 CFR part 430, subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an interim wavier from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

The interim waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an interim waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the Petition for Waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the Petition for Waiver. An interim waiver remains in effect for a period of 180 days or until DOE issues its determination, and may be extended for an additional 180 days if necessary.

On April 4, 1990, Evcon filed an application for an Interim Waiver regarding: (a) blower time delay on start up and (b) blower time delay on shut-down. On June 22, 26, and 28 and July 5, 1990, Evcon provided additional written material to supplement its Application for Interim Waiver and Petition for Waiver. On July 3, 1990, representatives of Evcon met with DOE concerning the Application for Interim Waiver and Petition for Waiver.

Evcon seeks an Interim Waiver from the DOE test provision that requires a 1.5 minute time delay between the ignition of the burner and starting of the circulating air blower. Evcon requests the allowance to test using a 30 second blower time delay when testing its 7900 B series mobile home furnaces. Evcon states that the 30 second delay is indicative of how these furnaces actually operate. Since current DOE test procedures do not address this variable blower time delay, Evcon asks that the Interim Waiver be granted. In addition, Evcon requests the allowance to test using a 4 minute delay between burner shut-down and blower shut-down. Evcon states that the 7900 B series furnaces are designed to operate in this manner.

Evcon's request concerning timed blower delay control on start up is similar to those that have been granted by DOE to the Coleman Company, 50 FR 2710, January 18, 1985, Magic Chef Company, 50 FR 41553, October 11, 1985, Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990, Trane Company, 54 FR 19226, May 4, 1989, DMO Industries, 55 FR 4004, February 6, 1990, Heil-Quaker Corporation, 55 FR 13184, April 9, 1990, and Carrier Corporation, 55 FR 13182, April 9, 1990. Thus, it appears likely that the Petition for Waiver will be granted for start up blower time delay.

Evcon's petition regarding the test procedure provision that requires a time delay between burner shut-down and blower shut-down of 3 minutes or until the supply air temperature drops to a value of 40°F above the inlet air temperature, whichever results in the longest blower on-time, is the first to address this issue. Evcon requests that it be allowed to test the 7900 B series mobile home furnace with a fixed 4 minute delay between burner shut-down and blower shut-down. Evcon contends that testing the 7900 B series mobile home furnaces according to the extant test procedure gives results that are not comparable to other furnaces. Evcon claims this is due to the unique design of its 7900 B series mobile home furnaces. The 7900 B series mobile home furnaces is a gravity combustion, direct vent furnace. The 7900 B series mobile home furnace incorporates an annular vent system with a central flue that is larger than other mobile home furnaces; a cylindrical drum type heat exchanger with the fuel mixture entering the drum ⅓ of the distance from the bottom of the drum; a 12 inch diameter rain cap; a secondary heat exchanger, ⅓ of which is isolated from the discharge side of the circulating blower; and a combustion air intake chute external to the heat exchanger and exposed to the conditioned air. Evcon claims that the design of the 7900 B series mobile home furnace makes it better able to recover flue losses beyond the time delay between burner shut-down and blower shut-down, i.e., 3 minutes or until the supply air temperature drops to a value of 40°F above the inlet air temperature specified in the test procedure. Evcon further claims that if it were not granted an Interim Waiver, this would have a major and catastrophic economic hardship on the company and the mobile home industry. Evcon claims that without the waiver it would not be able to manufacture mobile home furnaces once the energy efficiency standards for mobile home furnaces go into effect on September 1, 1990; and since it manufactures more than 50 percent of all mobile home furnaces, more than 50 percent of mobile home manufacturers would have to close. Evcon claims it would lose gross sales revenue in excess of a million dollars per month and would be forced to immediately lay off hundreds of employees.

Further, DOE finds, based on the information provided, that without an interim waiver, Evcon and, in turn, the mobile home industry would suffer significant economic hardship.

Therefore, based on the above, DOE is granting Evcon an Interim Waiver for its 7900 B series mobile home furnaces.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the Petition for Waiver in its entirety, including the subsequent materials submitted to DOE by Evcon. The Petition for Waiver contains no confidential information. DOE solicits comments, data, and information respecting the Petition. Specifically, DOE seeks comments with respect to the following:

- The specification of a four minute delay time between burner shut-down and blower shut-down in lieu of the existing requirement of 3 minutes or until the supply air temperature drops to a value of 40°F above the inlet air temperature;
- Information on blower controls and actual field-installed blower shut-down delay times, particularly with respect to the uniqueness of the Evcon design;
- Applicability of extended blower delay times to furnaces in general; and
- Comment on whether the test procedure waiver provision should be used to allow a manufacturer to meet the standard requirements of NAECA in view of section 323(e), which provides that whenever DOE amends a test procedure and such amendment alters the measure of efficiency, the standard is to be revised accordingly.

In addition, pursuant to paragraph (e) of § 430.27 of the Code of Federal

Regulations, the following letter granting the Application for Interim Waiver was issued to Evcon Industries, Inc.

Issued in Washington, DC, October 3, 1990.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

Department of Energy

Washington, DC 20585

October 3, 1990.

Mr. Tom Chase,

Design Engineer, Evcon Industries, Inc., P.O. Box 19014, Wichita, KS 67204–9014

Dear Mr. Chase: This is in response to your April 4, 1990, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedures for furnaces when testing Evcon Industries, Inc. 7900 B series mobile home furnaces.

Previous waivers for start up blower time delay have been granted to Coleman Company, 50 FR 2710, January 18, 1985, Magic Chef Company, 50 FR 41553, October 11, 1985, Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990, Trane Company, 54 FR 19226, May 4, 1989, DMO Industries, 55 FR 4004, February 6, 1990, Heil-Quaker Corporation, 55 FR 13184, April 9, 1990, and Carrier Corporation, 55 FR 13182, April 9, 1990.

Based on review of the information provided by Evcon, DOE finds that Evcon would suffer economic hardship if the Interim Waiver is denied. Therefore, Evcon Industries' Application for an Interim Waiver for its 7900 B series mobile home furnaces is granted. Evcon Industries shall be permitted to test its line of 7900 B series mobile home furnaces on the basis of the test procedures specified in 10 CFR part 430, with the modification set forth below.

(i) Section 9.3.1. of ANSI/ASHRAE Standard 103–1982 is deleted and replaced with the following paragraph:

Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner(s) comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t−), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower, or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t−), using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe with ±0.01 inch of water gauge of the manufacturers's recommended on-period draft.

(ii) Section 9.2.1.2 of ANSI/ASHRAE Standard 103–1982 is deleted and replaced with the following paragraph:

During this off-period, for mobile home furnaces, allow a time delay, t+, between burner shut-down and blower shut-down of four minutes. However, if the furnace employs a single motor to drive a power burner and an indoor air circulation blower, turn off the blower and the burner together. Measure the time, t+, between burner shut-off and blower shut-off using a stop watch. For a direct vent system with a flue damper or a furnace equipped with both a stack damper and a barometric damper, close the flue or stack damper during the cool-down test. Keep the main burner(s) off until equilibrium conditions are attained, as indicated by variations in the flue gas temperature of not more than 3°F between three successive readings taken 15 minutes apart. For units employing a continuously burning pilot light, take a third flue gas temperature measurement and determine the off-period minimum flue gas temperature ($T_{f,off,(oo)}$) equal to the room temperature T_{RA}. During the cool-down test, measure the energy input rate to the pilot light (Q_p), if the unit is so equipped, within an accuracy of ±3 percent. Record all measured values.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

This Interim Waiver is for a period of one hundred eighty (180) days after issuance or until DOE issues its determination, and may be extended for an additional one hundred eighty (180) day period if necessary.

Sincerely,

J. Michael Davis, P.E.,

Assistant Secretary, Conservation and Renewable Energy.

EVCON INDUSTRIES, INC.

Manufacturers of Coleman Heating and Air Conditioning Products

April 4, 1990.

Dr. John R. Berg,

Assistant Secretary, Conservation and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue, SW. Washington, DC. 20585.

Dear Dr. Berg: Please consider this Petition for Waiver and Application for Interim Waiver pursuant to 10 CFR 430.27. Waiver is requested from the Uniform Test Method for Measuring the Energy Consumption of Furnaces, appendix N to subpart B of part 430.

The current heat-up test procedure requires a 1.5 minute time delay between burner and blower startup. Evcon Industries, Inc. (formerly Coleman Heating & Air Conditioning Products, Inc.) is requesting authorization to use a 30 second blower delay instead of 1.5 minutes on our 7900B Series downflow gas furnaces. By activating the blower sooner, the forced convection heat transfer process begins sooner, and an overall increase in efficiency results. The current cool-down test procedure requires a time delay between burner shut-down and blower shut-down of either three minutes or until the supply temperature drops to a value of 40°F above the inlet air temperature, whichever results in the largest blower on-time. Evcon Industries, Inc. is requesting authorization to use a fixed four minute delay between burner shut-down and blower shut-down on the same 7900B Series downflow gas furnaces. This additional blower on-time serves to transfer additional heat from the heat exchanger to the circulating air that would otherwise be lost through the vent system.

These units are equipped with a non-adjustable timing control which activates the circulating blower 30 seconds after the burner comes on and shuts off the blower four minutes after the burner shut-down occurs. When tested using these blower delay timings, these furnaces show a increase in efficiency of approximately 1 to 3.5 AFUE points. Current test procedures do not give credit for this increase in efficiency, thus providing inaccurate comparative data. Evcon Industries, Inc. feels that its competitive position in the marketplace will be damaged if our petition is not accepted.

Evcon Industries, Inc. requests an interim waiver because it seems likely that our waiver will be granted. Similar waivers to allow fixed blower timings have been granted to Coleman and other central furnace manufacturers. In addition, proposed ASHRAE/ANSI Standard 103–1982R of April 30, 1988 specifically address the use of fixed blower delay timings allowing the use of fixed blower off delay timings in the cool-down test in paragraph 9.5.1.2.2 and fixed blower on delay timings in the heat-up test in paragraph 9.6.1.

Confidential comparative test data which confirm the above test results are available to you upon your request.

A copy of this Petition for Waiver and Application for Interim Waiver are being sent to other domestic manufacturers of similar products. Attached please find a copy of the letter and a list of the manufacturers known to us that we will notify.

Sincerely,

Tom Chase,

Design Engineer, Evcon Industries, Inc.

Evcon Industries, Inc.

Manufacturers of Coleman Heating and Air Conditioning Products

April 4, 1990.

Sirs: Please find attached a copy of the Petition for Waiver and Application for Interim Waiver submitted to DOE pursuant to CFR 430.27 by Evcon Industries, Inc. on April 4, 1990.

In accordance with CFR 430.27, DOE will receive and consider timely written comments on these requests. Such comments should be directed to: Dr. John R. Berg, Assistant Secretary, Conservation and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Sincerely,

Tom Chase,

Evcon Industries, Inc., Design Engineer.

List of Central Furnace Manufacturers

Mr. V. C. Knight, Addison Products Co., 215 N. Talbot St., Addison, MI 49220

Mr. Charles M. Peters, Amana Refrigeration, Inc., Amana, IA 52204

Mr. B. William Bonnivier, Snyder General Corporation, 2001 Ross Ave., Dallas, TX 75201–2916

Mr. Robert E. Johnson, Armstrong Air Cond. Inc., 421 Monroe St., Bellevue, OH 44811

Mr. Richard O. Bard, Bard Mfg. Company, 520 Evansport Rd., P.O. Box 607, Bryan, OH 43506

Mr. William A. Wilson, Carrier Corporation, P.O. Box 4808, Syracuse, NY 13221

Mr. Richard C. Barnet, Central Environmental Systems, P.O. Box 1592, York, PA 17405

Mr. Richard H. Weber, Consolidated Industries Corp., P.O. Box 7800, Lafayette, IN 47903

Mr. John McFadden, GlowCore Corporation, P.O. Box 8971, Cleveland, OH 44136

Mr. Daniel H. Burke, Goettl Air Conditioning, Inc., 5401 E. Washington St., Phoenix, AZ 85034

Mr. Harold V. Goodman, Goodman Mfg. Corporation, 1501 Seamist, Houston, TX 77008

Mr. J. A. Knight, Heat Controller, Inc., 1900 Wellworth Ave., P.O. Box 1089, Jackson, MI 49203

Mr. Henry J. Forrest, Heil-Quaker Corp., 1136 Heil-Quaker Blvd., P.O. Box 300 S, La Vergne, TN 37086–1985

Mr. Donald W. Munson, Lennox Industries, Inc., P.O. Box 80900, Dallas, TX 75380–9000

President, Metzger Machine & Engineering Co., 8155 N. 76th Street, Milwaukee, WI 53223

Mr. Robert E. G. Ractliffe, Nordyne, Inc., 10820 Sunset Office Drive, St. Louis, MO 63127

Mr. Donald F. Foster, Rheem Air Conditioning Division, 5600 Old Greenwood Rd., P.O. Box 6444, Fort Smith, AR 72903

Mr. Jack R. Cunningham, Thermo Products, Inc., P.O. Box 217, North Judson, IN 46366

Mr. H. Thompson Smith, The Trane Co., Dealer Products Group, 6200 Troup Hwy., Tyler, TX 75711

Mr. John D. Carroll, Jr., The Williamson, Co., 3500 Madison Rd., Cincinnati, OH 45209

President, Yukon Energy Corporation, 378 W. County Rd., "D", St. Paul, MN 55112

Evcon Industries, Inc.

Manufacturers of Coleman Heating and Air Conditioning Products

June 22, 1990.

Cyrus Nasseri,

United States Department of Energy, 1000 Independence Avenue SW., Mail Station CE–43, 5H048, Washington, DC 20585.

Dear Cyrus: During your Evcon Industries, Wichita plant inspection last week you discussed our waiver request; we promised to send you the additional information clarifying our request.

Due to the extreme shortage of time, we are sending by fax, supplementary information which should enable you to allow our interim waiver.

On April 4, 1990, we applied for a waiver on our 7900 B Series Mobile Home Furnaces. This was based upon the technical logic of operating the circulating blower longer than prescribed in the DOE test standard in order to recover additional thermal energy from the flue gases. DOE accepted this logic three years ago, and allowed us a waiver.

We accordingly, based this same technical principle on our April 4, 1990 request. This is the same design principle used while we redesigned our line of mobile home furnaces to meet the September 1990 75% AFUE deadline.

Since we had received no communications from DOE during the previous three years, we assumed the same logic would be acceptable now, whether applied to start up or stop timing of the blower.

We were amazed to hear for the first time, during your factory inspection on June 14, 1990, that DOE was considering a refusal of our April 4, 1990 waiver. If that were to happen just sixty days ahead of the national deadline, we would be put out of business.

We would endure major and catastrophic economic hardship for several reasons;

1. We would have *no* inventory to ship which met the September 1, 1990 AFUE.

2. We would shut down over 50 percent of the industries' factories, which produce manufactured homes, thus forcing into unemployment thousands of production workers.

3. We would immediately lay off hundreds of Evcon Industries' employees.

4. We would lose gross sales revenue in excess of a million dollars per month.

5. We would be faced with "loss of business" law suits from over fifty manufacturers, totaling tens of millions of dollars in direct liability, plus possible punitive damage claims of double or triple that amount, because absolutely no pre-warning had been issued.

6. It would require major redesign of the product, adding $50.00 to $60.00 per furnace, or a raw increase of 30 to 35 percent.

7. The time required to redesign would be in excess of six months and cost an additional $150,000 to $200,000 in direct design expense.

8. We would require field test of the new design through at least the 1991 heating season.

There are other negative factors too numerous to list.

To avoid this economic hardship, we have virtually completed a full set of tests to document and supplement our request for an interim waiver, and will supply test reports by June 26, 1990.

These tests, conducted and virtually completed this week, and per the DOE procedure, have documented that *the thermal energy saved in our extended blower timing exceeds the additional blower electrical energy consumed.*

We believe this complies with your request during the Wichita plant inspection and, therefore, allows Evcon Industries the interim waiver.

Because we have a major timing crisis, and to avoid economic disaster, will you please confirm by phone or fax, your acceptance of this supplementary information and your agreement to an interim waiver for Evcon Industries, Inc.

Our FAX No.: 316–832–6566. Our phone No.: 316–832–6540.

Sincerely,

Alan Zimmerman,

Vice President of Canadian Operations and Customer Services.

EVCON INDUSTRIES, INC.

Manufacturers of Coleman Heating and Air Conditioning Products

June 26, 1990.

Cyrus Nasseri,

U.S. Department of Energy, 1000 Independence Avenue SW., Mail Station CE–43 5HO48, Washington, DC 20585

Dear Cyrus: Following are the test reports mentioned in our June 22, 1990 fax. As discussed on the phone with you today, we believe these tests conclusively substantiate our request for interim waiver, as well as the extreme hardships which will result without the interim waiver.

Sincerely,

Alan Zimmerman,

Vice President of Canadian Operations and Customer Services.

Summary

The attached report describes the results of testing performed on four different models of Coleman gas-fired mobile home furnaces. The furnaces were tested with the DOE furnace efficiency test method using both the standard three minute blower off timing and a four minute blower off timing. It is clearly shown that use of the longer blower delay timing results in a gain in efficiency (AFUE) of .8 to 1.5 percentage points. Since the AFUE rating alone does not include electrical usage, the report also compares the heating efficiency gained by using the longer blower delay timing to the additional electrical energy used by the furnace blower. Again, it is clearly shown that use of the longer blower delay timing saves more heat energy than it spends in electrical energy. This net energy gain results in higher overall operating efficiency and lower operating costs for the consumer.

The report further points out that these results may not apply to furnaces of other types. Furnaces equipped with induced draft or forced draft blowers are unlikely to show the same degree of efficiency improvement from the use of longer blower delay timings.

Abstract

The off-cycle and on-cycle sensible heat losses of four models of direct vent mobile home furnaces were measured using both the current DOE test method

and a modified DOE test method with a longer blower off time delay. The heat energy saved by using the longer blower delay timing was compared to the additional electrical energy consumed by the blower motor. In all models tested, the heat energy saved by using the longer blower delay timing was greater than the additional energy consumed by the blower.

Background

ANSI/ASHRAE Standard 103–1982, Methods of Testing for Heating Seasonal Efficiency of Central Furnaces and Boilers, was published and approved in 1983. Part of the test procedure for central furnaces in this standard requires a fixed 1.5 minute delay from burner on to blower on and a fixed three minute delay from burner off to blower off, regardless of the normal operating timings of the furnace being tested. Subsequent to the publication of the standard, several furnace manufacturers have noted that their furnaces operate more efficiently with blower on timings shorter than 1.5 minutes. While some additional electrical energy is used by starting the blower sooner than usual, the additional heat energy transferred to the heated space rather than lost out the vent is reflected in higher efficiency (AFUE) ratings and lower overall operating costs. In order that the published AFUE ratings of these furnaces can reflect their true operating efficiency, several manufacturers, including Coleman, Rheem, Trane, and Lennox, have applied for and been granted waivers to allow certain of their units to be tested using blower timings other than those specified in ANSI/ASHRAE 103–1982. These waivers have been granted to allow blower on timings less than the specified 1.5 minutes, without necessarily requiring that the applicant prove that the heat energy saved exceeds the additional electrical energy usage.

To date, no waivers have been granted to allow blower off timings other than the three minute delay specified by the standard. However, the same rationale used to justify shorter blower on timings also applies to the use of slightly longer blower off timings, that of sacrificing a small amount of additional electrical energy usage in exchange for a relatively larger amount of heat energy saved, resulting in a higher AFUE rating and lower overall operating cost.

Objective

The objective of this report is to compare the sensible heat losses that are measured when a furnace uses a four minute blower off delay to those losses measured using the three minute delay specified by the test standard. A further objective is to compare the heat energy saved by using the longer blower delay to the electrical energy consumed by the blower motor during its additional minute of operation.

Test Units

Four gas-fired, downflow, direct vent mobile home furnaces were used in these tests. Their model numbers and input ratings are shown in Table 1 below:

TABLE 1

Furnace model	Input (BTU/Hr)
7956B856	56,000
7966B856	66,000
7970B856	70,000
7975B856	75,000

Measurement Procedures

Testing was performed using the current DOE test procedure described in ANSI/ASHRAE 103–1982. This procedure involves measurement of flue gas temperatures during a heat-up from a cold start condition, a steady-state efficiency test during which flue gas temperature and carbon dioxide (CO_2) are measured, and a cool-down test from steady-state. The cool-down test involves using a tracer gas and flue temperatures to calculate the off-cycle flow rate through the system and thus determine the off-cycle heat losses. An additional cool-down test was performed on each of the four units per the DOE test procedure *except* that a four minute delay from burner off to blower off was used.

Calculation Procedure

The on-cycle heat losses (infiltration, latent, and sensible) and the off-cycle heat losses (infiltration and sensible) were calculated using the current DOE method. The Annual Fuel Utilization Efficiency (AFUE) rating yielded by these calculations allows for the cyclic nature of actual furnace operation, assuming an average burner on time of 3.87 minutes per cycle and an average burner off time of 13.3 minutes per cycle.

The furnaces tested for this report are all direct vent units and thus have no on-cycle or off-cycle infiltration losses. The on-cycle latent heat losses are not affected by variations in the blower off timings and thus will not be discussed here. Only the sensible heat losses (on-cycle and off-cycle) need be addressed.

The current DOE calculations yield a value for on-cycle sensible heat loss, $L_{s\cdot on}$, and for off-cycle sensible heat loss, $L_{s\cdot off}$, stated in percent. For purposes of comparison, these percent values can be stated as BTU per cycle by using the following equations:

$$Q_{s\cdot off} = \frac{L_{s\cdot off}(Q_{in})(t_{off})}{6000\ (t_{on})}$$

and

$$Q_{s\cdot on} = \frac{L_{s\cdot on}(Q_{in})(t_{off})}{6000\ (t_{on})}$$

where:

$Q_{s\cdot off}$ is the off-cycle sensible heat loss per cycle in BTU

$Q_{s\cdot on}$ is the on-cycle sensible heat loss per cycle in BTU

$L_{s\cdot off}$ is the off-cycle sensible heat loss in percent

$L_{s\cdot on}$ is the on-cycle sensible heat loss in percent

Q_{in} is the furnace input rate in BTU/Hr

t_{off} is the average burner off time of 13.3 minutes

t_{on} is the average burner on time of 3.87 minutes

6000 is a factor used to convert hours to minutes and to convert percent to a fraction.

The measured energy usage of the blower motor can be converted to BTU/min. for comparison purposes with the following equation:

$$Q_B = \frac{3413\ BE}{60}$$

where:

Q_B is the energy usage of the blower motor in BTU/min.

BE is the energy usage of the blower motor in KW.

3413 is a conversion from electrical units to heat units.

60 converts hours to minutes.

Data

Table 2 below shows the measured sensible heat losses (on-cycle, off-cycle, and total) for the four test furnaces using the burner off timing of three minutes specified by the test standard:

TABLE 2

Furnace model	$Q_{S\cdot ON\cdot 3}$	$Q_{S\cdot OFF\cdot 3}$	$Q_{S\cdot TOT\cdot 3}$
7956B856	169	224	393
7966B856	239	250	489
7970B856	270	249	519

TABLE 2—Continued

Furnace model	$Q_{S,ON,3}$	$Q_{S,OFF,3}$	$Q_{S,TOT,3}$
7975B856	326	280	606

Table 3 below shows the sensible heat losses for the four furnaces using an alternate blower off timing of four minutes:

TABLE 3

Furnace model	$Q_{S,ON,4}$	$Q_{S,OFF,4}$	$Q_{S,TOT,4}$
7956B856	166	197	363
7966B856	237	195	432
7970B856	268	197	465
7975B856	324	215	539

The electrical usage of the blower motors of each of the four furnaces was measured and is shown in Table 4 below:

TABLE 4

Furnace model	BE (KW)
7956B856	.365
7956B856	.562
7970B856	.588
7975B856	.596

Results and Analysis

Table 5 below shows the sensible heat loss for each of the four test furnaces and the difference in heat losses between the tests using the three minute blower off timing and the tests using the four minute blower off timing. This difference, $\Delta Q_{S,TOT}$, represents the heat energy that is saved each burner cycle by allowing the blower to run longer. Table 5 also shows the energy, Q_B, consumed by the blower motor during the additional minute of operation each cycle.

TABLE 5

Furnace model	$\Delta Q_{S,TOT}$ (BTU)	Q_B (BTU)
7956B856	30	20.8
7956B856	57	32.0
7970B856	54	33.4
7975B856	67	33.9

In all four furnaces, the heat energy saved by allowing the circulating air blower to remain on one additional minute is greater than the energy used by the blower motor during that minute. This net energy saving occurs every burner cycle, an average of every 16.87 minutes during the entire heating season. Thus a seemingly small amount of energy saved each cycle can have a significant impact on the overall efficiency of the furnace and can significantly reduce operating costs for the user. Table 6 below shows the AFUE's of the test furnaces with the two blower timings.

TABLE 6

Furnace model	$AFUE_3$	$AFUE_4$
7956B856	74.4.	75.2
7966B856	74.2	75.6
7970B856	74.4	75.7
7975B856	73.2	74.7

The results described above certainly justify the use of a four minute blower off timing for these furnaces. However, the same results may not hold true for other types of furnaces. The furnaces tested here utilize the natural buoyancy of the flue gases for venting, and are not equipped with forced draft or induced draft blowers. With very little restriction to off-cycle flow, they have a relatively high flow rate during the off-cycle and thus a relatively high off-cycle sensible heat loss of 6–7%, leaving considerable room for efficiency improvement. Forced draft and induced draft systems, on the other hand, generally offer considerable restriction to flow during the off-cycle and typically have off-cycle sensible heat losses of 3% or less. Therefore, it cannot be assumed that longer blower delay timings always result in a net energy savings. This can be proven by test.

Reference

1. ANSI/ASHRAE Standard 103–1982, Methods of Testing for Heating Seasonal Efficiency of Central Furnaces and Boilers, American Society of Heating, Refrigeration and Air Conditioning Engineers, Inc., Atlanta, Ga., 30329.

Evcon Industries, Inc.

Manufacturers of Coleman Heating And Air Conditioning Products

June 28, 1990.

Mike McCabe,

U.S. Department of Energy, 1000 Independence Avenue SW., CE–43, Washington, DC 20585

Dear Mr. McCabe: After several discussions with Cyrus Nasseri this week, we believe he has problems accepting our interim waiver request, and at his suggestion, are appealing to you for emergency help.

Background: Evcon, earlier this year, applied for an interim waiver on its new mobile home furnaces designed to meet the NAECA 75% minimum efficiency level.

Up until last Thursday, June 21, 1990, we had heard nothing from D.O.E., and assumed all was well. Last Thursday, during a visit to our factory with a team from Lawrence Berkeley, Cyrus mentioned he was considering turning down our request. At that time, we expressed amazement and verbally outlined our case and the hardships which would result, if the request were denied. We documented that discussion, promised additional substantiating test data, and outlined our economic hardship in a fax to Cyrus, dated June 22, 1990. (Copy attached—Schedule (A).

On June 25, 1990, we faxed our technical test justification for the waiver. Documenting that the tests do substantiate our request. (Our fax letter to Cyrus Nasseri is attached—Schedule (B).

Our reasons for appeal are as follows:

There are recent precendents for acceptance:

Lennox was granted a waiver in the December 7, 1989 issue of Federal Register on the issue of extended blower "on" time.

That request for waiver, dated August 1, 1989, as well as the grant, occurred *after the NAECA was published.*

That grant is vital to Lennox meeting the NAECA minimum 78% level for residential furnaces.

The December 7, Federal Register cites as one of the reasons for the Lennox grant, the earlier 1985 waiver precendents to Coleman, Rheem, etc., regarding longer blowing timing.

In May 1989, Trane was granted a waiver on extended blower timing, after the NAECA was published.

Our latest request embodies the same technical principles of energy saved through longer blower timing, cited in our 1985 waiver, and as cited in the Lennox waiver in December 1989, and the Trane waiver in May 1989.

Nothing in the industry discussions of intent regarding an interim waiver or in the final printed version, would require a change in the minimum efficiency level of NAECA if an interim waiver is granted. Only when and if the test standard was ultimately and legislatively *amended* would a change in minimum efficiency levels be appropriate.

Given the precedent of our 1985 waiver the December 1989 waiver to Lennox, the May 1989 waiver to Trane, and the absence of any D.O.E. indications to the contrary, we assumed in our design process, the same principles of energy saving through longer blower timing would be accepted.

Now, suddenly and unexpectedly, we understand you are considering a reversal and not allowing our request, just sixty days prior to the deadline.

Mike, we have no technical or economic recourse. Our statements of econmic hardship are accurate and if anything, understated. The provisions exist under the law for your department to grant emergency waivers. We implore you to consider all of the above and allow our interim waiver. Our request is technically correct, our efficiency claims results are legitimate and substantiated. We cannot accept a discriminatory refusal.

In order to avoid shutting down our production line, September 1, 1990, we will be happy to fly to Washington to meet personally with you at any hour. Please call.

Sincerely,

Alan Zimmerman,

Vice President of Customer Services & Canadian Operations.

ss

cc. GAMA—
Jack Langmead
Bill Meadows

Morrison, Hecker, Curtis, Kuder & Parrish

Evcon Industries, Inc.

Manufacturers of Coleman Heating and Air Conditioning Products

July 5, 1990.

Mr. Mike McCabe,

U.S. Department of Energy, 1000 Independence Avenue, SW., Mail Station CE–43, Washington, D.C. 20585.

RE: Evcon Industries, Inc., Petition for Waiver and Application, for Interim Waiver, April 4, 1990

Dear Mr. McCabe: During our meeting in Washington on July 3, you and your colleagues expressed concerns about the sufficiency of technical information contained in Evcon's April 4, 1990 Petition for Waiver and Application for Interim Waiver. In specific, you suggested that Evcon had not conclusively established that current DOE efficiency testing standards unfairly assess the efficiency of the Evcon Model 7900 B series of mobile home furnaces. Pursuant to the July 3 meeting, we submit this letter for your further consideration.

We contend, and hope you will conclude, that because of the unique design characteristics of mobile home furnaces generally, and the Evcon model 7900 B in specific, that current efficiency testing standards yield an unrepresentative measure of its true energy consumption characteristics and provide materially inaccurate comparative data.

The 7900 B series mobile home furnace is a gravity combustion, direct vent furnace, designed specifically for the specialized needs of the manufactured housing industry. As discussed during our meeting, the manufactured housing industry, its applications, installation and product needs, is substantially different from the residential industry furnace needs. At least 95% of the gas furnaces installed in the manufactured housing industry are the gravity combustion, direct vent type on which this waiver is requested. The majority of the approximately 8,000 to 10,000 mobile home furnaces sold per month, are gas fueled and of the 7900 B series type. None of todays furnaces of the residential type, are to our knowledge, approved for use in the manufactured housing industry.

The gravity combustion, direct vent furnace is different from all residential furnaces in two fundamental principles. First, it incorporates an annular gravity vent system which is certified by national testing agencies exclusively for the 7900 B series, and is exclusively manufactured by Evcon for the 7900 B series mobile home application. The roof vent design is patented under two patent numbers; 4,522,191 and 4,893,608. No other vent system, whether residential or of a competitive mobile home type, is interchangeable in the 7900 B series design.

Second, there do not exist in today's residential industry, any gravity combustion, direct vent furances. Natural draft or gravity combustion, direct vent furnaces have been previously recognized by D.O.E. as having unique design characteristics, which standard test procedure does not fully recognize. All other types of direct vent furnaces have powered combustion.

There are two other mobile home furnaces which are of the gravity combustion, direct vent type, marketed under the name of Miller and Intertherm, both manufactured by Nordyne.

The Evcon 7900 B series mobile home furnace is different in its design characteristics from the Miller and the Intertherm, as follows:

1. It incorporates a large single cylindrical drum type heat exchanger with the fuel gas mixture entering the drum ⅓ of the distance from the bottom of the drum in a horizontal monoport burner, while the other competitive models import the fuel gas mixture at the lowest portion of their rectangular heat exchanger.

2. The Evcon incorporates a large annular vent system with a central flue pipe 56% larger than the others.

3. The Evcon vent terminal incorporate a 12 inch diameter rain cap whose outlet configuration creates 2.5 times more flue gas egress area than the others.

4. The Evcon design has ⅓ of its large secondary heat exchanger isolated from the discharge side of the circulating blower, while the others have a substantially smaller heat transfer area not exposed to discharge blower air. Therefore, the Evcon heat exchanger requires an additional minute of blower operation to achieve recovery of stack losses.

5. The Evcon design incorporates a combustion air intake chute which transports air from the top intake opening to the burner intake within a separate channel external to the heat exchanger and exposed to conditioned air. While the others' combustion air intake chute is within the internal space and adjacent to the heat exchanger and is directly exposed to the radiant effect of the residual heat of the heat exchanger.

The effect of these design differences is to make the Evcon 7900 B series furnaces better able to recover substantial flue losses during the additional minute of blower operation than are the competitive models. Our testing has shown that the Evcon mobile home furnaces enjoy a much higher percentage of energy savings through the use of the extended blower timing, than could be expected from the competitive design concept. By not allowing us to take full credit for the true operating efficiency of our furnaces, the standard test procedure provides materially inaccurate comparative data.

To the best of our knowledge, the Evcon 7900 B series mobile home furnace is the only furnace, residential or mobile home, which uses an electronic blower control with a four minute off timing to increase its efficiency. The competitors model mobil home furnace uses a thermally activated fan switch to control the circulating air blower.

There is an additional vital issue of non-comparative ratings: The design characteristics of the Evcon 7900 B series are such that its performance is unfairly evaluated and results in an AFUE rating less than 75% thus making it substandard to the minimum NAECA level, and would therefore, be unfavorably compared by the consumer or buyer when making the purchase decision.

Evcon has further demonstrated in tests that the circulating air temperature at the end of the additional one minute blower operation is at least equal to or greater than air temperatures resulting from the standard test procedure when applied to certain other furnace designs.

We appreciate the opportunity of having the meeting with your team, Tuesday, and to review personally with you, the reasoning behind our request. We cannot over-emphasize the critical timing deadline we face and the financial hardships we face without a grant for an interim waiver. Please call me if you have any questions regarding our clarification.

Sincerely,

Alan Zimmerman,

Vice President of Customer Service & Canadian Operations.

ss

cc: Cyrus Nasseri

[FR Doc. 90–24132 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

Energy Conservation Program for Consumer Products; Application for Interim Waiver and Petition for Waiver of Furnace Test Procedures from Trane Company (F–026)

AGENCY: Conservation and Renewable Energy Office, Department of Energy.

SUMMARY: Today's notice publishes a letter granting an Interim Waiver to Trane Company (Trane) from the existing Department of Energy (DOE) test procedures for furnaces regarding blower time delay for its TUN(–) upflow models and TDN(–) downflow models of atmospheric furnaces.

Today's notice also publishes a "Petition for Waiver" from Trane. Trane's Petition for Waiver requests DOE to grant relief from the Department's test procedures relating to the blower time delay specification. Trane seeks to test using a blower delay time of 45 seconds for TUN(–) TDN(–) atmospheric furnaces instead of the specified 1.5 minute delay between burner on-time and blower on-time. DOE is soliciting comments, data, and information respecting the Petition for Waiver.

DATES: DOE will accept comments, data, and information not later than November 13, 1990.

ADDRESSES: Written comments and statements shall be sent to: Department

of Energy, Office of Conservation and Renewable Energy, Case No. F–026, Mail Stop CE–43, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Cyrus H. Nasseri, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE–43, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–9127 or Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC–12, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586–9507.

SUPPLEMENTARY INFORMATION: The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act (EPCA), Public Law 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act (NECPA), Public Law 95–619, 92 Stat. 3266, the National Appliance Energy Conservation Act of 1987 (NAECA), Public Law 100–12, and the National Appliance Energy Conservation Amendments of 1988 (NAECA 1988), Public Law 100–357, which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including furnaces. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisons. These test procedures appear at 10 CFR part 430, subpart B.

DOE has amended the prescribed test procedures by adding 10 CFR 430.27 on September 26, 1980, creating the waiver process. 45 FR 64108. DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Conservation and Renewable Energy (Assistant Secretary) to grant an interim waiver from test procedures requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of a waiver.

The interim waiver provisions, added by the 1986 amendment, allow the Assistant Secretary to grant an interim waiver when it is determined that the applicant will experience economic hardship if the Application for Interim Waiver is denied, if it appears likely that the petition for waiver will be granted, and/or the Assistant Secretary determines that it would be desirable for public policy reasons to grant immediate relief pending a determination on the petition for waiver. An interim waiver remains in effect for a period of 180 days or until DOE issues its determination, and may be extended for an additional 180 days if necessary.

On July 5, 1990, Trane filed an Application for an Interim Waiver regarding blower time delay. Trane's application seeks an interim waiver from the DOE test provisions that require a 1.5 minute time delay between the ignition of the burner and starting of the circulating air blower. Instead, Trane requests the allowance to test using a 45-second blower time delay when testing its TUN(–) and TDN(–) atmospheric furnaces. Trane states that the 45-second delay is indicative of how these furnaces actually operate. Such a delay results in an energy savings of approximately 1.0 percent. Since current DOE test procedures do not address this variable blower time delay, Trane asks that the interim waiver be granted.

Previous waivers for this type of timed blower delay control have been granted by the Department to the Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990; Trane Company, 54 FR 19226, May 4, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 FR 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; and Inter-City Products Corporation, 55 FR 31100, July 31, 1990. Thus, it appears likely that the Petition for Waiver will be granted for blower time delay.

In those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, based on the above, DOE is granting Trane an Interim Waiver for its TUN(–) upflow models and TDN(–) downflow models of atmospheric furnaces.

Pursuant to paragraph (b) of 10 CFR 430.27, DOE is hereby publishing the "Petition for Waiver" in its entirety. The petition contains no confidential information. DOE solicits comments, data, and information respecting the petition.

In addition, pursuant to paragraph (e) of § 430.27 of the Code of Federal Regulations, the following letter granting the Application for Interim Waiver was issued to Trane Company.

Issued in Washington, DC, October 3, 1990.

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

October 3, 1990.

Mr. James T. Vershaw,
Manager, Furnace System Technology,
Dealer Products Group,
The Trane Company,
Troup Highway,
Tyler, TX 75711.

Dear Mr. Vershaw: This is in response to your July 5, 1990, Application for Interim Waiver and Petition for Waiver from the Department of Energy (DOE) test procedures for furnaces regarding blower time delay when testing Trane Company's TUN(–) and TDN(–) atmospheric furnaces.

Previous waivers for timed blower delay control have been granted to the Coleman Company, 50 FR 2710, January 18, 1985; Magic Chef Company, 50 FR 41553, October 11, 1985; Rheem Manufacturing Company, 53 FR 48574, December 1, 1988, and 55 FR 3253, January 31, 1990; Trane Company, 54 FR 19226, May 4, 1989; DMO Industries, 55 FR 4004, February 6, 1990; Heil-Quaker Corporation, 55 FR 13184, April 9, 1990; Carrier Corporation, 55 FR 13182, April 9, 1990; and Inter-City Products Corporation, 55 FR 31100, July 31, 1990.

Trane's Application for Interim Waiver does not provide sufficient information to evaluate what, if any, economic impact or competitive disadvantage Trane will likely experience absent a favorable determination on the application for interim waiver. However, in those instances where the likely success of the Petition for Waiver has been demonstrated based upon DOE having granted a waiver for a similar product design, it is in the public interest to have similar products tested and rated for energy consumption on a comparable basis.

Therefore, Trane's Application for an Interim Waiver from the DOE test procedures for its TUN(–) and TDN(–) series atmospheric furnaces regarding blower time delay is granted.

Trane shall be permitted to test its line of TUN(–) and TDN(–) atmospheric furnaces on the basis of the test procedures specified in 10 CFR part 430, with the modification set forth below.

(i) Section 9.3.1 of ANSI/ASHRAE Standard 103–1982 is deleted and replaced with the following paragraph:

Gas- and Oil-Fueled Central Furnaces. After equilibrium conditions are achieved following the cool-down test and the required measurements performed, turn on the furnace and measure the flue gas temperature, using the thermocouple grid described above, at 0.5 and 2.5 minutes after the main burner[s] comes on. After the burner start-up, delay the blower start-up by 1.5 minutes (t—), unless: (1) The furnace employs a single motor to drive the power burner and the indoor air circulation blower, in which case the burner and blower shall be started together; (2) the furnace is designed to operate using an unvarying delay time that is other than 1.5 minutes, in which case the fan control shall be permitted to start the blower, or (3) the delay time results in the activation of a temperature safety device which shuts off the burner, in which case the fan control shall be permitted to start the blower. In the latter case, if the fan control is adjustable, set it to start the blower at the highest temperature. If the fan control is permitted to start the blower, measure time delay, (t—), using a stop watch. Record the measured temperatures. During the heat-up test for oil-fueled furnaces, maintain the draft in the flue pipe with ±0.01 inch of water gauge of the manufacturer's recommended on-period draft.

This Interim Waiver is based upon the presumed validity of statements and all allegations submitted by the company. This Interim Waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

The Interim Waiver shall remain in effect for a period of 180 days after issuance or until DOE issues its determination, and may be extended for an additional 180-day period if necessary.

Sincerely,

J. Michael Davis,

Assistant Secretary, Conservation and Renewable Energy.

July 5, 1990.

Assistant Secretary, Conservation and Renewable Energy,

United States Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585..

Gentlemen: This petition for waiver and interim waiver is submitted pursuant to 10 CFR 430.27. Waiver is requested from the furnace test procedure found at appendix N to subpart B of part 430. The Heat-Up Test procedure requires a 1.5 minute time delay between burner and blower-startup. Significant energy is lost during the delay period. Starting in August 1990, Trane will manufacture atmospheric furnaces having fixed timing controls which will activate the blower 0.75 minutes after burner start-up. These furnaces will include the TUN (—) upflow and TDN (—) downflow model families. These controls reduce energy losses by an average of 1 percent. The current procedures do not recognize such controls causing energy losses to be overstated. This petition requests that the true delay be used for more accurate representation of efficiency. Confidential supporting test data is available upon request.

An interim waiver is requested because it seems likely that our waiver will be granted. Similar waivers have been granted to Evcon, Rheem, Carrier, and Lennox. All central furnace manufacturers known to Trane have been notified by letter of our application. A copy of the letter and a list of the manufacturers is attached.

Sincerely,

James T. Ver Shaw,

Manager, Furnace System Technology.

July 5, 1990.

Mr. J.P. Norton,

Director of Engineering, The Williamson Company, 3500 Madison Road, Cincinnati, Ohio 45209.

Dear Mr. Norton: Attached is a copy of The Trane Company's Application for Waiver and Interim Waiver from DOE test procedures for central furnaces. The Assistant Secretary for Conservation and Renewable Energy will receive and consider timely written comments on the Application for Interim Waiver. A copy of the comments sent to DOE must also be sent to the applicant.

Sincerely,

James T. Ver Shaw,

Manager, Furnace System Technology.

List of Manufacturers

Mr. J.P. Norton, Director of Engineering, The Williamson Company, 3500 Madison Road, Cincinnati, Ohio 45209

Mr. Allen Kessler, Chief Engineer Environmental Products, Amana Refrigeration, Inc., Amana, Iowa 52204

Mr. Edward A. Baily, Director of Government and Industrial Relations, Carrier Corp., P.O. Box 4808, Syracuse, New York 13221

Mr. Richard O. Bard, President, Bard Manufacturing Company, P.O. Box 607, Bryan, Ohio 43506

Mr. Allan Zimmerman, Vice President of Canadian Operations and Customer Service, EVCON Industries, Inc., Heating and Air Conditioning Group, 3110 N. Mead, P.O. Box 19014, Wichita, Kansas 67204–9014

Mr. John M. Wiese, Vice President of Engineering, Comfortmaker, SynderGeneral Corporation, 401 Randolph Street, Red Bud, Illinois 62278

Mr. Richard H. Weber III, President, Consolidated Industries Corp., A Subsidiary of Welbilt Corporation, 800 South Sagamore Parkway, P.O. Box 7800, Lafayette, Indiana 47903

Mr. David B. Schumacher, Engineering Manager, Arcoaire, SnyderGeneral Corporation, 401 Randolph Street, Red Bud, Illinois 62278.

Mr. Ronald Laffler, Manager, Product Engineering, The Dometic Corporation, 509 South Poplar Street, LaGrange, Indiana 46761

Mr. John Ducate, Jr., Ducane Heating Division, The Ducane Company, suite 200, Dutch Plaza, 800 Dutch Square Boulevard, Columbia, South Carolina 29210

Mr. Michael E. Bryant, National Sales Manager, DMO Industries, 56 Squirrel Road, Pontiac, Michigan 48057–1942

Mr. Charles L. Green, President, Ford Products Corporation, Valley Cottage, New York 10989

Mr. John V. McFadden, President, Glowcore Corporation, P.O. Box 8971, Cleveland, Ohio 44136

Mr. Peter H. Alexander, Vice President, Engineering, Goodman Manufacturing Corporation, 1501 Seamist, Houston, Texas 77008

Mr. Charles H. Findley, Vice Chairman, 1136 Heil-Quaker Boulevard, P.O. Box, 3005, LaVergne, Tennessee 37086

Mr. Donald W. Munson, Executive Vice President of Division Operations, Lennox Industries, Inc., P.O. Box 809000, Dallas, Texas 75380–9000

Mr. Robert E. G. Ractliffe, President, Nordyne, Inc., A Nortek Company, 10820 Sunset Office Drive, St. Louis, MO 63127

Mr. Edward E. Schott, President, Reznor, A Division of FL Industries, Inc., McKinley 1 Avenue, Mercer, PA 16137

Mr. Donald F. Foster, President, Rheem Air Conditioning Division, 5600 Old Greenwood Road, P.O. Box 6444, Ft. Smith, Arkansas 72906

Mr. Paul H. McGinnes, Product Manager, Gas-Fired Products, Sterling Gas-Fired Heating Equipment, Division of Reed National Corp., 260 North Elm St., Westfield, Mass 01085

Mr. Bobby D. Vincent, Vice President-Engineering, Suburban Manufacturing Company, P.O. Box 399, Dayton, TN 37321

Mr. Everett E. James, Director of Engineering, Thermo-Products, Inc., P.O. Box 217, North Judson, Indiana 46366

Mr. Edward H. Ytsma, Chairman, XXth Century Heating & Ventilating Co., 203 Erie Street, P.O. Box 117, Wellington, Ohio 44090.

Mr. Theron C. Stroke, President, Victa Hytemp Industries, Inc., 35 Neoga Street, Depew, New York 14043

Mr. Clem J. Luebke, Vice President, Welbilt Corporation, 125 Northshore Drive, Burlington, Vermont 05401

Mr. Richard C. Barnett, President, York International Corporation, Central Environmental Systems Division, P.O. Box 1592, York, PA 17405

[FR Doc. 90–24133 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

University Research Instrumentation Program; Solicitation Announcement

AGENCY: Department of Energy, Office of Energy Research.

ACTION: Program solicitation announcement.

SUMMARY: The purpose of this notice is to announce the availability of the University Research Instrumentation (URI) program solicitation, and to inform potential applicants of the closing date and location for transmittal of applications for awards under this

program. For more detailed background information about the URI solicitation, please refer to the following related documents: (1) DOE request for public comment on the URI program, June 7, 1983 (48 FR 26328–26331), (2) October 18, 1983, DOE changes to the program (48 FR 48277–48281); and (3) December 15, 1983, DOE program solicitation announcement (48 FR 55774–55775).

FOR FURTHER INFORMATION CONTACT: All communications or questions regarding this program solicitation should be directed to:

Ms. Susan Black, Procurement and Contracts Division, Department of Energy, Oak Ridge Operations Office, Post Office Box 2001, Oak Ridge, TN 37831–8758, Telephone Number: (615) 576–0792.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the University Research Instrumentation program is to assist university and college scientists in strengthening their capabilities to conduct long-range research in specific energy research and development areas of direct interest to DOE through the acquisition of specialized research instrumentation. This program is consistent with, and part of, a government-wide effort to increase the availability of advanced research instrumentation in unversities and colleges. For FY 1991, the appropriation recommended in the conference report for the Energy and Water Development Appropriations Bill is $5.0 million. In anticipation of enactment of this bill, DOE invites all qualified universities to write for a copy of its University Research Instrumentation program solicitation, DOE–ER–0184/6, Notice of Program Announcement Number DE–PS05–91ER75608. Selection for award under this solicitation is subject to the availability of funds.

Principal Research Areas

While all areas of energy research are eligible, in FY 1991 the URI program's funds will be concerned primarily with capital equipment costing $100,000 or more needed for on-campus research in one of five specific energy areas (listed below in alphabetical order). In order to indicate the potential breadth of the research in each area, a number of example of related research topics are given. Within each topic area no preference is given to any of the examples.

1. Biomedical and Environmental Research

a. *Nuclear Medicine:* (1) Research on the applications of radiation, radioisotopes and stable isotopes in the diagnosis, study and treatment of human diseases; (2) production of radionuclides, new radiopharmaceuticals, automated chemical synthesis systems, studies of biodistribution and pharmacokinetics of radiolabeled compounds; (3) improvement of biomedical imaging techniques (SPECT, PET, NMR spectroscopy, and magnetoencephalography, etc.) for diagnosis and physiologic and metabolic studies; (4) development of boronated compounds with higher selectivity for tumor tissue to ascertain clinical merit of boron neutron capture therapy.

b. *Life Science Studies:* (1) DNA damage and repair; (2) mapping and sequencing the human genome; (3) characterizing the structure and function of biological macromolecules; (4) health and environmental effects of radon exposure; (5) computer applications for analyzing biological data.

c. *Environmental Processes and Effects:* (1) Subsurface microbiology, contaminant transport, and factors affecting mobilization and immobilization of mixed waste regimes in systems, including new technologies to characterize microbes and the groundwater systems within which they grow; (2) determination of the movement and fate of contaminants and naturally occurring materials introduced along the ocean margins; (3) development of integrated ecological studies focusing on water and nutrient relations in large scale ecosystem research that will contribute to global, and regional research activities.

d. *Atmospheric and Climate Research:* (1) Measurement and control systems for experimental research of biological effects of CO_2 and climate variables; instrumentation to produce and measure tracer material (e.g., C^{11} isotope) for real time studies of carbon fixation and metabolism with plants; (2) ground base remote sensing instruments such as: Radio Acoustical Sounder (RASS) for temperature profiles; Differential Absorption Lidar (DIAL) for water vapor profiles, Raman Lidars for water vapor profiles; Doppler Wind Systems and High Resolution Interferometer Sounder (HIS) for solar and infrared spectral measurements.

2. Chemical and Coal Sciences

a. *Chemical Sciences:* (1) Dynamics and kinetics of high temperature chemical reactions and rapid time-resolved spectroscopy, reaction mechanisms of complex hydrocarbons and hazardous byproducts, and high temperature reaction dynamics/rapid time-resolved spectroscopies; (2) surface chemistry studies including the chemistry of adsorbates, surface compositions, and studies of molecules at solid-solution interfaces; (3) organic and organometallic molecules used in separation processes, including solvent extraction; (4) correlation effects which accompany multi-electron transfer and excitation in laser assisted atomic ion collisions.

b. *Coal Sciences:* (1) Fundamental and thermodynamic effects of temperature and pressure on transport phenomena with or without chemical reactions; measurement and correlation of thermodynamic and transport properties pertinent to coal conversion and utilization; supercritical phase behavior; (2) environmental regeneration chemistry of flue gas cleanup sorbents, reactivity of lime/limestone when used in wet scrubbers, elimination of sulfur, nitrogen, halide, alkali and heavy metal compounds from coal conversion and utilization processes; (3) new reaction sequences for coal liquefaction, including configurations to optimize critical intermediates; novel catalytic approaches to selective conversion of coal gasification products to condensable fuels; new chemistries for coal liquefaction, including coal pretreatment, cleavage of specific bonds and non-poisoned or regenerable catalysts; predictive methods for thermophysical and thermodynamic properties of coal derived liquids.

3. Geosciences

Research on the geology, geophysics and geochemistry of rock/fluid systems, especially particular systems related to discovery and recovery of energy resources or to isolation of energy-related wastes.

a. *Borehole Instrumentation:* (1) In-situ chemistry; (2) pH; (3) In-situ measurement of rock permeability, porosity and strain.

b. *Coupled geoscience processes:* The development of integrated geological models for determining hydrocarbon and geothermal potentials or for understanding dispersion of pollutants; including: (1) Reservoir delineation; (2) assessment of formation stability; and (3) flow in fractured reservoirs or repositories.

c. *Underground imaging:* Research utilizing either seismic or electromagnetic methods.

4. Materials Research

Synthesis, processing and characterization of advanced materials, including: Ceramics and ceramic matrix composites, photovoltaic semiconductors, polymers, and ceramic intermetallic, or polymeric superconductors.

a. Synthesis of controlled ceramic powder or fiber with reduced levels of impurity and foreign particulate contamination and in compliance with relevant health, environment, and safety concerns.

b. Microstructural and microchemical analysis of solids, solid surfaces, solid-solid interfaces, and the characterization of point, line and planar defects and pore structure.

c. Elevated temperature mechanical behavior characterization and processing techniques.

d. Structure and dynamics of materials in relation to properties and phenomena of underlying significance in energy systems.

e. Non-destructive evaluation techniques for porous ceramics used in high temperature filters and membrane separation processes.

5. Plant and Microbial Molecular Research

a. *Basic plant sciences:* Research devoted to understanding the fundamental cellular and molecular mechanisms of plant conversion of solar energy into chemical energy. This would include studies on growth and development, as well as other physiological processes that determine plant productivity as renewable resources (biomass).

b. *Fermentative microbiology:* (1) Examination of the various basic biochemical processes involved in the broad spectrum of metabolic, both anaerobic and aerobic, transformations carried out by non-medical microorganisms; (2) research on the physiology, biochemistry and molecular biology of both monocultures and complex consortia; (3) organisms occupying unique, exotic niches with the potential to be exploited in future energy-related biotechnologies.

While the equipment requested will be equally suitable and may be used for research on other energy-related topics, the need for the instrument(s) must be justified (and the application will be reviewed) in terms of its value and ability to enhance the institution's capabilities in the principal designated energy-related research area specified on the cover sheet. The instrument's utility in advancing other areas of scientific or technical research is of peripheral interest during the application's review procedure.

Eligibility and Limitations

Participation in the URI program is limited to U.S. universities and colleges that currently have active, ongoing DOE-funded research support (including subcontracts) totalling at least $150,000 in value in the specific area for which the equipment is requested during the past two fiscal years (October 1, 1988 to September 30, 1990).

DOE is establishing this limitation to ensure that the instrumentation acquired with these grants will significantly expand the research capability of institutions which have already demonstrated the capability to perform long-range energy research. The Office of Energy Research believes that restricting eligibility to institutions which have performed $150,000 of DOE supported research over a two-year period will limit eligibility in this grant program to those institutions which, because of their existing commitment to energy research, are best able to incorporate advanced instrumentation into their research programs. Special consideration will be given to Historically Black Colleges and Universities (HBCU's) which meet the institutional eligibility criteria, and have significant research capabilities in the selected research area. DOE will consider only requests for larger instruments, costing about $100,000 or more, which are required to advance research in the designated area. Small research instruments (less than $100,000 each) will not be eligible for consideration in this program. General purpose computing equipment is also not eligible under this program. However, laboratory computers and associated peripherals dedicated for use directly with the istrument(s) requested (or for use with existing research instrument(s) in the selected area may be considered. Computer equipment for theoretical research will be eligible under this program, but will be given secondary consideration relative to instrumentation for experimental research.

Application Forms

Program solicitations are expected to be ready for mailing by October 10, 1990. Applications must be prepared and submitted in accordance with the instructions and forms included in the program soliciation. Copies may be obtained by writing to: Office of University and Science Education Programs, Office of Energy Research, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585; Telephone Number: (202) 586–8910.

Closing Date for Transmittal of Applications

To be eligible, applications must be received at the following address by 4:30 p.m., local prevailing time, December 10, 1990.

DOE University Research Instrumentation Program, Contracts Management Division, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, ID 83402.

Authority for the University Research Instrumentation Program is contained in section 31 (a) and (b) of the Atomic Energy Act of 1954 (42 U.S.C. 2051) and section 209 of the Department of Energy Organization Act (42 U.S.C. 7139).

(Catalog of Federal Domestic Assistance No. 81.077, University Research Instrumentation Program)

Issued in Washington, DC on October 1, 1990.

Ira M. Adler,

Director, Office of Management, Office of Energy Research.

[FR Doc. 90–24135 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

Office of Fossil Energy

Coal Policy Committee, National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Coal Policy Committee of the National Coal Council.

Date and Time: Wednesday, November 7, 1990, 8:30 a.m. to 11:25 a.m.

Place: Ritz-Carlton Pentagon City Hotel, 1250 South Hayes Street, Arlington, VA.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–1), Washington, DC 20585, Telephone: 202/586–4695.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of the Meeting: To discuss new studies.

Tentative Agenda:

—Call to order by William Wahl, Chairman.

—Address by the Honorable Robert H. Gentile, Assistant Secretary for Fossil Energy.

—Discussion of new studies tc be undertaken.

—Discussion of any other business properly brought before the National Coal Council Coal Policy Committee.
—Public comment—10-minute rule.
—Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wished to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 5, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90–24009 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Coal Council.

Date and Time: Thursday, November 8, 1990, 9:30 a.m. to 12 Noon.

Place: Ritz-Carlton Pentagon City Hotel, 1250 South Hayes Street, Arlington, VA.

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE–1), Washington, DC 20585, Telephone: 202/586–4695.

Purpose of the Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda:
—Call to order by William Carr, Chairman of the National Coal Council.
—Remarks by Chairman Carr.
—Remarks by the Honorable James D. Watkins, Secretary of Energy.
—Report of the Coal Policy Committee.
—Report of the Finance Committee.
—Discussion of any other business properly brought before the Council.
—Public comment—10-minute rule.
—Adjournment.

Public Participation: The meeting is open to the public. The chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wished to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on October 5, 1990.

J. Robert Franklin,

Deputy Advisory Committee, Management Officer.

[FR Doc. 90–24008 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–63–NG]

L&J Energy Systems, Inc.; Application for Long-Term Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of Application for Long-Term Authorization to Import Natural Gas From Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on July 16, 1990, and supplemented on September 14, 1990, by L&J Energy Systems, Inc. (L&J Energy), requesting authorization to import up to 11,700 Mcf per day of natural gas from Canada over a period of 20 years. The imported gas would be purchased from Morgan Hydrocarbons, Inc. (Morgan) and used to fuel the applicant's new 49-megawatt, combined-cycle cogeneration facility in the Village of Lowville, New York. The L&J Energy plant is under construction and scheduled for commercial operation January 1, 1992. Delivery of the gas would begin on the first day of the test phase of the cogeneration facility, expected to be November 1, 1991, which would initiate the term of the requested import authorization.

The gas would enter the United States at the international border near Iroquois, Ontario/Waddington, New York, where the pipeline facilities of TransCanada PipeLines Limited (TCPL) and the proposed Iroquois Gas Transmission System (Iroquois) interconnect, and then would be transported by Iroquois to Watson, New York. A six-mile tie pipeline would be built by L&J Energy between the facilities of Iroquois and the cogeneration plant site.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 13, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–056, FE–50, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

P. J. Fleming, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F–094, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–4819

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: L&J Energy is a New York corporation with its principal place of business in Tampa, Florida. Its cogeneration facility was certified by the Federal Energy Regulatory Commission (FERC) as a "qualifying facility" under the Public Utility Regulatory Policies Act of 1978 (PURPA). *See L&J ENERGY SYSTEMS, INC.*, 45 FERC Para. 62,029 (1988). In addition, L&J Energy has certified to the DOE pursuant to the Powerplant and Industrial Fuel Use Act of 1978, as amended (54 FR 52886, December 22, 1989), that the cogeneration facility would be capable of using coal or another alternate fuel as a primary energy source. The electricity produced by the cogeneration facility would be sold to Niagara Mowhawk Power

Corporation (Niagara Mowhawk). Thermal energy recovered from the facility would be used by Kraft, Inc.

The gas purchase agreement between L&J Energy and Morgan dated March 9, 1990, is for a term of 15 years with provision for a five-year extension. Under its terms, L&J Energy would pay a two-part price consisting of a demand and commodity component. L&J would receive the gas near the Alberta-Saskatchewan border at Burstall, Saskatchewan, where the pipleline facilities of Nova Corporation of Alberta (Nova) interconnect with TCPL. Transportation beyond Burstall to the Iroquois system would be covered by a separate transportation service agreement that L&J Energy intends to enter into with TCPL. The monthly demand charge would be the product of the average of the daily contract quantities on each day of the relevant month (excluding quantities delivered to the cogeneration facility during its test phase) and the monthly demand rate. The demand rate would be the sum of the demand charges paid by Morgan to Nova for deliveries at the Alberta border and a supply reservation fee of $0.20 (U.S.) per MMBtu. The commodity charge is set initially at $1.60 (U.S.) per MMBtu and would be adjusted quarterly pursuant to a formula which is based equally on the percentage change in Niagara Mohawk's average annual marginal avoided energy cost above or below a base cost of $0.0253 per kilowatthour and the percentage change in CNG Transmission Corporation's gas commodity component in its RQ Rate Schedule above or below a base cost of $2.4146 (U.S.) per MMBtu. L&J Energy is entitled to a monthly credit against the commodity charges and fuel charges billed by TCPL directly to L&J Energy. There is a provision for renegotiation of the pricing terms every two years and binding arbitration, if necessary.

Under the pricing scheme, L&J Energy estimated that the price on January 1, 1990, for deliveries of this gas at the Alberta border, if deliveries had then taken place, would have been approximately $2.25 (U.S.) per MMBtu. Based on TransCanada's current transportation rates, the total delivered cost of the imports at the U.S./Canada border near Waddington, New York would have been approximately $2.87 (U.S.) per MMBtu at a 100 percent load factor.

If L&J Energy's gas purchases from Morgan fall below 60 percent of the aggregate of the annual contract quality (11,700 x 365 days), L&J Energy must pay a deficiency charge equal to the average of the commodity charges in effect during the contract year times the volumes not taken below that minimum quantity. In addition, the amount which Morgan is obligated to supply is subject to reduction if L&J Energy takes less than 70 percent of the annual contract quantity.

Under the gas purchase agreement, Morgan is required by July 15, 1991 (but in no event later than July 15, 1992), to dedicate sufficient reserves to suply the cogeneration facility throughout the term of agreement. L&J Energy indicates that Morgan has already dedicated sufficient reserves to the import project for the first twelve contract years. It is noteworthy that with respect to the decision to select Morgan as a supplier, L&J Energy states that it contacted several potential domestic and Canadian gas suppliers, but was not able to find terms that were as competitive as those negotiated with Morgan.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters that may be considered in making a public interest determination include need for gas and security of the long-term supply. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that its proposed import arrangement is and would remain competitive over the term of the requested authorization and that the gas supply is secure. Parties opposing the proposed import arrangement bear the burden of overcoming these assertions.

All parties should be aware that if the application is approved, the authorization would be conditioned on the filing of quarterly reports indicating volumes imported and purchase price in order to facilitate monitoring of the operation of the DOE's natural gas import program.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. The FERC, on June 1, 1990, issued a Final Environmental Impact Statement (FEIS) on the impacts of constructing and operating the Iroquois pipleine facilities (FERC/EIS–0054). The DOE participated as a cooperating agency during the preparation of the FEIS and will independently review the results of the FERC environmental evaluation of these facilities in the course of making its own environmental determination. No final decision will be issued in this proceeding will the DOE has net its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to itnervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trail-type hearing is necessary for a full and true discolsure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be used based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of L&J Energy's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., October 9, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–24136 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–69–NG]

JMC Fuel Services, Inc.; Application To Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on August 10, 1990, of an application filed by JMC Fuel Services, Inc. (JMC Fuel), requesting blanket authorization to export from the United States to Canada up to 12 Bcf of natural gas on an interruptible basis over a two-year period commencing with the date of first delivery. JMC Fuel intends to use existing pipeline facilities within the United States and at the international border for transportation of the exported natural gas. JMC Fuel states that it will notify the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 13, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–1789.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC. 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: JMC Fuel, a Delaware corporation and wholly owned subsidiary of J. Makowski Company, Inc., is a marketing company created to purchase and market natural gas in both the United States and Canada. The applicant states that the contractual arrangements will be based solely on prevailing market prices and gas supply conditions.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR Sec. 590.316.

A copy of JMC Fuel's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 9, 1990.

Clifford L. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-24139 Filed 10-11-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-04-NG]

Rochester Gas and Electric Co.; Amendment To Pending Natural Gas Export and Import Application

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of amendment to pending natural gas export and import application.

SUMMARY: The Office of Fossil Energy of the Department of Energy (DOE) gives notice of receipt on June 15, 1990, of an amendment to Rochester Gas and Electric Company's (RG&E) pending application to export natural gas to and import natural gas from Canada. The amendment would increase the volumes which RG&E seeks authorization to export to Canada at St. Clair, Michigan, from up to 185 MMcf per day of natural gas to up to 227.5 MMcf per day, for subsequent import from Canada at Grand Island, New York, over a 15-year period. The remaining terms of the proposed export and import of natural gas would remain essentially the same as described in the notice of RG&E's original application issued March 16, 1990, (55 FR 10662, March 22, 1990). The increased volumes, like the volumes in RG&E's original request, would be a means of supplying gas for RG&E's system supply and would not result in a net export or import of natural gas except for small amounts supplied to TransCanada PipeLines Limited (TransCanada) for fuel gas to transport the exported volumes in Canada. Transportation arrangements have been modified to the extent necessary to reflect the amended volumes for which RG&E seeks to export and import. The gas would be moved for export at St. Clair, Michigan, utilizing existing facilities of Great Lakes Gas Transmission Company (Great Lakes) and ANR Pipeline Company. Transportation of the gas to RG&E after it reenters the U.S. at Grand Island, New York, would be via the proposed Empire State Pipeline, a 155-mile, 24-inch pipeline to be constructed jointly by Empire State Pipeline Company, Inc. and St. Clair Pipeline Company, Inc.

Motions to intervene, notices of intervention and written comments are invited. Commentors who filed motions to intervene in response to the notice of RG&E's original export/import proposal need not file additional motions or comments on the amended application to retain their intervention status. Such commentors may file additional comments if they wish to do so.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than November 13, 1990.

ADDRESSES: Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Stanley C. Vass, Office of Fuels Programs, Office of Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-53, 1000 Independence Avenue, SW., Washington, DC 20585, (301) 353-3168.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, GC32, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: In response to the notice of RG&E's original export/import application, a motion to intervene, without comment, was filed by Great Lakes. CNG Transmission Corporation (CNG) filed a motion to intervene in opposition to RG&E's export/import proposal and requested a trial-type hearing. National Fuel Gas Supply Corporation (National Fuel) filed a motion to intervene and requested additional proceedings if it is determined that the Federal Energy Regulatory Commission (FERC) does not have jurisdiction over the proposed Empire State Pipeline or over a proposed alternative pipeline arrangement to transport the gas to RG&E filed by National Fuel.

On July 10, 1990, CNG filed a motion requesting FE to reject the amendment to RG&E's application increasing the volumes of natural gas which RG&E seeks to export to Canada and subsequently import back into the U.S. CNG contends that the amendment should be rejected because: (1) RG&E did not disclose in the amendment that RG&E's proposed exportation of natural gas to and importation of gas from Canada was being considered at the FERC; and (2) RG&E does not have firm transportation arrangements for all of the gas RG&E proposes to export and import. On July 25, 1990, RG&E filed an answer to CNG's motion contending that: (1) RG&E had disclosed in its amendment that its export/import proposal was under consideration at the FERC; and (2) that the regulations applicable to RG&E's export/import application do not restrict FE's authority to review and approve applications to situations in which all transportation arrangements have been finalized prior to the filing of the applications.

Since, according to the application, the same gas would be exported and imported solely as part of a transportation arrangement, and would not be sold or stored in Canada, the DOE does not believe that it is necessary to consider in its evaluation domestic need for the gas with respect to the proposed export, nor competitiveness, need for the gas, or security of supply with respect to the proposed import. The DOE will consider the impact of the transportation arrangement on the availability of gas in markets served by Great Lakes' and ANR's pipeline systems, and by the proposed Empire State Pipeline.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321, *et seq.*) requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. The FERC is currently performing an environmental review of the impacts of constructing and operating the proposed facilities related to this project in FERC Docket Nos. CP90-316-000 and CP90-317-000. The DOE will independently review the results of the FERC evaluation of this project in the course of making its own environmental determination. No final decision will be issued in this proceeding until the DOE has met its NEPA responsibilities regarding the RG&E application.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. For those who have already filed motions to intervene in this proceeding, this is an opportunity to file further comments or revise previous comments based on the amendment to the application. Any other person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be

taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs, Fossil Energy, room 3F–056, FE–50, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m., e.s.t., November 13, 1990.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of RG&E's amended application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 9, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–24140 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–57–NG]

Tejas Power Corp.; Order Granting Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Tejas Power Corporation (Tejas Power) blanket authorization to export from the United States to Mexico up to 200 Bcf of natural gas over a two-year period commencing on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 9, 1990.

Clifford P. Tomaszewski.

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–24137 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 90–58–NG]

Transco Energy Marketing Co.; Order Granting Blanket Authorization To Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an Order granting blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Transco Energy Marketing Company (TEMCO) blanket authorization to export from the United States to Canada up to 73Bcf of natural gas over a two year period commencing on the date of first delivery.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, October 9, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–24138 Filed 10–11–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–3852–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 24, 1990 Through September 28, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D–AFS–J65162–MT Rating EC2, Mill-Lion Project area Timber Sale, Implementation, Lewis and Clark National Forest, Musselshell Ranger District, Meagher County, MT.

Summary. EPA believes the Forest Service's preferred alternative would impact water quality/fisheries on several creeks, one river, and potentially a storage reservoir. No water quality monitoring is proposed for this project and overgrazing of livestock appears to contribute to existing unacceptable sediment loading in the sale are drainages.

ERP No. D–BLM–K00001–00 Rating E02, Ward Valley Low-Level Radioactive Waste Disposal Facility, Site Selection, Construction and Operation, Funding and Right-of-Way Grants, San Bernardino County, CA.

Summary. EPA expressed environmental objections because of the potential for significant adverse impacts associated with the migration of radionuclides to ground water and the vadose zone. The draft EIS lacked sufficient information on the procedures and methodology that would be used to

monitor the movement of radionuclides through the trenches and vadose zone. EPA stated that potentially significant adverse impacts to ground water would be sufficiently reduced if an adequate monitoring system to ensure early detection and correction of such problems were a part of the proposed project.

ERP No. D–FHW–E40732–NC Rating EC2, North Charlotte Outer Loop Construction NC–27/Mount Holly Road to I–85 near U.S. 29 Connection, Funding, section 404 Permit, Mecklenburg County, NC.

Summary. EPA believes that the potential noise impacts should be reduced and mitigation measures proposed. Wetland losses should also be reduced. EPA also had concerns over the potential impact to area drinking water supplies.

ERP No. D–FHW–E40733–NC Rating EC2, West Charlotte Outer Loop Construction, I–77 South near Westinghouse Boulevard to NC 27, Funding, section 404 Permit, Mecklenburg County, NC.

Summary. EPA's review concluded that additional air quality analysis and clarification of wetland losses and mitigation potential should be completed in the final EIS. Additionally, clarification of the noise analysis and greater examination of potential mitigation options should be completed.

ERP No. D–USA–K11042–00 Rating EC2, Presidio of San Francisco Army Base, Closure and Relocation to other Facilities, Implementation, Alternates are in CA, CO, GA, HI, KY, MD, MO, NC, PA, SC, TX, WA and DC.

Summary. EPA expressed concerns that since the 1985 Presidio of San Francisco has had unresolved compliance problems due to the improper disposal of polychlorinated biphenyls (PCBs). EPA asked that the final EIS contain more information on the contamination and cleanup of PCBs and other hazardous wastes.

ERP No. DB–FHW–B40050–MA Rating EU2, Central Artery/I–93 to Third Harbor Tunnel/I–90 Extension, Design Modifications, Updated and Additional Information, Funding, COE section 10 and 404 Permits, U.S. CGD Permits, and EPA NPDES Permit, Suffolk County, MA.

Summary. EPA does not object to the proposed project as a whole. However, EPA believes that certain key elements of the project as currently proposed, (i.e., material disposal, and construction impacts), would cause adverse environmental impacts. These impacts are of sufficient magnitude that the project should not proceed until they are resolved in the supplemental final EIS in accordance with the substantive requirement of the Clean Water Act, NEPA and potentially, the Clean Air Act. Furthermore, EPA believes that the draft EIS does not fulfill NEPA's requirements for disclosure of significant environmental impacts and evaluation of less damaging alternatives. Finally, EPA encourages FHWA to take a creative approach to evaluating the myriad mitigation and environmental enhancement measures appropriate for a project of this magnitude.

Final EISs

ERP No. F–AFS–G65050–NM Eagle Peak and Buzzard Timber Sales Management Plan, Implementation, Reserve Ranger District, Gila National Forest, Catron County, NM.

Summary. EPA has no objections to the proposed action as described.

ERP No. F–SFW–K64015–CA Seal Beach National Wildlife Refuge and Seal Beach Naval Weapons Station Endangered Species Management and Protection Plan, Development and Implementation, Orange County, CA.

Summary. Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

ERP No. F–UAF–K11040–CA Beale Air Force Base Realignment Relocation of 323rd Flying Training Wing out of Mather AFB, Implementation, Yuba County, CA.

Summary. EPA stated that the final EIS did not provide sufficient information to determine the selected alternatives' compliance with section 404 of the Clean Water Act which regulates the discharge of dredged or fill material into waters of the United States. EPA also requested the implementation of mitigation measures to protect water quality, air quality, wetlands and biological resources, and mitigation regarding solid waste recycling and hazardous waste minimization.

ERP No. F–USN–K35030–CA P–202 Naval Air Station Alameda and P–082 Naval Supply Center Oakland Dredging Projects, Implementation.

Summary. EPA raised a number of issues on the draft EIS that was not addressed in the final EIS. Accordingly, EPA agreed with the Navy's commitment to prepare subsequent EISs to address the environmental impacts of dredged materials disposal at either an uplands site (Skaggs Island) or an ocean disposal site. The Navy needs to provide additional information in order to receive either an uplands site disposal permit (Clean Water Act section 404 Permit) or an ocean disposal permit (Marine Protection, Research and Sanctuaries Act section 103 Permit). EPA requested the opportunity to review a draft copy of the Navy's Record of Decision before it is officially issued.

ERP No. FA–FHW–B40050–MA Central Artery/I–93 and Third Harbor Tunnel/I–90, South Boston Haul Road Construction Dorchester Avenue to Congress Street Funding, COE section 404 Permit and EPA NPDES Permit, City of Boston, Suffolk County, MA.

Summary. EPA believes that our concerns raised on the draft EIS have been satisfactorily resolved.

ERP No. FS–AFS–K65085–NV Humboldt National Forest, Land and Resource Management Plan, Implementation, Elko, Humboldt, Nye, Lincoln and White Pine, NV.

Summary. Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

Dated: October 9, 1990.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 90–24142 Filed 10–11–90; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3852–1]

Environmental Impact Statements: Availability

Responsible Agency: Office of Federal Activities. General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed October 01, 1990 Through October 05, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900370, FINAL EIS, AFS, CA, Sherwin Bowl Ski Area Development, Alpine Skiing, Special Use Permit, Inyo National Forest, Mammoth Ranger District, Mono County, CA, Due: November 12, 1990, Contact: John Ruopp (619) 873–5841.

EIS No. 900371, DRAFT EIS, GSA, MI, Internal Revenue Service Detroit Computing Center Expansion, Construction, Wayne County, MI, Due: November 26, 1990, Contact: Ms. Sharon Malloy (312) 353–5610.

EIS No. 900372, FINAL EIS, MMS, AK, 1991 Beaufort Sea Outer Continental Shelf (OCS) Oil and Gas Sale 124, Lease Offering, AK, Due: November 12, 1990, Contact: Richard H. Miller (703) 787–1674.

EIS No. 900373, DRAFT EIS, AFS, WI, Sunken Camp Area, Management Plan, Implementation, Chequamegon National Forest, Washburn Ranger District, Bayfield County, WI, Due: December 01, 1990, Contact: Steven J. Christiansen (715) 373–2667.

EIS No. 900374, DRAFT EIS, FHW, AR, Siloam Springs Highway Construction, Siloam Springs to Springdale, Funding, Section 404 Permit, Benton and Washington Counties, AR, Due: December 03, 1990, Contact: Marion Butler (501) 569–2281.

EIS No. 900375, DRAFT EIS, REA, FL, Hardee Power Station and Related Facilities, 230kV Transmission Line and Natural Gas Pipeline, Construction and Operation, Loan Guarantee, NPDES Permit, Hardee, Polk, DeSoto, Lee and Charlotte Counties, FL, Due: November 26, 1990, Contact: Alex M. Cockey (202) 382–8437.

EIS No. 900376, DRAFT EIS, AFS, MT, Montanore Mine/Mill Project, Construction and Operation, Permit Approval, section 404 Permit, Special Use Permit, Kootenai National Forest, Lincoln and Sanders Counties, MT, Due: December 11, 1990, Contact: Ron Erickson (406) 293–6211.

EIS No. 900377, DRAFT EIS, BPA, WA, ID, WY, OR, MT, UT, Initial Northwest Power Act, Power Sales an Residential Exchange Contracts, WA, OR, ID, MT, WY and Ut, Due: December 10, 1990, Contact: Carol M. Borgstrom 1(800) 841–5867.

EIS No. 900378, FINAL EIS, UAF, MA, OTIS Air National Guard Base Wastewater Treatment Facility, Continuing Operation, Barnstable County, MA, Due: November 12, 1990, Contact: Dick Masse (301) 981–8160.

EIS No. 900379, FINAL SUPPLEMENT, AFS, CA, Mt. Shasta Ski Area Development, Selecting National Forest System Land for Alpine Skiing, Implementation, Siskiyou County, CA, Due: November 12, 1990, Contact: Duane H. Lyon (916) 246–5499.

EIS No. 900380, DRAFT EIS, USN, WA, Naval Station Puget Sound (NSPS) Sand Point Realignment to NSPS Everett, Implementation, City of Seattle, WA, Due: November 26, 1990, Contact: Don Morris (206) 476–1091

Dated: October 09, 1990.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 90–24141 Filed 10–11–90; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3851–9]

Underground Injection Control Program, Hazardous Waste Disposal Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection Malone Service Company, Texas City, TX

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision on petition.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Malone Service Company, for the Class I injection wells located at Texas City, Texas. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Malone Service Company, of the specific restricted hazardous waste identified in the petition, into the Class I hazardous waste injection wells at the Texas City, Texas facility specifically identified in the petition, for as long as the basis for granting an approval of the petition remains valid, under provisions of 40 CFR 148.24. As required by 40 CFR 124.10, a public notice was issued August 1, 1990. A public hearing was held September 5, 1990, and a public comment period ended on September 14, 1990. All comments have been addressed and have been considered in the final decision. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of September 28, 1990.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Management Division, Water Supply Branch (6W–SU), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Oscar Cabra, Jr., Chief Municipal Facilities Branch, EPA—Region 6, telephone (214) 655–7110, (FTS) 255–7110.

Myron O. Knudson, P.E.,

Director, Water Management Division (6W).

[FR Doc. 90–24021 Filed 10–11–90; 8:45 am]

BILLING CODE 6560–50–M

CFRL–3851–21

Proposed Settlement Under Section 122(h) of Comprehensive Environmental Response, Compensation and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative settlement and opportunity for public comment.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing to enter into an administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). Notice is being published to inform the public of the proposed settlement and of the opportunity to comment. This settlement is intended to resolve past liabilities of six parties for costs incurred by EPA at The Canny Superfund Site.

DATES: Comments must be provided on or before November 12, 1990.

ADDRESSES: comments should be addressed to the U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, room 437, 26 Federal Plaza, New York City, New York, 10278 and should refer to: In Re: The Canny Site in Binghamton, New York, U.S. EPA Index No. II CERCLA–122–00201.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, room 437, 26 Federal Plaza, New York City, New York, 10278, FTS 264–9858, (212) 264–9858, Attention: Douglas Fischer.

SUPPLEMENTARY INFORMATION: In accordance with section 122(i)(1) of CERCLA, notice is hereby given of a proposed administrative settlement concerning The Canny Site in Binghamton, New York. Section 122(h) of CERCLA provides EPA with authority to consider, compromise, and settle certain claims for costs incurred by the United States. Below are listed the parties committed to participate in this settlement.

Dorothy Conlon, William Canny, Mary Louise Hacker, Franklin D. Fletcher, Joseph Canny, Barbara Broggs.

These six Settling Parties will pay $22,345.56 in settlement payments under this agreement which represents all of EPA's expenditures for response actions at The Canny Site.

A copy of the proposed administrative settlement agreement, as well as background information relating to the settlement, may be obtained in person or by mail from EPA's Region II Office of Regional Counsel, New York/Caribbean Superfund Branch, room 437, 26 Federal Plaza, New York City, New York 10278.

Dated: September 27, 1990.

Richard L. Caspe,

Director, Emergency and Remedial Response Division.

[FR Doc. 90-24022 Filed 10-11-90; 8:45 am]

BILLING CODE 6560-50-M

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 requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200235-002.

Title: Port of Palm Beach District/ Palm Beach Steamship Company Agency, Inc. Terminal Agreement.

Parties:

Port of Palm Beach District (PPBD)
Palm Beach Steamship Company Agency, Inc. (PBSC)

Synopsis: The Agreement amends the parties' basic agreement to provide for PPBD to grant PBSC 4,883 additional square feet of warehouse space and 954 additional square feet of office space in Warehouse A for its exclusive use. The Agreement also defines the additional premises and certain rental terms.

By Order of the Federal Maritime Commission.

Dated: October 5, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-24064 Filed 10-11-90; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and 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 protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in §§ 560.602 and/or 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.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement nos.: 224-002810-004.

Title: Tampa Port Authority/ Harborside Refrigerated Services, Inc. Terminal Agreement.

Parties:

Tampa Port Authority
Harborside Refrigerated Services (RSI)

Filing party: Edward J. Sheppard, Garvey, Schubert & Barer, Fifth Floor, 1000 Potomac Street, NW., Washington, DC 20007.

Synopsis: The Agreement amends the basic agreement to revise the permitted uses of the terminal facilities and to allow RSI to mortgage or pledge its leasehold interest in the premises.

Agreement nos.: 224-003079-010.

Title: Tampa Port Authority/Eller & Company, Inc. Terminal Agreement.

Parties:

Tampa Port Authority
Eller & Company, Inc. (Eller).

Filing party: Edward J. Sheppard, Garvey, Schubert & Barer, Fifth Floor, 1000 Potomac Street, NW., Washington, DC 20007.

Synopsis: The Agreement amends the basic agreement to: (1) Revise the permitted uses of the terminal facility; (2) decrease the acreage and compensation for the leased premises; (3) eliminate the minimum annual guarantee; (4) provide that the parties relinquish certain other rights and obligations; and (5) allow Eller to mortgage or pledge its leasehold interest in the premises.

By Order of the Federal Maritime Commission.

Dated: October 5, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-24065 Filed 10-11-90; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 CFR part 540, as amended:

Frontier Cruises Limited, 133 E. 55th Street, New York, NY 10022.

Vessel: Frontier Spirit.

Dated: October 5, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90-24063 Filed 10-11-90; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Garfield County Bancshares, Inc.; 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 section 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 November 6, 1990.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Garfield County Bancshares, Inc.*, Jordan, Montana; to engage *de novo* in real estate and personal property appraising § 225.25(b)(13), and making and servicing loans § 225.25(b)(1) in Jordan, Montana.

Board of Governors of the Federal Reserve System, October 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24066 Filed 10-11-90; 8:45 am]

BILLING CODE 6210-01-M

Libanco, 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 has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an appication 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 November 6, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Libanco, Inc.*, Gowrie, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of The First State Bank of Gowrie, Gowrie, Iowa.

2. *Peotone Bancorp, Inc.*, Peotone, Illinois; to acquire 15.82 percent of the voting shares of Founders Bancorp, Inc., Scottsdale, Arizona, and thereby indirectly acquire Founders Bank of Arizona, Scottsdale, Arizona.

3. *Scott County Bancorp, Inc.*, Winchester, Illinois; to acquire 9.09 percent of the voting shares of Founders Bancorp, Inc., Scottsdale, Arizona, and thereby indirectly acquire Founders Bank of Arizona, Scottsdale, Arizona.

4. *Terrapin Bancorp, Inc.*, Elizabeth, Illinois; to acquire 8.66 percent of the voting shares of Founders Bancorp, Inc., Scottsdale, Arizona, and thereby indirectly acquire Founders Bank of Arizona, Scottsdale, Arizona.

5. *Valley Bancorporation*, Appleton, Wisconsin; to acquire 100 percent of the voting shares of Exchange State Bank of LaCrosse, LaCrosse, Wisconsin.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Taylor Bancshares, Inc.*, North Mankato, Minnesota; to acquire 100 percent of the voting shares of Valley Bank Minnesota, Jordon, Minnesota.

Board of Governors of the Federal Reserve System, October 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24067 Filed 10-11-90 8:45 am]

BILLING CODE 6210-01-M

Mr. David B. Lilly, Sr., et al., Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 29, 1990.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261

1. *Mr. David B. Lilly, Sr.*, Middleburg, Virginia; to acquire 18.63 percent of the voting shares of Harvest Bancorp, Inc., Hamilton, Virginia, and thereby indirectly acquire The Farmers & Merchants National Bank of Hamilton, Hamilton, Virginia.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Don A. Brockmeier*, Holdredge, Nebraska; to acquire an additional 6.57 percent of the voting shares of Eustis Bancshares, Inc., Eustis, Nebraska, for a total of 25.94 percent, and thereby indirectly acquire Farmers State Bank, Eustis, Nebraska.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *E. Paul DeTray*, Olympia, Washington; to acquire 15.9 percent of the voting shares of First Community Bancorp, Lacey, Washington, and thereby indirectly acquire First Community Bancorp, Lacey, Washington, and First Community Bank of Washington, Lacey, Washington.

Board of Governors of the Federal Reserve System, October 5, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24068 Filed 10-11-90; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: GSA Board of Contract Appeals (GA), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0221, GSA Board of Contract Appeals Rules of Procedure. The Board of Contract Appeals requires the background information collected so that it will be properly informed to hold hearings on contract appeals and bid protests.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual Reporting Burden

Respondents: 420; *annual responses:* 1.0; *average hours per response:* 0.1000; *burden hours:* 42.

FOR FURTHER INFORMATION CONTACT: Thomas R. Sisti, (202) 501–0890. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), room 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501–2691, or by faxing your request to (202) 501–2727.

Dated: September 28, 1990.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 90–24030 Filed 10–11–90; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Advisory Committee on Childhood Lead Poisoning Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following Committee Meeting:

Name: Advisory Committee on Childhood Lead Poisoning Prevention.

Time and date:

8:30 a.m.–5 p.m., November 1, 1990.
8:30 a.m.–3:30 p.m., November 2, 1990.

Place: The Northlake Holiday Inn, 4156 LaVista Road, Capitol Ballroom, Atlanta, Georgia 30084.

Statute: Open to the public, limited only by the space available.

Purpose: This Committee will provide advice and guidance to the Secretary, the Assistant Secretary for Health, and the Director, CDC, on revisions to the policy statement entitled "Preventing Lead Poisoning in Young Children," dated January 1985. The revised policy statement will reflect research findings since 1985.

Matters To Be Discussed: This statement is used by pediatricians and lead screening programs throughout the United States. The Committee will consider new research findings on lead toxicity in making recommendations for updating the statement.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Sue Binder, M.D., Division of Environmental Hazards and Health Effects, Center for Environmental Health and Injury Control, CDC, 1600 Clifton Road, NE., Mailstop: F28, Atlanta, Georgia 30333, telephone: 404/488–4880, (FTS) 236–4880.

Dated: October 5, 1990.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 90–24123 Filed 10–11–90; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Orlando District Office, chaired by Douglas Tolen, District Director. The topic to be discussed is food labeling proposals.

DATES: Friday, October 26, 1990, 10 a.m. to 12 m. .

ADDRESSES: Brevard County Agricultural Center Auditorium, 3695 Lake Dr., Cocoa, FL 32926.

FOR FURTHER INFORMATION CONTACT: Lynne Issacs, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Dr., Suite 120, Orlando, FL 32809, 407–855–0900.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 5, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–240690 Filed 10–11–90; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Orlando District Office, chaired by Douglas Tolen, District Director. The topic to be discussed is food labeling proposals.

DATES: Thursday, October 18, 1990, 6:30 p.m. to 8:30 p.m.

ADDRESSES: Cooperative Extension Service, Agricultural Center Auditorium, 2350 East Michigan St., Orlando, FL 32806.

FOR FURTHER INFORMATION CONTACT: Lynne Issacs, Consumer Affairs Officer, Food and Drug Administration, 7200 Lake Ellenor Dr., Suite 120, Orlando, FL 32809, 407–855–0900.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 5, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–24061 Filed 10–11–90; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

[OACT–034–N]

RIN 0938–AE66

Medicare Program; Part A Premium for the Uninsured Aged for 1991

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces the hospital insurance premium for the uninsured aged for calendar year 1991 under Medicare's hospital insurance program (Part A). The monthly Medicare Part A premium for the 12 months beginning January 1, 1991 for individuals who are not insured under the Social Security or Railroad Retirement Acts and do not otherwise meet the requirements for entitlement to Part A is $177. Section 1818(d) of the Social Security Act specifies the method to be used to determine this amount.

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Barbara S. Klees, (301) 966–6388.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1818 of the Social Security Act (the Act) provides for voluntary enrollment in the Medicare hospital insurance program (Medicare Part A),

subject to payment of a monthly premium, of certain persons age 65 and older who are uninsured for social security or railroad retirement benefits and do not otherwise meet the requirements for entitlement to Part A. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d)(2) of the Act, as amended by section 103 of the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100–360, enacted on July 1, 1988), requires the Secretary to determine and publish, during September of each calendar year, the amount of the monthly premium for the following calendar year for persons who voluntarily enroll in Medicare Part A.

Section 1818(d) of the Act, as amended by section 103 of Public Law 100–360, requires the Secretary to estimate, on an average per capita basis, the amount to be paid from the Federal Hospital Insurance Trust Fund for services performed and for related administrative costs incurred in the following year with respect to individuals age 65 and over who will be entitled to benefits under Part A. The Secretary must then, during September of each year, determine the monthly actuarial rate (the per capita amount estimated above divided by 12) and publish the dollar amount to be applicable for the monthly premium in the succeeding year. If the premium is not a multiple of $1.00, the premium is rounded to the nearest multiple of $1.00 (or if it is a multiple of 50 cents but not of $1.00, it is rounded to the next highest $1.00). The 1990 premium under this method was $175 and was effective January 1990. (See 54 FR 48322; November 22, 1989.)

II. Premium Amount for 1991

Under the authority of section 1818(d)(2) of the Act (42 U.S.C. 1395i–2(d)(2)), the Secretary has determined that the monthly Medicare Part A hospital insurance premium for the uninsured aged for the 12 months beginning January 1, 1991 is $177.

III. Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Premium Rate

As discussed in section I of this notice, the monthly premium for the uninsured aged for 1991 is equal to the estimated monthly actuarial rate for 1991 rounded to the nearest multiple of $1. The monthly actuarial rate is defined to be one-twelfth of the average per capita amount that the Secretary estimates will be paid from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in 1991 for individuals age 65 and over who will be intitled to benefits under the hospital insurance program. Thus, the number of individuals age 65 and over who will be entitled to hospital insurance benefits and the costs incurred on behalf of these beneficiaries must be projected to determine the premium rate.

The principal steps involved in projecting the future costs of the hospital insurance program are (a) establishing the present cost of services provided to beneficiaries, by type of service, to serve as a projection base; (b) projecting increases in payment amounts for each of the various service types; and (c) projecting increases in administrative costs. Establishing historical Part A enrollment and projecting future enrollment, by type of beneficiary, is part of this process.

We have completed all of the above steps, basing our projections for 1991 on (a) current historical data and (b) projection assumptions under current law from the Midsession Review of the President's Fiscal Year 1991 Budget. It is estimated that in calendar year 1991, 30.586 million people age 65 and over will be entitled to Part A benefits (without premium payment), and that these individuals will, in 1991, incur $65.048 billion of benefits for services performed and related administrative costs. Thus, the estimated monthly average per capita amount is $177.23 and the monthly premium is $177.

IV. Costs to Beneficiaries

The 1991 Part A premium is about 1 percent higher than the $175 monthly premium amount for the 12-month period beginning January 1, 1990. This increase results from the recalculation of the monthly actuarial rate described in section III of this notice. The increase is small because the premium for 1990 included estimated costs expected to be incurred in 1990 under Public Law 100–360, while the premium for 1991 does not include such costs. (The premium amount for each year is set prospectively, in the manner required by law, based on the law in place at the time of its determination. Although the Medicare Catastrophic Coverage Repeal Act of 1989 (Pub. L. 101–234, enacted on December 13, 1989), which repealed most of the cost-producing provisions of Public Law 100–360, was enacted before the start of calendar year 1990, Public Law 100–360 was in place when the 1990 premium was determined and promulgated.)

We estimate that there are, as of July 1, 1990, approximately 63 thousand enrollees who are voluntarily enrolled in Medicare's hospital insurance program (Part A) by paying the premium, who do not otherwise meet the requirements for entitlement. The estimated cost of the increase in the premium to these enrollees will be about $1.5 million. However, as a result of section 6013 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239, enacted on December 19, 1989), "Buy-In Under Part A for Qualified Medicare Beneficiaries," we expect, based on preliminary data, that approximately 200 thousand individuals who do not otherwise meet the requirements for entitlement and who are not currently enrolled will be enrolling in Medicare's hospital insurance program by premium payment (with payment of the premium being made by the States).

V. Regulatory Impact Statement

This notice merely announces required by legislation. This notice is not a proposed rule or a final rule issued after a proposal, and does not alter any regulation or policy. Therefore, we have determined, and the Secretary certifies, that no analyses are required under Executive Order 12291, the Regulatory Flexibility Act (5 U.S.C. 601 through 612) or section 1102(b) of the Act.

Authority: Section 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i–2(d)(2).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 24, 1990.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: September 27, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90–24102 Filed 10–9–90; 8:45 am]

BILLING CODE 4120–01–M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, October 5, 1990.

(Call PHS Reports Clearance Officer on 202–245–2100 for copies of package)

1. The 1991 Longitudinal Followup to the 1988 National Maternal and Infant Health Survey—NEW—The 10,000 women who had live births in 1988 and participated in the MNIHS will be reinterviewed about the health and development of their children. Of the respondents to the MNIHS who had an infant or fetal death, 2,000 are being reinterviewed about their health and subsequent replacement fertility. For women with live births, their children's pediatricians and any hospitals which treated the children will be mailed questionnaires. Respondents: Individuals or households, businesses or other for-profit, non-profit institutions.

	No. of respondents	No. of hours per response	No. of responses per respondent
Mothers	10,800	.61	1
Medical Care Providers & Hospitals	11,512	.4004	1

Estimated Annual Burden..... 11,197 hours

2. AIDS Prevention and Surveillance Project Reports—0920–0208—Information and data gathered by recipients of AIDS cooperative agreements are reported to CDC in narrative or summary statistical reports. Project activities include AIDS Surveillance, assessment of AIDS-related knowledge, attitudes and behavior, AIDS public information and education, counseling and HIV testing and special activities to reach minorities at risk. Respondents; State or local governments; Number of Respondents: 64; Number of Responses per Respondent: 4; Average Burden per Response: 3.5 hours; Estimated Annual Burden: 896 hours.

3. Washington, DC Metropolitan Area Drug Study (DC*MADS)—NEW—The Washington , DC Metropolitan Area Drug Study will collect data about the prevalence, incidence, and consequences of drug abuse among non-household and hard-to-reach populations in one metropolitan area, and will integrate the findings with the National Household Survey on Drug Abuse data about the household population subgroups such as the homeless, institutionalized, and school dropouts. Respondents; Individuals or households, State or local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations; Number of Respondents: 16,647; Number of Responses per Respondent: 1; Average Burden per Response: 0.51 hours; Estimated Annual Burden: 8,556 hours.

4. Use of Impact-Resistant Lenses in Eyeglasses or Sunglasses—0910–0182—This regulation requires that eyeglasses and sunglasses be fitted with impact-resistant lenses in order to adequately protect the public from potential eye injury resulting from shattering of ordinary glass lenses. Respondents: Businesses or other for-profit, small businesses or organizations; Number of Respondents: 50; Number of Responses per Respondent: 1; Average Burden per Response: 428.28 hours; Estimated Annual Burden: 21,414 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, Room 3002, Washington, DC 20503.

Dated: October 9, 1990.

James M. Friedman,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 90–24173 Filed 10–11–90; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–90–1917; FR–2606–N–93]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: October 12, 1990.

ADDRESSES: For further information, contact James Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–4300; TDD number for the hearing-and-speech-impaired (202) 708–2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) Its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the

homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's **Federal Register** Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *U.S. Army:* HQ–DA, Attn: DAEN–ZCI–P–Robert Conte; room 1E671 Pentagon, Washington, DC 20360–2600; (202) 693–4583; *U.S. Navy:* John Carr, Code 2041C, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332; (202) 325–0474; *GSA:* Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405; (202) 501–0067. (These are not toll-free numbers.)

Dated: October 5, 1990.

Audrey E. Scott,

Deputy Assistant Secretary for Program Development.

Suitable Land (by State)

Oklahoma

Radar Microwave Link Rep. Site,
Stratford, OK Co: Garvin.
Location: 5½ miles west of Stratford on Hwy. 19.
Landholding Agency: GSA.
Property Number: 549040001.
Status: Excess.
Comment: 7.24 acres w/1063 sq. ft. wood/brick frame residence; other structures on land in poor condition.
GSA No. 7–W–OK–553.

Suitable Buildings (by State)

Maryland

Bldg. 533,
Fort George Meade.
Fort Meade, MD Co: Anne Arundel.
Landholding Agency: Army.
Property Number: 219040001.
Status: Unutilized.
Comment: 6525 sq. ft.; one story; wood frame; possible asbestos; needs major rehab; secured area w/alternate access.

Bldg. 523,
Fort George Meade.
Fort Meade, MD Co: Anne Arundel.
Landholding Agency: Army.
Property Number: 219040002.
Status: Unutilized.
Comment: 4307 sq. ft.; one story; wood frame; possible asbestos; needs major rehab; secured area w/alternate access.

New Mexico

Bldg. 1 and 4,
U.S. Navy Reserve Center,
512 N 12th Street.
Carlsbad, NM Co: Eddy.
Landholding Agency: Navy.
Property Number: 779040001.
Status: Excess.
Comment: 2460 sq. ft.; one story; frame/concrete block bldg; most recent use-office; presence of asbestos; and 152 sq. ft. metal storage shed on 1.03 acres.

[FR Doc. 90–24052 Filed 10–11–90; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[E–930–1–4214–10; MTM 067221]

Proposed Withdrawal, Opportunity for Public Meeting, and Correction; MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to withdraw approximately 95 acres of National Forest System (NFS) lands for protection of the Yaak Falls, Ross Creek, and Howard Lake Recreation Areas. The notice of proposed withdrawal first published in the **Federal Register** on September 29, 1964, Volume 29, Page 13434 (corrected in 34 FR 19772), temporarily segregated the lands from location and entry under the United States mining laws until October 20, 1991. The lands remain open to all uses other than the mining laws.

DATES: Comments and requests for a public meeting must be received by January 10, 1990.

ADDRESSES: Comments and meeting requests should be sent to the Montana State Director, BLM, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: James Binando, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2935.

SUPPLEMENTARY INFORMATION:

1. On August 23, 1990, the U.S. Department of Agriculture resubmitted an application to withdraw the following described NFS lands from location and entry under the United States mining laws, subject to valid existing rights:

Principal Meridian, MT

Kootenai National Forest

Howard Lake Recreation Area (35 acres)

Unsurveyed, but when surveyed will probably be:
T. 27 N., R. 31 W.,
Sec. 13, that part of SW¼NE¼NE¼, SE¼NW¼NE¼, and SE¼NE¼, lying north of Howard Lake.

Yaak Falls Recreation Area (40 acres)

Unsurveyed, but when surveyed will probably be:
T. 33N., R. 33W.,
Sec. 8, NE¼NE¼.

Ross Creek Recreation Area (20 acres)

Unsurveyed, but when surveyed will probably be:
T. 28N., R. 34 W.,
Sec. 12, S½NE¼NE¼.

The areas described aggregate approximately 95 acres in Lincoln County.

2. The description in Paragraph 1 for Yaak Falls Recreation Area is a correction from that published in 34 FR 19772. Therefore, at 9 a.m. on November 13, 1990, the land unsurveyed, but when surveyed will probably be T. 33 N., R. 33 W., sec. 9, w½NW¼NW¼, will be opened to location and entry under the United States mining laws. Appropriation of any of this land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by state law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

The purpose of the proposed withdrawal is to proect the Yaak Falls, Ross Creek, and Howard Lake Recreation Areas.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing with the proposed withdrawal may present their views in writing to the Montana State Director, Bureau of Land Management, at the address specified above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a

written request to the Montana State Director at the address specified above. Upon determination by the Montana State Director that a public meeting will be held, a notice of the time and place will be published in the Federal Register at least 130 days before the scheduled date of the meeting. The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

The lands will be segregated from location and entry under the mining laws unless the application is denied or canceled or the withdrawal is approved prior to that date. During the segregative period, all uses other than the mining laws will be permitted.

Dated: September 28, 1990.

John E. Moorhouse,

Acting Deputy State Director, Division of Lands and Renewable Resources.

[FR Doc. 90-24094 Filed 10-11-90; 8:45 am]

BILLING CODE 4310-DN-M

Fish and Wildlife Service

American Woodcock Management Plan; Availability of Document

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Availability.

SUMMARY: This notice advises the public that a final document, "American Woodcock Management Plan", is available for public review. Loss of woodcock habitat and declines of some woodcock populations prompted the development of a Woodcock Management Plan (Plan) by the U.S. Fish and Wildlife Service (hereinafter the Service). The Plan should facilitate cooperative efforts to conserve woodcock in the United States.

ADDRESSES: Copies of this document can be obtained from the Woodcock Specialist, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, MD 20708-9619.

FOR FURTHER INFORMATION CONTACT: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634-Arlington Square, Washington, DC 20240 (703) 358-1714.

SUPPLEMENTARY INFORMATION: The Department of Interior has principal responsibility and authority for managing migratory birds, including woodcock. This authority was established by the Migratory Bird Treaty between the United States and Great Britain (on behalf of Canada). The Migratory Bird Treaty has been the cornerstone of cooperative management of migratory birds since its signing in 1916. In regard to waterfowl, cooperative arrangements have functioned well because of administrative mechanisms such as advisory councils and liaison specialists. These mechanisms facilitate the exchange of views and information and foster close working relationships. For woodcock, cooperation has always existed in spirit and in more tangible forms such as survey work and periodic symposia for the exchange of ideas and information. However, effective continuous cooperation on a region-wide, operational basis has been hampered by the lack of administrative mechanisms such as those that exist for waterfowl. This plan was designed to build upon existing mechanisms to promote shared cooperation and responsibility in the management of woodcock.

The purpose of this Plan is to guide the conservation of woodcock in the United States. It describes ways in which the Service, State conservation agencies, other public agencies, and private organizations can work cooperatively in addressing problems, developing management programs, and otherwise assuring the future well-being of woodcock. Primarily due to habitat losses, woodcock are now less abundant than in recent decades. Although the effect of hunting on woodcock populations is unknown, available data do not indicate that hunting has affected regional population status. Populations continue to decline in some parts of North America, and recreational opportunities have been lost. Public concern over this loss stimulated action to address this situation, and prompted the development of a Woodcock Management Plan by the Service.

Once the Plan is operational, it is anticipated that cooperative mangement will become easier and perhaps systematic. Although the Plan is being published in final form, the Service welcomes comments at any time. Periodic revision of the Plan will be necessary as situations, priorities, and strategies change. The Service and cooperators will review and update the Plan every 5 years. Annual work plans will be a logical consequence of the Plan.

Dated: October 5, 1990.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 90-24070 Filed 10-11-90; 8:45 am]

BILLING CODE 4310-55-M

Garrison Diversion Unit Federal Advisory Council Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Garrison Diversion Unit Federal Advisory Council established under the authority of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294, May 12, 1986). The meeting is open to the public. Interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: The Garrison Diversion Unit Federal Advisory Council will meet from 8 a.m. to 4 p.m. on Tuesday, October 30, 1990, and from 8 a.m. to 5 p.m. on Wednesday, October 31, 1990.

PLACES: On Tuesday, October 30, 1990, the meeting will be held at the North Dakota Game and Fish Department, 100 North Bismarck Expressway, Bismarck, North Dakota. On Wednesday, October 31, 1990, the Council members will tour some of the project features and National Wildlife Refuges in southeast North Dakota and northeast South Dakota.

AGENDA: On October 30, 1990, the Council will receive briefings on subjects such as FY-90 budget accomplishments, FY-91 budget, status of United States/Canada consultations, mid-Dakota Reservoir Impact Analysis, Mitigation and Enhancement Plan status, the Lonetree Area, the mitigation process for Audubon and Arrowwood National Wildlife Refuges including the effects of the project on Dakota Lake and Sand Lake National Wildlife Refuges, Kraft Slough, and canal side wetland development. The agenda for October 31, 1990, will consist of short meetings at each stop on the tour.

For further information individuals may contact Dr. Grady Towns, Fish and Wildlife Enhancement, at (303) 236-8186.

Dated: October 5, 1990.

Galen L. Buterbaugh,

Regional Director, Region 6, U.S. Fish and Wildlife Service.

[FR Doc. 90-24124 Filed 10-11-90; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

Notice of Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: BRUCE TELEPHONE COMPANY, INC., North Side of Square, Bruce, Mississippi 38915

2. Wholly-owned subsidiaries which will participate in the P.C. TRANSPORT, Mississippi

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-24100 Filed 10-11-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collections Under Review

October 9, 1990.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;

(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;

(3) How often the form must be filled out or the information is collected;

(4) Who will be asked or required to respond, as well as a brief abstract;

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;

(6) An estimate of the total public burden (in hours) associated with the collection; and

(7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Larry E. Miesse, on (202) 514-4312.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Larry E. Miesse, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

Extension of Expiration Date of a Currently Approved Collection Without any Change in Substance or in Method of Collection

(1) Application To File Petition for Naturalization.
(2) N-400, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. The data collected is required to establish a petitioner's eligibility for naturalization and the information enables the designated examiners of the INS to make appropriate recommendations to the Naturalization Courts.
(5) 500,000 estimated responses at 1.0 hours per response.
(6) 500,000 estimated annual public burden hours.
(7) Not applicable under 3504(h).

(1) Guam Visa Waiver Information.
(2) I-736. Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. Public Law 99-396 provides for certain aliens to be exempt from the nonimmigrant visa requirements if seeking entry into and stay on Guam as a visitor for a maximum stay of fifteen days, provided no potential threats exists to the welfare, safety, or security of the United States, its territories, and commonwealths.
(5) 300,000 annual respondents at .083 hours per response.
(6) 24,900 estimated annual public burden hours.
(7) Not applicable under 3504(h).

The following seven forms are included in one notice as they all relate to the Foreign Agents Registration Program, Criminal Division, Department of Justice, and are all required by 22 U.S.C. 611, *et seq.*:

Registration Statement of Individuals (OBD-63), 100 annual respondents at 1.5 hours per response. Total estimated annual burden: 150 hours.

Supplemental Registration Statement of Individuals (OBD-64), 2,400 annual respondents at 1.375 hours per response. Total estimated annual burden: 3,300 hours.

Exhibit B to Registration Statement (OBD-65), 75 annual respondents at .33 hours per response. Total annual burden: 25 hours.

Short Form Registration Statement of Individuals (OBD-66), 350 annual respondents at .429 hours per response. Total annual burden: 150 hours.

Exhibit A to Registration Statement (OBD-67), 75 annual respondents at .5 hours per response. Total annual burden: 38 hours.

Amendment to Registration or Supplemental Registration Reports (OBD-68), 200 annual respondents at 1.5 hours per response. Total annual burden: 300 hours.

Dissemination Report (Transmittal of Political Propaganda) (OBD-69), 3,600 annual responses at .5 hours per response. Total annual burden: 1,800 hours.

Larry E. Miesse,

Department Clearance Officer, U.S. Department of Justice.

[FR Doc. 90-24059 Filed 10-11-90; 8:45 am]

BILLING CODE 4410-10-M

Drug Enforcement Administration

[Docket No. 90-42]

Walker L. Whaley, M.D., Jacksonville, FL; Notice of Hearing

Notice is hereby given that on May 11, 1990, the Drug Enforcement Administration, Department of Justice, issued to Walker L. Whaley, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not deny your application, executed on March 7, 1989, for a DEA Certificate of Registration.

Thirty days, have elapsed since the said Order to Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held on October 25, 1990, commencing at 9:30 a.m., at the U.S. Post Office & Courthouse, Room 137, 311 West Monroe Street, Jacksonville, Florida.

Dated: October 3, 1990.

Robert C. Bonner,

Administrator, Drug Enforcement Administration.

[FR Doc. 90-74035 Filed 10-11-90; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review: As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

Evaluation of the Trade Adjustment Assistance Programs

Affected public	Respondents	Frequency	Average time per Response
Questionnaire States.	15	One-time	4 hrs.
Questionnaire Individuals.	4,950	One-time	40 mins.

4065 respondents; 2760 total hours

4,500 recipients of benefits under the Trade Adjustment Assistance Program, and for comparison, unemployment compensation will be interviewed. The data will be used to provide information on the labor market impact of alternative unemployment strategies for workers dislocated by import competition.

Extension

Mine Safety and Health Administration.
Gamma Radiation Exposure Records (30 CFR 57.5047).
1219-0039.
Quarterly.
Small businesses or organizations.
15 respondents; 240 total burden hours; 16 average hours per response.
Requires records to be kept of cumulative individual gamma radiation exposure to ensure that annual exposure does not exceed 5 Rems per year. It is intended to protect the health of workers in mines with radioactive ores.

Mine Safety and Health Administration.
Ground Control Plan (30 CFR 77.1000 and 77.1000-1).
1219-0026.
On occasion.
Businesses or other for profit; small businesses or organizations 444 respondents; 17,760 total burden hours; 40 average hours per response.
The ground control plan is used as an enforcement tool to ensure that surface coal mine operators' methods of controlling highwalls, pits, and spoil bans are consistent with prudent engineering designs and will ensure safe working conditions.

Mine Safety and Health Administration.
Impoundment and Refuse Pile Plans and Revisions (30 CFR 77.215-2(a) and (b)(1) through (3), 77.216, and 77.216-2).
1219-0060.
On occasion.
Businesses or other for profit; Small businesses or organizations 210 respondents; 79,300 total burden hours; 377.62 average hours per response.
Requires coal mine operators to submit plans, and revisions thereof, for construction of refuse piles and impoundment structures to MSHA for approval.

Mine Safety and Health Administration.
Escape and Evacuation Plans.
1219-0046.
Semi-annually.
Businesses or other for profit; small businesses or organizations.
400 respondents; 8 hours per response; 9,600 total burden hours.
Requires operators of underground coal mines to keep records of the results of mandatory weekly examinations of emergency escapeways. The records are used to determine that the intergrity of the escapeways is being maintained.

Reinstatement

Pension and Welfare Benefits Administration.
Summary Annual Report.
Businesses or other for-profit; non-profit institutions; small businesses or organizations.
962,000 responses; 5,045,075 hours; 0.027 hours per response; 0 forms.
Employee benefit plans are required to provide, with some exceptions, summary annual reports to participants and beneficiaries for purposes of communicating basic financial information about the plan's operations and performance.

Signed at Washington, DC this 9th day of October, 1990.

Theresa M. O'Malley,

Acting Departmental Clearance Officer.

[FR Doc. 90-24104 Filed 10-11-90; 8:45 am]

BILLING CODE 4510-43-M

Bureau of Labor Statistics

Business Research Advisory Council; Meetings and Agenda

The regular Fall meetings of the Board and Committees of the Business Research Advisory Council will be held on October 23, 24 and November 15, 1990. All of the meetings will be held in the General Accounting Office Building, 441 G Street, NW., Washington, DC.

The Business Research Advisory Board and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Tuesday, October 23, 1990

10 a.m.—Committee on Price Indexes, Room 2736

1. Home ownership costs in the Consumer Price Index
2. Producer Price Program Status
3. International Price Program Status
4. Other Business

1:30 p.m.—Committee on Compensation and Working Conditions, Room 2736

1. New measure of compensation adjustments
2. Measuring union/nonunion earnings differences
3. Highlights from the Employment Benefits Survey: Family benefits become more widespread
4. Other business

1:30 p.m.—Committee on Productivity/Foreign Labor, Room 2734

1. Election of new Chairperson
2. BLS program of assistance to Poland and Hungary
3. Research on capital stocks in agriculture
4. Productivity comparisons by industry, U.S. and Europe
5. Other business

Wednesday, October 24, 1990

9:30 a.m.—Committee on Economic Growth, Room 2734

1. Review of study of impact of expected defense spending alternatives in 2000 (MLR Oct. 1990)
2. Review of selected important assumptions for new 1990–2005 projections
3. Discussion of alternative projections scenarios for key variables in new projections
4. Other business

9:30 a.m.—Committee on Employment and Unemployment, Room 2736

1. Revisions to establishment survey data
2. Report on results of conversion to new SIC codes
3. Standardized, simplified reporting for business initiatives
4. New study of foreign direct investment impact
5. Other business

1 p.m.—Board of the Business Research Advisory Council, Room 2736

1. Chairperson's opening remarks
2. Commissioner's remarks
3. Committee reports
   a. Committee on Price Indexes
   b. Committee on Compensation and Working Conditions
   c. Committee on Productivity/Foreign Labor
   d. Committee on Economic Growth
   e. Committee on Employment and Unemployment
4. Other business
5. Chairperson's closing remarks

Thursday, November 15, 1990

1 p.m.—Committee on Occupational Safety and Health Statistics, Room 2736

1. Transfer of recordkeeping function
2. 1989 Annual Survey results
3. Redesign of occupational safety and health statistical system (ROSH)
4. Census of Fatal Occupational Injuries (CFOI)
5. Mine safety and health statistics
6. Work injury reports (WIR)
7. Other business

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area code (202) 523–1347.

Due to difficulties in making arrangements with the Council's membership, we are unable to provide the full fifteen days of advance notice of this meeting.

Signed at Washington, DC the 4th day of October 1990.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 90–24103 Filed 10–11–90; 8:45 am]

BILLING CODE 4510–24–M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the David-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public itnerest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by

contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Florida:
FL90–5 (Jan. 5, 1990) ..... p. 115; p. 116.
FL90–6 (Jan. 5, 1990) ..... p. 117; p. 118.
FL90–7 (Jan. 5, 1990) ..... p. 119; p. 120.
FL90–11 (Jan. 5, 1990) ..... p. 127; p. 128.
FL90–20 (Jan. 5, 1990) ..... p. 151; p. 152.
FL90–23 (Jan. 5, 1990) ..... p. 157; p. 158.
FL90–26 (Jan. 5, 1990) ..... p. 163; p. 164.
FL90–28 (Jan. 5, 1990) ..... p. 167; p. 168.
FL90–31 (Jan. 5, 1990) ..... p. 173; p. 174.
FL90–32 (Jan. 5, 1990) ..... p. 175; p. 176.
Pennsylvania:
PA90–5 (Jan. 5, 1990) ..... p. 951; pp. 952–953.
PA90–6 (Jan. 5, 1990) ..... p. 965; pp. 966–968.
PA90–8 (Jan. 5, 1990) ..... p. 987; p. 990.

Volume II

Indiana, IN90–6 (Jan. 5, 1990). p. 303.
Missouri, MO90–5 (Jan. 5, 1990). p. 671; pp. 672–676.
Ohio:
OH90–1 (Jan. 5, 1990) ..... p. 777; p. 781.
OH90–3 (Jan. 5, 1990) ..... p. 813; p. 815.
OH90–28 (Jan. 5, 1990) ..... p. 867; p. 869.
OH90–29 (Jan. 5, 1990) ..... p. 873; p. 883.
OH90–34 (Jan. 5, 1990) ..... p. 918a; p. 918b.
Wisconsin:
WI90–1 (Jan. 5, 1990) ..... p. 1157; pp. 1158–1159.
WI90–2 (Jan. 5, 1990) ..... p. 1161; p. 1162.
WI90–3 (Jan. 5, 1990) ..... p. 1165; p. 1166.
WI90–5 (Jan 5, 1990) ..... p. 1173; pp. 1174–1175.
WI90–6 (Jan. 5, 1990) ..... p. 1177; p. 1178.
WI90–7 (Jan. 5, 1990) ..... p. 1181; p. 1182.
WI90–10 (Jan. 5, 1990) ..... p. 1207; pp. 1209, 1212.
WI90–11 (Jan. 5, 1990) ..... p. 1219; p. 1220.
WI90–12 (Jan. 5, 1990) ..... p. 1223; p. 1224.
WI90–14 (Jan. 5, 1990) ..... p. 1231; p. 1232.

Volume III

California:
CA90–1 (Jan. 5, 1990) ..... p. 31, pp. 32–36, 39–40b.
CA90–2 (Jan. 5, 1990) ..... p. 41, pp. 42–53, 58–63.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 5th day of October 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90–23996 Filed 10–11–90; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

Summary of Decision Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted interested persons and a field investigation of the conditions at the mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: October 4, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

Docket No.: M–86–164–C
FR Notice: 51 FR 44391
Petitioner: Southern Ohio Coal Company
Reg affected: 30 CFR 75.326
Summary of findings: Petitioner's proposal to install an early warning fire detection system utilizing a low-level carbon monoxide detection system in the belt entry and use the air in the belt haulage and/or track entries to ventilate active working places considered acceptable alternate method. Granted with conditions.

Docket No.: M–87–171–C
FR Notice: 52 FR 28615
Petitioner: BethEnergy Mines, Inc.
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish monitoring stations in return air courses in lieu of requiring these air courses to be traveled in their entirety considered acceptable alternate method.

Docket No.: M–87–289–C
FR Notice: 53 FR 7437
Petitioner: Mid-Continent Resources, Inc.
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to install an environmental

monitoring system to continuously monitor methane and carbon monoxide in lieu of preshift examinations considered acceptable alternate method. Granted with conditions.

Docket No.: M–87–297–C
FR Notice: 53 FR 4789
Petitioner: Jim Walter Resources, Inc.
Reg affected: 30 CFR 75.1105
Summary of findings: Petitioner's proposal to use dry-type transformers and install an early warning fire detection system capable of providing both visual and audible alarm signals, which will be examined and tested at regular intervals, considered acceptable alternate method. Granted with conditions.

Docket No.: M–88–100–C
FR Notice: 53 FR 25394
Petitioner: Colorado Westmoreland, Inc.
Reg affected: 30 CFR 75.1105
Summary of findings: Petitioner's proposal to use a dry-type transformers and install an early warning fire detection system capable of providing both visual and audible alarm signals, which will be examined and tested at regular intervals, considered acceptable alternate method. Granted with conditions.

Docket No.: M–88–111–C
FR Notice: 53 FR 2874
Petitioner: Cyprus Emerald Resources Corporation
Reg affected: 30 CFR 75.1101–8
Summary of findings: Petitioner's proposal to use a single line of automatic sprinklers for fire protection systems at main and secondary belt conveyor drives considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–162–C
FR notice: 53 FR 37068
Petitioner: Consolidation Coal Company
Reg affected: 30 CFR 75.1103–4(a)
Summary of findings: Petitioner's proposal to install an early warning fire detection system utilizing a low-level carbon monoxide detection system in all belt entries used as intake aircourses considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–171–C
FR notice: 53 FR 37658
Petitioner: Bitter Creek Resources, Inc.
Reg affected: 30 CFR 75.1105
Summary of findings: Ventilation of a preexisting installation that houses a dry-type underground transformer station by neutral belt air that cannot be coursed directly to a return aircourse because of the configuration of the intake entries, considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–186–C
FR notice: 53 FR 40800
Petitioner: Old Ben Coal Company
Reg affected: 30 CFR 75.1002
Summary of findings: Petitioner's proposal to use 2400–volt A.C. electricity to power longwall mining equipment inby the last open crosscut and within 150 feet of gob areas considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–189–C
FR notice: 53 FR 45406
Petitioner: U.S. Steel Mining Company, Inc.
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish monitoring stations in lieu of traveling the aircourse in its entirety considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–199–C
FR notice: 53 FR 46512
Petitioner: McElroy Coal Company
Reg affected: 30 CFR 75.1700
Summary of findings: Petitioner's proposal to seal coal seam from surrounding strata at affected wells by using specific techniques and procedures outlined in petition considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–202–C
FR notice: 53 FR 45404
Petitioner: S. and S. Contracting (Formerly Roark Contracting, Inc.)
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of continuous methane monitors on three wheel tractors with specific conditions considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–205–C
FR notice: 53 FR 46513
Petitioner: Pyro Mining Company
Reg affected: 30 CFR 75.507
Summary of findings: Petitioner's proposal to use a nonpermissible submersible pump in a return air shaft with the motor and all motor connections below water level considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–211–C
FR notice: 53 FR 47277
Petitioner: BethEnergy Mines, Inc.
Reg affected: 30 CFR 77.216–5
Summary of findings: Petitioner's proposal to abandon a fine coal refuse impoundment and create a small pond within a portion of the area formerly occupied by the impoundment considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–212–C
FR notice: 53 FR 47779
Petitioner: Pyro Mining Company
Reg affected: 30 CFR 75.507
Summary of findings: Petitioner's proposal to use a nonpermissible submersible pump in a borehole under water considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–218–C
FR notice: 53 FR 49256
Petitioner: R & F Coal Company
Reg affected: 30 CFR 77.216–5
Summary of findings: Petitioner's proposal to permanently abandon impoundments in lieu of draining considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–219–C
FR notice: 53 FR 50137
Petitioner: Kerr-McGee Coal Corporation
Reg affected: 30 CFR 75.1805
Summary of findings: Petitioner's proposal to use computer-generated forms in hanging book binders as permanent records in lieu of an approved book considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–221–C
FR notice: 53 FR 49256
Petitioner: Rhen Coal Company
Reg affected: 30 CFR 75.301
Summary of findings: Petitioner's proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–222–C
FR notice: 53 FR 51332
Petitioner: Peabody Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to install a continuous monitoring system with an audible warning device considered acceptable alternate methods. Granted with conditions.

Docket no.: M–88–225–C
FR notice: 53 FR 51940
Petitioner: Rickco Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors in lieu of continuous methane monitors on three wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–227–C
FR notice: 53 FR 53084
Petitioner: Pyro Mining Company
Reg affected: 30 CFR 75.1700
Summary of findings: Petitioner's proposal to clean out, plug and mine

through oil and gas wells considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–228–C
FR notice: 53 FR 1803
Petitioner: Consolidation Coal Company
Reg affected: 30 CFR 75.1105
Summary of findings: Petitioner's proposal to house electrical equipment in fireproof enclosures with automatic closing doors and an alarm system considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–229–C
FR notice: 53 FR 212
Petitioner: Consolidation Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish checkpoints where tests for methane and the quantity of air would be determined weekly by a certified person considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–231–C
FR notice: 53 FR 212
Petitioner: Island Creek Coal Company
Reg affected: 30 CFR 75.1002
Summary of findings: Petitioner's proposal to use high-voltage cables in by the last open crosscut and within 150 feet of pillar workings considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–232–C
FR notice: 53 FR 871
Petitioner: Island Creek Coal Company
Reg affected: 30 CFR 75.326
Summary of findings: Petitioner's proposal to use belt haulage entries as intake aircourses in continuous and longwall mining sections, with an early warning fire detection system installed, considered acceptable alternate methods. Granted with conditions.

Docket no.: M–88–233–C
FR notice: 53 FR 1804
Petitioner: Quarto Mining Company
Reg affected: 30 CFR 75.1105
Summary of findings: Petitioner's proposal to house electrical equipment in a fireproof structure, equiped with automatically closing fire doors activated by thermal devices, considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–234–C
FR notice: 53 FR 50602
Petitioner: Christian Energies, Inc.
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–235–C
FR notice: 53 FR 3166
Petitioner: Jim Walter Resources, Inc.
Reg affected: 30 CFR 75.1002
Summary of findings: Petitioner's proposal to use high-voltage cables in or inby the last open crosscut with specific equipment and conditions considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–241–C
FR notice: 53 FR 3165
Petitioner: Rhen Coal Company
Reg affected: 30 CFR 75.1714
Summary of findings: Petitioner's proposal to have available for use by each miner a properly maintained filter type self-rescuer considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–244–C
FR notice: 53 FR 1803
Petitioner: L and W Coal Company, Inc.
Reg affected: 30 CFR 75.301
Summary of findings: Petitioner's proposal airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–246–C
FR notice: 54 FR 6459
Petitioner: Kerr-McGee Coal Corporation
Reg affected: 30 CFR 75.1700
Summary of findings: Petitioner's proposal to seal wells from surrounding strata considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–247–C
FR notice: 54 FR 3165
Petitioner: New Era Coal Company, Inc.
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish evaluation points and conduct weekly examinations of water level and quantity and quality of air used to ventilate idled area considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–251–C
FR notice: 54 FR 6775
Petitioner: Helvetia Coal Company
Reg affected: 30 CFR 1100–3
Summary of findings: Petitioner's proposal to use a dry waterline system from October 1 through May 1 considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–252–C
FR notice: 54 FR 7301
Petitioner: Consolidation Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish checkpoints and conduct weekly tests for methane and quantity of air considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–1–C
FR notice: 54 FR 3164
Petitioner: B. and B. Coal Company
Reg affected: 30 CFR 75.1405
Summary of findings: Installation of automatic couplers on the track haulage cars would result in a diminution of safety. Granted with conditions.

Docket no.: M–89–2–C
FR notice: 54 FR 6779
Petitioner: Manalapan Mining Company, Inc.
Reg affected: 30 CFR 75.326
Summary of findings: Petitioner's proposal to use intake air to ventilate active working places considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–3–C
FR notice: 54 FR 6460
Petitioner: Manalapan Mining Company, Inc.
Reg affected: 30 CFR 75.1103–4(a)
Summary of findings: Petitioner's proposal to install an early warning fire detection system utilizing a low-level carbon monoxide detection system in all belt entries used as intake aircourses considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–4–C
FR notice: 54 FR 7301
Petitioner: BethEnergy Mines, Inc.
Reg affected: 30 CFR 75.1002
Summary of findings: Petitioner's proposal to use 4160-volt alternating current to operate permissible face equipment considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–5–C
FR notice: 54 FR 6460
Petitioner: Utah Power and Light Company
Reg affected: 30 CFR 75.1805
Summary of findings: Petitioner's proposal to establish a computer program for recording results of examinations of electrical equipment considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–6–C
FR notice: 54 FR 5696
Petitioner: B. and D. Coal Company
Reg affected: 30 CFR 77.1605(k)
Summary of findings: Petitioner's proposal to conduct daily inspections of all coal-hauling vehicles and

institute a traffic system requiring that loaded trucks have the right-of-way on the highwall side of roads considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–9–C
FR notice: 54 FR 7303
Petitioner: Twentymile Coal Company
Reg affected: 30 CFR 75.1002
Summary of findings: Petitioner's proposal to power longwall mining equipment with 2400-volt alternating current with specific equipment and conditions considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–10–C
FR notice: 54 FR 7302
Petitioner: Cyprus Shoshone Coal Corporation
Reg affected: 30 CFR 75.1002
Summary of findings: Petitioner's proposal to power longwall mining equipment with 2400-volt alternating current with specific equipment and conditions considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–14–C
FR notice: 54 FR 12298
Petitioner: Castle Gate Coal Company
Reg affected: 30 CFR 75.1105
Summary of findings: Petitioner's proposal to allow a transformer station to be ventilated to the beltline considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–15–C
FR notice: 54 FR 12300
Petitioner: Peabody Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to examine seals by making a daily quantity check of the amount of air entering the mine through the drift opening considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–16–C
FR notice: 54 FR 10467
Petitioner: SBM Coal Company
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–18–C
FR notice: 54 FR 10468
Petitioner: Whitley Gap Mining, Inc.
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–19–C
FR notice: 54 FR 12298
Petitioner: Arch of West Virginia, Inc.
Reg affected: 30 CFR 75.811
Summary of findings: Petitioner's proposal to use a trailer-mounted portable generator to provide power to move large electric mining shovels and draglines considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–23–C
FR notice: 54 FR 12302
Petitioner: Tara K Coal, Inc.
Reg affected: 30 CFR 75.1710–1
Summary of findings: Use of cabs and canopies on electric face equipment would result in a diminution of safety. Granted with conditions.

Docket no.: M–89–25–C
FR notice: 54 FR 12300
Petitioner: Pyro Mining Company
Reg affected: 30 CFR 75.326
Summary of findings: Petitioner's proposal to use belt air at the face considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–31–C
FR notice: 54 FR 12510
Petitioner: Gorenty Tunneling Company
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat, and to the hoisting rope above the main connecting device, considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–34–C
FR notice: 54 FR 12299
Petitioner: Gorenty Tunneling Company
Reg affected: 30 CFR 75.301
Summary of findings: Petitioner's proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–36–C
FR notice: 54 FR 18611
Petitioner: Peabody Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to monitor the air through boreholes near seals considered acceptable alternate method. Granted in part with conditions.

Docket no.: M–89–41–C
FR notice: 54 FR 18341
Petitioner: Tri-Star Mining Company, Inc.
Reg affected: 30 CFR 75.1710–1
Summary of findings: The use of cabs or canopies would result in a diminution of safety. Granted with conditions.

Docket no.: M–89–42–C
FR notice: 54 FR 20655
Petitioner: Sunnyside Reclamation and Salvage, Inc.
Reg affected: 30 CFR 75.1105
Summary of findings: Petitioner's proposal to house electrical equipment in a fireproof structure with an automatic fire-suppression system, equipped with automatically closing fire doors activated by thermal devices, considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–47–C
FR notice: 54 FR 20655
Petitioner: Eastern Associated Coal Corporation
Reg affected: 30 CFR 75.1002
Summary of findings: Petitioner's proposal to use high-voltage cables to supply power in or inby the last open crosscut considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–50–C
FR notice: 54 FR 16433
Petitioner: Double D. Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–51–C
FR notice: 54 FR 16434
Petitioner: Westerman Coal Company, Inc.
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–52–C
FR notice: 54 FR 16433
Petitioner: G. B. Mining Company
Reg affected: 30 CFR 75.1405
Summary of findings: Installation of automatic couplers on track haulage cars would result in a diminution of safety. Granted with conditions.

Docket no.: M–89–55–C
FR notice: 54 FR 18611
Petitioner: Kelly Energy Company, Inc.
Reg affected: 30 CFR 75.1710–1
Summary of findings: The use of cabs or canopies on the mine's electric face equipment would result in a

diminution of safety. Granted in part with conditions.

Docket no.: M–89–56–C
FR notice: 54 FR 18612
Petitioner: Utah Power and Light Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish air quality monitoring stations where air entering and exiting the affected area would be monitored weekly considered acceptable alternate method. Granted with conditions.

Docket no.: MN–89–58–C
FR notice: 54 FR 19477
Petitioner: Dana Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to install an environmental monitoring system to continuously monitor methane, oxygen, and carbon monoxide considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–59–C
FR notice: 54 FR 22640
Petitioner: Powderhorn Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish evaluation points to monitor for hazardous conditions at locations which are not accessible for inspection in their entirety considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–62–C
FR notice: 54 FR 20656
Petitioner: Four M Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–67–C
FR notice: 54 FR 23304
Petitioner: The Ohio Valley Coal Company
Reg affected: 30 CFR 75.1700
Summary of findings: Petitioner's proposal to clean out and plug oil and gas wells using specific techniques and procedures considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–68–C
FR notice: 54 FR 23719
Petitioner: Birchfield Mining, Inc.
Reg affected: 30 CFR 75.1105
Summary of findings: Petitioner's proposal to house electrical equipment in a fireproof structure with an automatic fire-suppression device activated by heat sensors, with ventilation openings that would close automatically if the fire suppression device is activated, considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–69–C
FR notice: 54 FR 23303
Petitioner: Elijah Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–79–C
FR notice: 54 FR 25640
Petitioner: AMAX Coal Company
Reg affected: 30 CFR 77.216–3(a)
Summary of findings: Petitioner's proposal to inspect reservoirs on a quarterly basis when they are dry and on a weekly basis when they retain one acre-foot or more of water considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–83–C
FR notice: 54 FR 25642
Petitioner: J. and B. Coal Company, Inc.
Reg affected: 30 CFR 75.902
Summary of findings: Petitioner's proposal to install a bare conductor as a safety ground conductor with specific conditions and equipment considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–85–C
FR notice: 54 FR 23718
Petitioner: A.K.A. Coal Company, Inc.
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–86–C
FR notice: 54 FR 25641
Petitioner: H. L. and W. Coal Company
Reg affected: 30 CFR 75.301
Summary of findings: Petitioner's proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–91–C
FR notice: 54 FR 27777
Petitioner: Minton Hickory Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–94–C
FR notice: 54 FR 27776
Petitioner: East Franklin Coal Company
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–95–C
FR notice: 54 FR 27777
Petitioner: Inferno Coal, Inc.
Reg affected: 30 CFR 75.1710–1
Summary of findings: The use of cabs or canopies on the mine's electric face equipment would result in a diminution of safety. Granted with conditions.

Docket no.: M–89–100–C
FR notice: 54 FR 28730
Petitioner: H. L. and W. Coal Company
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–101–C
FR notice: 54 FR 28732
Petitioner: West End Coal Company
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections considered acceptable alernate method. Granted with conditions.

Docket no.: M–89–103–C
FR notice: 54 FR 28731
Petitioner: Mountain Run Enterprises
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–106–C
FR notice: 54 FR 33633
Petitioner: Westerman Coal Company, Inc.
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–107–C
FR notice: 54 FR 34264
Petitioner: Rocky Hollow Coal Company
Reg affected: 30 CFR 75.900
Summary of findings: Petitioner's proposal to use contractors and voltage monitors in lieu of circuit breakers to obtain undervoltage protection with specific equipment and procedures considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–108–C
FR notice: 54 FR 33633
Petitioner: East Franklin Coal Company
Reg affected: 30 CFR 75.301
Summary of findings: Petitioner's proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–120–C
FR notice: 54 FR 35732
Petitioner: Christian Energies, Inc.
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–121–C
FR notice: 54 FR 35733
Petitioner: Rebecca Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–124–C
FR notice: 54 FR 37391
Petitioner: Webster County Coal Corporation
Reg affected: 30 CFR 75.1103–4(a)
Summary of findings: Petitioner's proposal to install an early warning fire detection system and use intake air at the face considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–125–C
FR notice: 54 FR 37391
Petitioner: Consolidation Coal Company
Reg affected: 30 CFR 75.1105
Summary of findings: Petitioner's proposal to house electrical equipment in a fireproof structure, equipped with automatically closing fire doors activated by thermal devices, considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–134–C
FR notice: 54 FR 37843
Petitioner: Pyro Mining Company
Reg affected: 30 CFR 75.1103–4(a)
Summary of findings: Petitioner's proposal to install an early warning fire detection system utilizing a low-level carbon monoxide detection system in all belt entries used as intake aircourses considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–138–C
FR notice: 54 FR 38917
Petitioner: Wolf Creek Collieries Company
Reg affected: 30 CFR 75.1002
Summary of findings: Petitioner's proposal to use high-voltage cables to supply power to permissible longwall face equipment in or inby the last open crosscut considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–139–C
FR notice: 54 FR 38916
Petitioner: Consolidation Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish monitoring stations in return air courses in lieu of requiring these air courses to be traveled in their entirety considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–140–C
FR notice: 54 FR 39062
Petitioner: Block Coal Corporation
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–141–C
FR notice: 54 FR 38916
Petitioner: Jentina Coal
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–143–C
FR notice: 54 FR 40920
Petitioner: Aero Energy, Inc.
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish evaluation points at specific locations where the air passing over the falls would be evaluated considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–146–C
FR notice: 54 FR 41355
Petitioner: Mine Hill Coal Company, No. 50
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–147–C
FR notice: 54 FR 43149
Petitioner: Cross Mountain Coal, Inc.
Reg affected: 30 CFR 75.1701
Summary of findings: Petitioner's proposal to drill probe boreholes prior to the face advancing to within 200 feet of the abandoned workings considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–154–C
FR notice: 54 FR 43878
Petitioner: Southern Light Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–156–C
FR notice: 54 FR 43369
Petitioner: F. and S. Coal
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–159–C
FR notice: 54 FR 47594
Petitioner: Twentymile Coal Company
Reg affected: 30 CFR 75.300–4
Summary of findings: Petitioner's proposal to use a computerized mine monitoring system to remotely monitor and record the fan motor amperage, fan bearing temperatures and fan water guage considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–161–C
FR notice: 54 FR 46784
Petitioner: Consolidation Coal Company
Reg affected: 30 CFR 77.902
Summary of findings: Petitioner's proposal to provide ground phase protection by dropping out a magnetic motor starter in lieu of tripping a circuit breaker, and to provide short-circuit protection by a circuit breaker considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–163–C

FR notice: 54 FR 47593
Petitioner: Dominion Coal Corporation
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish monitoring stations in the return aircourse on both side of existing roof fall considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–166–C
FR notice: 54 FR 48165
Petitioner: Island Creek Coal Company
Reg affected: 30 CFR 75.305
Summary of findings: Petitioner's proposal to establish monitoring stations to allow effective evaluation of area being ventilated considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–167–C
FR notice: 54 FR 48040
Petitioner: Tudy Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–168–C
FR notice: 54 FR 48039
Petitioner: Granny Rose Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–169–C
FR notice: 54 FR 49827
Petitioner: Soldier Creek Coal Company
Reg affected: 30 CFR 75.1101–8
Summary of findings: Petitioner's proposal to use a single line sprinkler system considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–172–C
FR notice: 54 FR 52472
Petitioner: Arch of Kentucky, Inc.
Reg affected: 30 CFR 75.1102(b)
Summary of findings: Petitioner's proposal to locate the entire waterline, including the fire outlets, in the intake travelway with mandoors installed in the permanent stoppings directly across from the fire outlets considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–175–C
FR notice: 54 FR 53198
Petitioner: Gordon Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–183C
FR notice: 54 FR 53395
Petitioner: Consolidation Coal Company
Reg affected: 30 CFR 77.900
Summary of findings: Petitioner's proposal to provide ground phase protection by dropping out a magnetic motor starter in lieu of tripping a circuit breaker, and to provide short-circuit protection by a circuit breaker considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–186–C
FR notice: 54 FR 52861
Petitioner: Foley Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–189–C
FR notice: 44 FR 2426
Petitioner: Cutter Coal Company
Reg affected: 30 CFR 75.313
Summary of findings: Petitoner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–192–C
FR notice: 55 FR 2426
Petitioner: B. and B. Coal Company
Reg affected: 30 CFR 75.1405
Summary of findings: The installation of automatic couplers on the track haulage cars would result in a diminution of safety. Granted with conditions.

Docket no.: M–90–6–C
FR notice: 55 FR 4034
Petitioner: Leeco, Inc.
Reg affected: 30 CFR 75.1701
Summary of findings: Petitioner's proposal to drill probe boreholes prior to the face advancing to within 200 feet of the abandoned workings considered acceptable alternate method. Granted with conditions.

Docket no.: M–90–15–C
FR notice: 55 FR 4738
Petitioner: Shingara Coal Company
Reg affected: 30 CFR 75.1400
Summary of findings: Petitioner's proposal to operate the man cage or steel gunboat with secondary safety connections considered acceptable alternate method. Granted with conditions.

Docket no.: M–90–17–C
FR notice: 55 FR 5705
Petitioner: Quarto Mining Company
Reg affected: 30 CFR 75.1700
Summary of findings: Petitioner's proposal to clean out, plug and mine through oil and and gas wells considered acceptable alternate method. Granted with conditions.

Docket no.: M–90–23–C
FR notice: 55 FR 6848
Petitioner: Serendipity Mining, Inc.
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–90–26–C
FR notice: 55 FR 6848
Petitioner: K and M Coal Company, Inc.
Reg affected: 30 CFR 75.313
Summary of findings: Petitioner's proposal to use hand-held continuous oxygen and methane monitors instead of methane monitors on three-wheel tractors considered acceptable alternate method. Granted with conditions.

Docket no.: M–86–1–M
FR notice: 51 FR 11851
Petitioner: United Salt Corporation
Reg affected: 30 CFR 57.4760
Summary of findings: Petitioner's proposal of a three-part fire response in which the main fan would immediately shut off, an alarm would sound, and a second fan on the surface would be activated considered acceptable alternate method. Granted with conditions.

Docket no.: M–87–9–M
FR notice: 52 FR 34437
Petitioner: Ziegler Chemical & Mineral Corporation
Reg affected: 30 CFR 57.4760
Summary of findings: Petitioner's proposal to perform underground work using only pneumatic or hydraulic mining equipment and to detonate no explosives while persons are underground considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–5–M
FR notice: 53 FR 19351
Petitioner: Tg Soda Ash, Inc.
Reg affected: 30 CFR 57.22305
Summary of findings: Petitioner's proposal to use a nonpermissible spad driver powered by a .27 caliber explosive booster to drive the spads to hang ventilation tubing as the face advances considered acceptable

alternate method. Granted with conditions.

Docket no.: M–88–7–M
FR notice: 53 FR 27779
Petitioner: Copper Range Company
Reg affected: 30 CFR 57.11052
Summary of findings: Petitioner's proposal to use downcast airflow from the emergency escape shaft for the refuge chamber instead of installing compressed air lines and to substitute bottled drinking water for waterlines considered acceptable alternate method. Granted with conditions.

Docket no.: M–88–16–M
FR notice: 53 FR 49257
Petitioner: Southwestern Portland Cement Company
Reg affected: 30 CFR 56.14107
Summary of findings: Petitioner's proposal to install a metal gate to enclose the gears, sprockets and drives considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–1–M
FR notice: 54 FR 7300
Petitioner: Cominco Alaska, Inc.
Reg affected: 30 CFR 56.9300
Summary of findings: Petitioner's proposal to reduce the speed limit to 30 miles per hour along the overburden dump access road, install road markers with reflectors, widen the road to a crown width of 60 feet and berm along the downhill shoulder considered acceptable alternate method. Granted with conditions.

Docket no.: M–89–25–M
FR notice: 54 FR 53395
Petitioner: Bad Creek Constructors
Reg affected: 30 CFR 56.9300(d)
Summary of findings: Petitioner's proposal to install a locked gate at the entrance to the roadway, erect signs stating that the speed limit is 10 miles per hour, and install road markers with reflectors considered acceptable alternate method. Granted with conditions.

[FR Doc. 90–24122 Filed 10–11–90; 8:45 am]
BILLING CODE 4510–43–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement for an Arts Teachers Fellowship Program

AGENCY: National Endowment for the Arts, NFAH.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement for the development, implementation, and administration of an arts teachers fellowship program. It is expected that the recipient of the Cooperative Agreement will raise matching funds for the project. Between approximately 8 and 25 fellowships of $3,000 each will be awarded during the first year. Those interested in receiving the Solicitation package should reference Program Solicitation PS 91–01 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: The Program Solicitation is scheduled for release approximately November 5, 1990 with proposals due on December 5, 1990.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, or Anna Mott, Contracts Division, National Endowment for the Arts, 1100 Pennsylvania Ave., NW. Washington, DC 20506 (202/682–5482).

William I. Hummel,
Director, Contracts and Procurement Division.

[FR Doc. 90–24088 Filed 10–11–90; 8:45 am]
BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Permit Application Received

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 13, 1990. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTAL INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

1. Applicant

Lowell E. Starr, National Mapping Division, U.S. Geological Survey, Reston, VA 22092.

Activity for Which Permit Requested

Enter Sites of Special Scientific Interest and Specially Protected Areas. The U.S. Geological Survey is expanding its control network for 1:50000 scale topographic mapping covering the Ross Island area. Access to specially protected areas is requested to set up Global Positioning System (GPS) equipment inside and near protected areas.

Location

Cape Crozier, Cape Bird, Cape Royds, Post Office Hill, Ross Island, Antarctica.

Dates

December 1990–January 1991.

2. Applicant

Mark D. Kurz, Woods Hole Oceanographic Institution, Woods Hole, MA 02543.

Activity for Which Permit Requested

Enter Sites of Special Scientific Interest. The applicant is conducting a study of the history of Antarctic glaciation. He requests permission to enter protected areas to collect rock samples for geochemistry and geochronology. No biological samples will be taken.

Location

Cape Crozier, Arrival Heights, and Linnaeus Terrace Sites of Special Scientific Interest, Antarctica.

Dates

December 1990–January 1991.

Charles Myers,

Permit Office.

[FR Doc. 90–24095 Filed 10–11–90; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Co., H.B. Robinson Steam Electric Plant, Unit No. 2 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of appendix R to 10 CFR part 50 to Carolina Power & Light Company (the licensee) for the H. B. Robinson Steam Electric Plant, Unit No. 2, located in Darlington County, South Carolina.

Environmental Assessment

Identification of Proposed Action

The exemption would revise the combustible loading value identified for the component cooling water (CCW) pump room.

The exemption is responsive to the licensee's application for exemption dated July 30, 1990, as supplemented by letter August 16, 1990.

The Need for the Proposed Action

The proposed exemption is needed because the existing cable trays cannot accommodate the additional fire loading from installation of new cables and routing of the new cables in dedicated conduits would not be practical. The features described in the licensee's request regarding the existing fire protection at their plant for these items are the most practical method for meeting the intent of appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental Impacts of the Proposed Action

The proposed exemption will provide a degree of fire protection that is equivalent to that required by appendix R for other areas of the plant so there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased, and the post-accident radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement Related to the Operation of H. B. Robinson Nuclear Steam-Electric Plant, Unit 2, dated April 1975.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action see the application for the exemption dated July 30, 1990, as supplemented by letter dated August 16, 1990, which is available for public inspection at the Commission's Public Document, 2120 L Street, NW., the Gelman Building, Washington DC, and at the Hartsville Memorial Library, Home and Fifth Avenue, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland this 9th day of October, 1990.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate II–1, Division of Reactor Projects I/II, Officer of Nuclear Reactor Regulation.

[FR Doc. 90–24087 Filed 10–11–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–2061]

Environmental Assessment, Findings of No Significant Impact, and Opportunity for Hearing Related to Amendment of Materials License No. STA–583; Kerr-McGee Chemical Corp., West Chicago, IL

The United States Nuclear Regulatory Commission (the Commission) is considering issuing an amendment of Materials License No. STA–583, held by Kerr-McGee Chemical Corporation (Kerr-McGee), to authorize the receipt and storage at the Kerr-McGee Facility in West Chicago, Illinois, of thorium-contaminated materials which are being removed from off-site residential and commercial locations in DuPage County, Illinois.

Summary of Environmental Assessment

Identification of the Proposed Action

By letter dated July 18, 1990, Kerr-McGee, the licensee, requested authorization to receive, store, and dispose of thorium-contaminated soils currently located in off-site residential and commercial locations in DuPage County.

The Need for the Proposed Action

The areas of thorium-contaminated soil are relatively small in area, but are a source of radiation exposure and concern to the nearby residents. In recognition of this situation, Kerr-McGee has undertaken a program to remove these deposits and store them on the Kerr-McGee Rare Earths Facility. An amendment to Kerr-McGee's Material License STA–583 is required to permit Kerr-McGee to receive and store the thorium-contaminated material onsite.

Environmental Impacts of the Proposed Action

Currently, the contaminated soils are located at approximately 40 different locations offsite. Removal of the soils would result in the consolidation of material, thereby improving control.

Kerr-McGee will excavate the thorium-contaminated material in accordance with approved procedures. Water sprays and/or dust control measures will be used as needed to control airborne particulate emissions during excavation, transportation, loading/unloading, and storage activities. Air samples will be collected during all work activities to determine the airborne particulate concentrations in work areas. Kerr-McGee's existing environmental monitoring program will be continued to confirm that the

material is not dispersing offsite once stored.

The disposal site at the Kerr-McGee Facility is a restricted area so that unauthorized people will not be able to gain access to the contaminated material. The thorium-contaminated material will be stored separately from other materials onsite, and documentation will be maintained showing the origin of the excavated material, quantities received, date of receipt, and level of radiation.

Transportation accidents could result in the spillage of the thorium-contaminated soils. However, spilled soils can be readily cleaned up, and the short-term effect of dust dispersion at an accident site would be insignificant.

Previous permission to receive and store thorium-contaminated material from small scattered sites in the City of West Chicago and the West Chicago Sanitary Treatment Plant was authorized in License Amendments No. 10 and No. 11, dated July 10, 1984, and May 13, 1986, respectively. Estimates based on experience with the earlier clean-up programs indicate quantities of off-site contaminated soils, exclusive that in Reed-Keppler Park and at the Sanitary Treatment Plant, would be roughly 20,000 cubic meters. This is a small increment to the 376,400 cubic meters which the licensee is currently authorized to dispose, and would not significantly alter the evaluation of the environmental impacts and costs presented in the April 1989 Supplement to the Final Environmental Statement related to the decommissioning of the Rare Earths Facility, West Chicago, Illinois. Indeed, the quantity is appreciably less than the 48,600 cubic meters which is included as a contingency amount in the 376,400 cubic meters.

Conclusion

The staff believes that receipt and storage of the thorium-contaminated material can be accomplished in an environmentally safe manner and that the operation is expected to have an insignificant environmental impact. Therefore, the staff concludes there will be no significant impacts associated with the proposed action. Consequently, consolidating the various deposits of off-site thorium-contaminated soils onto a restricted site will provide greater protection to the public.

Alternative to the Proposed Action

One alternative to the proposal is to leave the thorium-contaminated material where it is now. Due to the unrestricted areas in which the material currently is located and the radiation exposure and concern to the nearby residents, this alternative is not favored.

Another alternative would be to move the thorium-contaminated material to another location. Any location to which the material is ultimately moved will have to be rstricted to control access to the material. Measures would also have to be taken to prevent the spread of contaminated material. Any location chosen would have to be dedicated to the purpose and would become unavailable for other activities. Because the thorium-contaminated material originated from the Rare Earths Facility and the disposal site is already restricted, storage at the Kerr-McGee West Chicago Facility would appear to be the best solution.

Agencies and Persons Contacted

The NRC staff held informal discussions with State of Illinois and City of West Chicago agencies.

Finding of No Significant Impact

Based on the foregoing Environmental Assessment, the Commission has determined not to prepare an Environmental Impact Statement and has determined that a Finding of No Significant Impact is appropriate.

Opportunity for a Hearing

Any person whose interests may be affected by the issuance of this amendment may file a request for a hearing. Any request for hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the publication of this notice in the Federal Register; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); on the licensee Kerr-McGee Chemical Corporation, ATTN: Mr. John Stauter, Kerr-McGee Center, Oklahoma City, Oklahoma 73125; and must comply with the requirements for requesting a hearing set forth in NRC regulation, 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings." These requirements, which the requestor must describe in detail, are:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing;

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the requests of hearing is timely, that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effects of any order that may be entered in the proceeding upon the requestor's interest.

The July 18, 1990, application, and the Commission's Finding of No Significant Impact and the Environmental Assessment are available for public inspection and copying at the Commission's Public Document Room, The Gelman Building, 2120 L Street NW., Washington, DC 20555 and the Local Public Document Room at the West Chicago Public Library, 325 E, Washington Street, West Chicago, Illinois 60185

Dated at Rockville, Maryland, this 4th day of October 1990.

For the Nuclear Regulatory Commission.

Charles J. Hughes,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 90-24086 Filed 10-11-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-206, 50-361 and 50-362]

Southern California Edison Co. et al.; San Onofre Nuclear Generating Station, Unit Nos. 1, 2 and 3 Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-13, Facility Operating License No. NPF-10 and Facility Operating License No. NPF-15 issued to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Station, Unit Nos. 1, 2 and 3, located in San Diego County, California.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would reflect changes in the ownership of San Onofre Nuclear Generating Station which will result from the merger of Southern California Edison Company and San Diego Gas and Electric

Company. These changes are administrative in nature since both companies are co-licensees.

The Need for the Proposed Action

The proposed amendments are required to allow the administrative action of merging licensee San Diego Gas and Electric Company into licensee Southern California Edison Company.

Environmental Impacts of the Proposed Action

The proposed action would not involve a significant change in the probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident would not be significantly greater than previously determined. The proposed amendments do not otherwise affect routine radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed amendments do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The notice in connection with this action was published in the **Federal Register** on September 6, 1989 (54 FR 37053). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to operation of San Onofre Nuclear Generating Station, Unit 1 dated October 1973, and in the Final Environmental Statement related to the operation of San Onofre Nuclear Generating Station Units 2 and 3, dated April 1981 and its Errata dated June 5, 1981.

Agencies and Persons Consulted

The NRC staff has advised the State Department of Health Services, State of California of the proposed determination of no significant hazards consideration. No comments were received.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendments.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendments dated April 28, 1989, as supplemented May 15, 1989, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland this 1st day of October 1990.

For the Nuclear Regulatory Commission.

James E. Tatum,

Acting Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-24084 Filed 10-11-90; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-146]

Renewal of Facility License No. R-78; University of Kansas

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 16 to Facility License No. R-78, issued to the University of Kansas (the licensee), which renews the possession-only license for the facility located on the university campus in Lawrence, Kansas. The renewed license will expire on January 1, 1995.

The amended license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR chapter I. Those findings are set forth in the license amendment. Opportunity for hearing was afforded in the notice of the proposed issuance of this renewal in the **Federal Register** on August 30, 1990 (55 FR 35483). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared a related Safety Evaluation for the renewal of Facility License No. R-78 and has, based on that evaluation, concluded that the facility can continue to be maintained by the licensee without endangering the heatlh and safety of the public.

The Commission also has prepared an Environmental Assessment which was published in the **Federal Register** on September 21, 1990 (55 FR 38883) for the renewal of Facility License No. R-78 and has concluded that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see: (1) The application for amendment dated December 12, 1989, as supplemented on July 12, 1990; (2) Amendment No. 16 to Facility License No. R-78; (3) the related Safety Evaluation; and (4) the Environmental Assessment. These items are available for public inspection at the Commisson's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 5th day of October 1990.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactor, Decommissioning and Environmental Project Directorate,

Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-24085 Filed 10-11-90; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF GOVERNMENT ETHICS

Public Information Collection Form Revision Submitted for OMB Approval

AGENCY: Office of Government Ethics.

ACTION: Notice of proposed revision of a public information collection form submitted to OMB for clearance.

SUMMARY: The Office of Government Ethics (OGE) has submitted to the Office of Management and Budget (OMB) for approval, in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), a proposed revised version of the SF 278 Public Financial Disclosure Report, that collects information from the public. Since the form is also a Standard Form, OGE is

submitting the proposed reprint revisions to the General Services Administration (GSA) for its clearance as well.

DATES: Comments on this proposal should be received by November 13, 1990.

ADDRESSES: Comments should be sent to Joseph F. Lackey, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3002, Washington, DC 20503, telephone (202/FTS) 395–7316.

FOR FURTHER INFORMATION CONTACT: Karen L. Bovard, Office of Government Ethics, suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917, telephone (202/FTS) 523–5757, FAX (202/FTS) 523–6325. A copy of OGE's request for approval from OMB, including the proposed revised form, may be obtained by contacting Ms. Bovard.

SUPPLEMENTARY INFORMATION: The Office of Government Ethics sponsors the SF 278 Financial Disclosure Report which collects pertinent financial information from certain officials and high-level employees in the executive branch for conflicts of interest review and public disclosure in order to promote the public trust in the integrity of Government employees. OGE formerly sponsored this form as a part of the Office of Personnel Management until October 1, 1989, when it became a separate agency in the executive branch.

Notice of a prior proposed revision of the current 1/87 (OPM) edition of the SF 278 was given at 55 FR 5664, February 16, 1990. The proposed 1990 revision/reprint reflected the need to renew paperwork clearance for the form, to change the form from an OPM to an OGE sponsored one, and to update certain citations, as well as to restock the form to meet the executive branch demand for the remainder of 1990.

At the time of that prior proposed revision, it was not clear under the original language of the Ethics Reform Act of 1989 (Pub. L. 101–194) whether the Reform Act provisions or the Ethics in Government Act provisions governed executive branch public financial disclosure reporting for the time period between January 1, 1990 and January 1, 1991. This matter was resolved on May 4, 1990 by the technical amendments to the Ethics Reform Act (Pub. L. 101–280), extending the current Ethics Act title II reporting provisions through the end of 1990. OGE's request for revisions to the SF 278 was cancelled soon thereafter. With OMB and GSA approval, the 1/87 OPM version of the form was reprinted in a quantity estimated to meet the remaining needs for 1990. This current request for revision of the SF 278 is necessary in order to provide the form to collect the information required by the new Reform Act title I reporting provisions which take effect next January 1, 1991.

The SF 278 Financial Disclosure Report collects information which is required to be reported by candidates, nominees, new entrants, incumbents and terminees of certain high-level positions within the executive branch of the Federal Government. Approximately 20,000 SF 278 forms are filed on an annual basis. While the majority of those who file the form are Government employees at the time they complete the form, certain candidates, nominees, and terminees complete the form either before or after their Government service. Thus, Paperwork Reduction Act clearance is required for the SF 278 Public Financial Disclosure Report. The number of non-Government filers whose reports are transmitted to the Director, OGE, is estimated at 280. This would include a majority of the candidates and nominees, and almost all terminees.

The average response time for completion of the SF 278 has also been increased from one hour to two hours as a result of an OGE reassessment of the complexity of the form, particularly for non-Government employee reporting individuals. This now presents a total annual public reporting burden at OGE of 560 hours.

A related form to the SF 278 has been the supplemental Schedule A (Assets & Income) sheet (the SF 278 Sch. A). Because this supplemental form has not been widely used in recent years, OGE will be cancelling this form. OGE anticipates that SF 278 filers and their agencies will continue to use photocopies of the individual schedules as the need for more than one page of any schedule arises.

The information filed on the current version of the SF 278 is required by title II of the Ethics in Government Act of 1978, as amended. The Ethics Reform Act of 1989, as amended, makes certain changes to the financial disclosure provisions of the Ethics in Government Act which will affect all reports submitted starting January 1, 1991. The Ethics Reform Act provided for additional categories of values of assets, amounts of income, amounts of liabilities, and amounts of transactions. It also raised the reporting threshold for income and the threshold value for gifts required to be aggregated from one source in order to trigger the reporting requirement. Other changes to the form include notation of a $200 late penalty fee, limited reporting for excepted investment funds, indication of transactions pursuant to certificates of divestiture, and some modification of exclusions in reporting gifts, reimbursements, liabilities, income, transactions, and assets. The form and instructions are being modified to incorporate these changes and to provide further clarification on some reporting items as needed based on administrative experience over the prior decade of public financial disclosure reporting.

The proposed revisions to the SF 278 reflect other changes as well. Some modifications are the change to letter size paper, the resulting changes to accommodate the smaller size form, the change of the name of the form to the SF 278 Public Financial Disclosure Report, the change of the citations to reflect the relocation of 5 CFR part 734 to 5 CFR part 2634 of OGE's regulations (see 54 FR 50229–50231, Dec. 5, 1989), the addition of a public burden statement, the notation that OGE rather than OPM now sponsors this form (pursuant to OGE's new separate agency status provided for in sections 3 and 10 of the amendment to the Ethics in Government Act of 1978 which reauthorized OGE in 1988 (Pub. L. 100–598)), and the clarifications to the instruction sections not related to changes due to the Ethics Reform Act provisions.

These changes will also be reflected in future changes to the OGE regulations regarding executive branch public financial disclosure reporting at 5 CFR part 2634. However, because the form must be available for use by those affected individuals on January 1, 1991, it is being submitted for clearance at this time in order to allow for its printing and stocking by GSA and the agencies once the clearance process is complete. In order to ensure that there will be no time lapse, OGE is also requesting permission from GSA to locally reproduce and distribute this form (once it is cleared by OMB and GSA), if necessary, until stock is available through GSA.

Approved: October 4, 1990.

Stephen D. Potts,

Director, Office of Government Ethics.

[FR Doc. 90–24047 Filed 10–11–90; 8:45 am]

BILLING CODE 6345–01–M

OFFICE OF NATIONAL DRUG CONTROL POLICY

President's Drug Advisory Council; Meeting

AGENCY: President's Drug Advisory Council; Office of National Drug Control Policy.

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. appendix), of the third meeting of the President's Drug Advisory Council.

DATE AND TIME: October 24, 1990 from 10 a.m. to 4 p.m. (with a 90-minute lunch break at 12).

PLACE: Room 180, Old Executive Office Building (OEOB), Washington, DC 20500.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Cooney, Staff Assistant, President's Drug Advisory Council, Executive Office of the President, Washington, DC 20503, (202) 466–3100.

SUPPLEMENTARY INFORMATION: The President's Drug Advisory Council was created by Executive Order 12696 of November 13, 1989 (54 FR 47507, November 15, 1989), with the general purpose of advising the President and the Director of the Office of National Drug Control Policy on the development, dissemination, explanation and promotion of national drug policy.

At the morning portion of the October 24 meeting, the Council will receive a report from the National Coalition Subcommittee on the National Leadership Forum which it is planning for November 9 and 10, 1990, and a report from the Volunteer Organizations Subcommittee. In the afternoon portion of the meeting the Council will discuss the general issue of drugs in the workplace.

Members of the public interested in attending the meeting should contact the President's Drug Advisory Council, (202) 466–3100, at least one day prior to the meeting. Callers should be prepared to give their birthdate and Social Security number over the telephone, in order to facilitate clearance into the Old Executive Office Building. Due to unforeseen scheduling difficulties, notice of this meeting was delayed.

John Walters,

Chief of Staff, Office of National Drug Control Policy.

[FR Doc. 90–24127 Filed 10–11–90; 8:45 am]

BILLING CODE 3180–02–M

OFFICE OF PERSONNEL MANAGEMENT

Notice of Proposed Extension of Forms Submitted to OMB for Clearance

AGENCY: U.S. Office of Personnel Managment.

ACTION: Notice.

SUMMARY: Under the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), this notice announces a proposed extension of forms used to collect information from the public. The Establishment Information Form, the Wage Data Collection Form, and the Continuation Form are wage survey forms developed by the Office of Personnel Management and used by three lead agencies, the Department of Defense, the Department of Veterans Affairs, and the National Aeronautics and Space Administration, to survey private sector business establishments. The surveys are conducted annually to determine the level of wages paid by private enterprise establishments for representative jobs common to both private industry and Government. The lead agencies use this information to establish rates of pay for Federal Wage System employees. For copies of this proposal, call C. Ronald Trueworthy, Agency Clearance Officer, on (202) 606–2261.

DATES: Comments on this proposal should be received within 10 working days after the date of this notice.

ADDRESSES: Send or deliver written comments to: C. Ronald Trueworthy, Chief, Reports and Forms Management Branch, U.S. Office of Personnel Management, 1900 E Street, NW., room 6410, Washington, DC 20415 and Joseph Lackey, Information Desk Officer, Office of Management and Budget, Paperwork Reduction Project (3206–0031), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Allan Summers, (202) 606–2848.

U.S. Office of Personnel Management

Constance Berry Newman,

Director.

[FR Doc. 90–24120 Filed 10–11–90; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Notice of Postponement

The meeting of the President's Council of Advisors on Science and Technology (PCAST) scheduled for October 11–12, 1990 as announced in the **Federal Register**, October 2, 1990, page 40251 has been postponed until November 8–9, 1990. The agenda will remain the same.

Dated: October 5, 1990.

Ms. Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 90–24037 Filed 10–4–90; 8:45 am]

BILLING CODE 3170–01–M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash (202) 272–2142.

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002.

Extension, Rule 10b–6, File No. 270–313

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval a requirement that certain members of the International Stock Exchange of the United Kingdom and the Republic of Ireland, Limited ("ISE") notify the ISE and the Commission and retain certain transaction information for two years as conditions to relying on an exemption from Rule 10b–6 (17 CFR 240.10b–6) promulgated under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*). The exemption allows an ISE member firm to engage in "passive market making" transactions whenever it is participating in a multinational offering of a security designated "alpha" or "beta" by the ISE, with a portion to be distributed in the U.S., or whenever the ISE firm's U.S. affiliates are participating in a distribution in the U.S. of such security. Rule 10b–6 prohibits persons participating in a distribution from bidding for or purchasing the security being distributed, or a related security, during the distribution. Rule 10b–6(h) permits the Commission to exempt transactions from Rule 10b–6 either unconditionally or on specified terms or conditions. Presently, fifteen broker-dealers rely on the exemption and incur a total of 150 annual burden hours.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange

Commission, 450 Fifth Street NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0355), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 5, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24105 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash (202) 272–2142

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002

Extension, Rule 17a–11, File No. 270–94

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17a–11 (17 CFR 240.17a–11) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*), which requires certain exchange members, brokers, and dealers to furnish supplemental current financial and operational reports when they start to experience financial or operational difficulties. A total of 600 respondents incur an annual total of 6,600 burden hours in complying with the rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0085), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24106 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash (202) 272–2142

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002

Extension, Rule 17f–2(c), File No. 270–35

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17f–2(c) (17 CFR 240.17f–2(c)), which requires registered national securities exchanges and associations to submit plans for collecting, processing, and forwarding fingerprint cards to the FBI. One respondent incurs one burden hour annually to comply with the rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0029), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24107 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash (202) 272–2142

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002

Extension, Rule 15Aj–1, Forms X–15AJ–1 and X–15AJ–2, File No. 270–25

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 15Aj–1 (17 CFR 240.15Aj–1) and Forms X–15AJ–1 and X–15AJ–2 under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*), which provide for registered securities associations to file annual amendments to their registration statements to reflect changes made during the preceding year in the information contained in those statements. One respondent incurs three annual burden hours to comply with the rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0044), room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24108 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash, (202) 272–2142

Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002

Extension, Rule 17a–13, File No. 270–27

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17a–13 (17 CFR 240.17a–13) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*), which requires quarterly security counts by certain exchange members, brokers, and dealers. A total of 5,000 respondents incur an annual total of 500,000 burden hours in complying with the rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0035), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24109 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash, (202) 272–2142
Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002

Extension, Rule 19b–4 and Form 19b–4, File No. 270–38

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 19b–4 (17 CFR 240.19b–4) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*), which requires the various self-regulatory organizations to file their rule proposals on Form 19b–4. A total of 25 respondents incur an annual total of 12,390 burden hours in complying with the rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0045), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24110 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash, (202) 272–2142
Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002

Extension, Rule 15b3–1, File No. 270–11

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 15b3–1 (17 CFR 240.15b3–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*), which requires brokers or dealers to amend the information contained in Form BD whenever such information becomes inaccurate for any reason. A total of 6,300 respondents incur a cumulative total of 2,825 annual burden hours to comply with the rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0013), room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24111 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash, (202) 272–2142
Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002

Extension, Rule 11Ab2–1 and Form SIP, File No. 270–23

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 11Ab2–1 and Form SIP (17 CFR 240.11Ab2–1) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*), which outline the requirements for filing an application to register as an exclusive processor of securities information. One respondent incurs 440 annual burden hours to comply with this rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0043), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24112 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

Requests Under Review by Office of Management and Budget

Agency Clearance Office—Kenneth A. Fogash, (202) 272–2142
Upon written request copy available from: Securities and Exchange Commission, Public Reference Branch, Washington, DC 20549–1002

Extension, Rule 15Aa–1, Form X–15AA–1, File No. 270–24

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 15Aa–1 (17 CFR 240.15Aa–1) and Form X–15AA–1 (17 CFR 249.801) under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et. seq.*), providing for the application for registration of an association as a national securities association or as an affiliated securities association. One respondent incurs a total of 150 annual burden hours to comply with the rule.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–6004 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0030), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24113 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142
Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, Washington, DC 20549

Extension

File No. 270–121, Form T–1
File No. 270–122, Form T–2
File No. 270–123, Form T–3
File No. 270–127, Rule 14f–1
File No. 270–54, Form 8–A
File No. 270–117, Regulation F
File No. 270–120, Form SR

File No. 270–70, Regulation 12B
File No. 270–116, Rule 12d1–3
File No. 270–115, Rules 7a–15 through 7a–37

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval extension of the following: Form T–1; Form T–2; Form T–3; Form 8–A; Regulation F; Form SR; Regulation 12B; Rule 12d1–3; Rule 14f–1; and Rules 7a–15 through 7a–37. The rules, forms and regulations provide a basis for the Commission to fulfill its statutory responsibility to ensure that issuers of publicly traded securities provide investors and the marketplace with adequate information. Regulation F provides an exemption from registration under the Securities Act in connection with assessable stock if specified conditions are met. Form T–1 affects 1665 filers for a total 73,260 burden hours; Form T–2 affects 36 filers for a total of 1,008 burden hours; Form T–3 affects 55 filers for a total of 2,420 burden hours; Regulation 12B and Rules 7a–15 through 7a–37 have been assigned one burden hour for administrative purposes; Form 8–A affects 1,940 filers for a total of 15,520 burden hours; Regulation F affects 7 filers for a total of 21 burden hours; Form SR affects 2,566 filers for a total of 14,113 burden hours; Rule 12d1–3 affects 688 filers for a total of 344 burden hours; and Rule 14f–1 affects 44 filers for a total of 792 burden hours. The estimated burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the cost of the Commission's rules and forms. Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0056, 0062, 0094, 0105, 0108, 0109, 0124, 0132, 0110, 0111), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 1, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24114 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28517; File No. SR–NASD–90–41]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Voting Rights for Issuers Whose Securities are Listed in NASDAQ/NMS

I. Introduction

On July 25, 1990, the National Association of Securities Dealers ("NASD" or "Association") submitted to the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Schedule D, part III, section 5 of the NASD By-Laws in order to adopt prohibitions against shareholder disenfranchisement for issuers included in the National Association of Securities Dealers Automated Quotation/National Market System ("NASDAQ/NMS").[3]

The proposed rule change was noticed in Securities Exchange Act Release No. 28277 (July 27, 1990), 55 FR 31465 (August 2, 1990). The Commission received three comment letters on the proposal, and a response to the comment letters from the NASD, which are all discussed below.

II. Background

On July 7, 1988, the Commission promulgated Rule 19c–4, pursuant to section 19(c) of the Act, which prohibits an issuer from being or remaining listed on a national stock exchange or remaining authorized for quotation and/or transaction reporting through an automated inter-dealer quotation system operated by a national securities association [4] if such company issues securities or takes other corporate action that would have the effect of nullifying, restricting, or disparately reducing the per share voting rights of existing common stock shareholders of the company.[5] The Rule, by its terms, applied to all NASDAQ-quoted stocks.

In a petition for review brought by the Business Roundtable,[6] the U.S. Court of Appeals for the District of Columbia Circuit held that the statutory authority cited by the Commission was not sufficient to support the adoption of Rule 19c–4 and ordered the Rule vacated.[7] The Commission chose not to appeal that decision and the Court entered an order to vacate Rule 19c–4 on August 3, 1990.

On July 25, 1990, the NASD submitted the proposal being considered herein seeking approval to adopt similar prohibitions against shareholder disenfranchisement for issuers included in NASDAQ/NMS after the issuance of the Court's mandate vacating Rule 19c–4.[8] Unlike Rule 19c–4, which applied to all NASDAQ issuers, the NASD proposal would apply the substance of Rule 19c–4 only to NASDAQ/NMS issuers. Under this proposal and the current NASD Rules, therefore, there would be no voting rights listing standard for non-NMS quoted stocks.

Concurrent with this proposal, the NASD also submitted another proposal that requested accelerated approval by the Commission to continue the terms of Rule 19c–4 for NASDAQ/NMS stocks for a temporary 90 day period, while the Commission considered the NASD's proposal to adopt this standard on a permanent basis. The Commission granted accelerated approval to this proposal in order to allow the NASD to continue operations as usual with regard to NASDAQ/NMS issuers. In granting the temporary approval, the Commission relied on the fact that the NASD had submitted a proposed rule change to adopt prohibitions on shareholder disenfranchisement on a permanent basis. The Commission stated that good cause existed to accelerate a temporary adoption of the standards to prevent NASDAQ/NMS issuers from taking actions that could disenfranchise shareholders while the Commission

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

[3] As discussed *infra*, the NASD proposes to adopt the exact language of former SEC Rule 19c–4 as its voting rights listing standard for NASDAQ/NMS stocks.

[4] Currently, the NASD is the only national securities association registered under Section 15A of the Act. 15 U.S.C. 78o–3(a).

[5] *See* Securities Exchange Act Release No. 25891 (July 7, 1988), 53 FR 26376 (July 12, 1988) ("Adopting Release"). Upon its adoption by the Commission, Rule 19c–4 automatically became a rule of the national securities exchanges and associations pursuant to Section 19(c) of the Act which grants to the Commission the authority to abrogate, add to, and delete from the rules of a self-regulatory organization ("SRO").

[6] *See Business Roundtable* v. *S.E.C.*, Fed. Sec. L. Rep. (CCH) ¶ 95,291 (D.C. Cir. June 12, 1990).

[7] The Commission notes that the Court of Appeals decision did not focus upon the merits of a disenfranchisement rule or upon whether a national securities exchange or association could adopt such a rule pursuant to Section 19(b), but rather upon the Commission's authority to promulgate Rule 19c–4 under its Section 19(c) powers. The decision, however, does make clear that voting rights listing standards are rules that are subject to the Commission's authority, including Section 19(b).

[8] NMS securities are those equity securities, both listed on a national securities exchange and in the over-the-counter market, for which last sale transaction reporting is required. *See*, Section 11A of the Act and Rules 11Aa2–1 and 11Aa3–1 thereunder.

considered the broader question of permanent approval of the proposal.

III. Description of Proposal

As noted above, the NASD's proposal would amend Part III, section 5 of its Schedule D by adopting, for NASDAQ/NMS stocks only, the language set forth in Rule 19c–4.[9] In this regard, the proposal prohibits the disenfranchisement of existing holders of an outstanding class or classes of common stock of an NASDAQ/NMS issuer. Further, the proposal sets forth the following actions which are presumed to be disenfranchising: (1) "Time-phased" voting; (2) "capped" voting plans; (3) super voting stock distributions; and (4) exchange offers.[10] In addition, under the proposal, the following actions are presumed not to be disenfranchising, and thus permitted: (1) Initial public offerings; (2) subsequent issuances of lower voting stock; (3) bona fide mergers and acquisitions; and (4) stock dividends.[11]

In its filing requesting permanent approval to adopt voting rights standards for NASDAQ/NMS stocks, the NASD indicated its desire to continue applying the standards set forth under Rule 19c–4 in order to prohibit corporate actions which disenfranchise existing shareholders. In this regard, the NASD stated that it intends to apply the proposed rule change in a manner consistent with the application of Rule 19c–4 since its adoption in July, 1988. Accordingly, the NASD emphasized that it will continue to look to the interpretive discussion of the Rule in the Commission's adopting release [12] and to prior NASD interpretive summaries for guidance in the application of the proposed rule changes.

IV. Comment Letters

The United Shareholders Association ("USA"), the Association for Investment Management and Research ("AIMR") and the Institutional Shareholder Services, Inc. ("ISS") submitted comment letters to the Commission regarding the NASD's proposal.[13] The NASD also submitted a comment letter in response.[14] All three comment letters were in support of the NASD's basic proposal to adopt the prohibitions against shareholder disenfranchisement set forth in Rule 19c–4 for NASDAQ/NMS stocks. Both USA and AIMR, however, urged the Commission and the NASD to apply the proposal to all NASDAQ issuers. USA stated that it saw no justification for the distinction made between NMS and non-NMS securities and that, although it commended the NASD for submitting the proposal, it believes that the proposal is only a half-step without the added inclusion of non-NMS issuers. USA further stated that, in its view, failure to include all NASDAQ issuers would be discriminatory and unfair to the non-NMS shareholders. AIMR stated that shareholders of all issuers quoted on NASDAQ should be afforded the same protections as NASDAQ/NMS issuers.

The NASD submitted a letter responding to these three comment letters.[15] The NASD's response focused directly on the commentators' concerns regarding the application of the Rule 19c–4 standards to only NASDAQ/NMS stocks. Specifically, the NASD stated that in considering whether to place such a voting rights listing standard upon issuers, the NASD Board determined that it was appropriate to impose a standard premised on Rule 19c–4 in a manner consistent with its application of other similar standards. In this regard, the NASD noted that its non-quantitative listing standards currently are imposed only on NASDAQ/NMS issuers.

In addition, the NASD stated that it believed the limitation to only NASDAQ/NMS issuers will strike an appropriate balance between impeding a company's ability to create a desired capital structure and the protections which such a standard affords to shareholders in the NMS issuers constitute the group of NASDAQ securities which are most widely held by the public. Finally, the NASD articulated the necessity of the existence of such a standard due to the Memorandum of Understanding ("MOU") between it and the North American Securities Administrators Association regarding a model uniform marketplace exemption from state securities registration requirements.[16] The MOU specifically states that blue sky security law exemptions to NASDAQ/NMS stocks should be granted, among other things, because of the application of shareholder corporate governance standards, including Rule 19c–4, to NASDAQ/NMS securities. Currently, 39 states have granted NASDAQ/NMS securities exemptions from registration under their respective blue sky securities laws.[17] Accordingly, the NASD believes that the proposal to adopt such a standard should apply only to NASDAQ/NMS issuers because it is these issuers that would lose valuable benefits in the absence of its existence.

V. Commission Findings

The Commission believes that the NASD's proposal to adopt the standards set forth in Rule 19c–4 against shareholder disenfranchisement for NASDAQ/NMS securities is an important step toward increasing shareholder protection, thereby enhancing investor confidence in the U.S. securities market system.[18] Currently, the New York Stock Exchange, Inc. ("NYSE") is the only other SRO which has adopted similar voting rights listing standards.[19] The Commission continues to encourage the adoption of such standards by the remaining SROs,[20] and remains confident that such a voting rights listing standard is a beneficial step toward strengthening the U.S. securities market.

After careful consideration, therefore, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations pertaining to a national securities association and, in particular, the requirements of section 15A(b)(6) and section 15A(b)(9). In this regard, the Commission believes that the NASD's proposal to incorporate

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[9] The proposal would adopt the exact language of Rule 19c–4 into the NASD's rules. Specifically, it would prohibit the quotation of an NASDAQ/NMS issuer's common stock or other equity securities if the issuer issues any class of stock or takes other corporate action which would have the effect of nullifying, restricting or disparately reducing the per share voting rights of outstanding common stock shareholders.

[10] For an in-depth explanation and description of these actions, *see* Adopting Release, 53 FR 26376, at 26384.

[11] *See* Adopting Release, 53 FR 26376, at 26383 for an indepth explanation and description of these permitted transactions.

[12] *See* Adopting Release, 53 FR 26376, at 26382.

[13] *See* letters from Ralph V. Whitworth, Director, USA, dated August 23, 1990; Anthony T. Cope, CFA and Chairman, AIMR, dated August 23, 1990; and Eric M. Ovsiew, Deputy General Counsel, ISS, dated August 17, 1990, to Jonathan G. Katz, Secretary, SEC.

[14] *See* letter from T. Grant Callery, Vice President and Deputy General Counsel, NASD, to Katherine England, Branch Chief, SEC, dated September 26, 1990.

[15] *See* note 14, *supra*.

[16] *See* Securities Act Release No. 6810 (December 16, 1988), 53 FR 52550.

[17] These exemptions are contingent upon the continued application of a Rule 19c–4 standard to NASDAQ/NMS securities.

[18] The Commission believes the analysis contained in the release adopting Rule 19c–4 (*see* note 5, *supra*) demonstrates clearly that the NASD's proposal is consistent with the Act.

[19] *See* Securities Exchange Act Release No. 27554 (December 20, 1989), 54 FR 53227 [order approving the NYSE's proposal to adopt the standards set forth in Rule 19c–4 (File No. SR–NYSE–89–16)].

[20] The Commission notes that the American Stock Exchange, Inc. recently has formed a committee to study the issue of what standards to adopt as the basis of its voting rights listing policy.

prohibitions against shareholders disenfranchisement into the NASD's Schedule D for NASDAQ/NMS issuers does not unfairly discriminate among issuers in contravention of section 15A(b)(6) of the Act, nor does it impose any burden on competition not necessary or appropriate in furtherance of the Act in contravention of section 15A(b)(9).[21]

In reviewing a proposed rule change of an SRO, the Commission is directed under Section 19(b) of the Act to approve proposed rule changes that it finds are consistent with the requirements of the Act.[22] As noted above, two of the three commentators expressed reservations about applying the prohibitions of Rule 19c–4 to only NASDAQ/NMS issuers, as opposed to all NASDAQ issuers.[23] Accordingly, the Commission has carefully reviewed this portion of the proposal and has taken into account the commentators' concerns regarding this issue, and the NASD's response to these concerns, in light of the section 19(b) standards for reviewing rule proposals of SROs.

As an initial matter, we note that the Commission believes that it would have been consistent with the Act if the NASD had propsed to apply voting rights standards to all NASDAQ issues, and that this, in the Commission's view, would have been the preferable approach.[24] Such protections would be beneficial to shareholders of non-NMS NASDAQ companies as well as shareholders of NASDAQ/NMS companies. Moreover, we are aware of no evidence that the application of Rule 19c–4 to all NASDAQ issuers unnecessarily impeded the operations of non-NMS issuers. On the other hand, the Commission believes that the NASD's proposal limiting the application to NASDAQ/NMS issues should be approved pursuant to section 19(b) of the Act because it also is consistent with the Act's requirements for the reasons set forth below.

The Commission believes that applying prohibitions on shareholder disenfranchisement to only NASDAQ/NMS issues is not inconsistent with the Act because the proposal does not unfairly discriminate between issuers in the NASDAQ markets, under Section 15A(b)(6).[25] First, the Act recognizes that U.S. securities markets will develop their own eligibility standards for securities traded on their markets and that these standards may differ among markets.[26] It is within this context that the NASD has developed important distinctions between NMS and non-NMS NASDAQ securities. For example, there are significant differences in the quantitative eligibility standards [27] and qualitative eligibility standards [28] which apply to each market, NMS and non-NMS. Further, the standards for NASDAQ/NMS designation are currently, and traditionally have been, higher than the standards for quoting a security simply on NASDAQ. Second, the Act also treats differently, for certain purposes, NASDAQ/NMS and NASDAQ/non-NMS stocks. For example, under section 11A of the Act there are different transaction reporting requirements for NMS stocks as compared to non-NMS stocks. These differences all reflect the fact that NMS securities are expected to be securities with a broad national, rather than local, trading interest and which are part of a more organized, visible market which is more likely to be followed by professional securities analysts and the public. It is reasonable, therefore, for the NASD to impose additional requirements for shareholder protection only upon the group of securities with a broad, national shareholder base, that is NASDAQ/NMS securities.

Furthermore, in light of the above stated differences between NMS and non-NMS securities, the Commission also concludes that the proposal is consistent with section 15A(b)(9) in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the NASDAQ's non-NMS market is predominately comprised of less capitalized companies, leading the Commission to believe that the Act does not compel the NASD to place the same voting rights listing standards upon non-NMS issuers as opposed to issuers of NMS securities.

In summary, the Commission believes that the NASD's proposal to apply prohibitions against shareholder disenfranchisement to only NASDAQ/NMS issues adheres to the NASD's past practice of applying heightened standards for listing securities in NASDAQ/NMS.[29] In reaching this conclusion, we refer to our previously stated belief that the Act allows an SRO sufficient flexibility to proceed cautiously in implementing potentially significant structural changes in the marketplace.[30] The Commission views this proposal as within the discretion afforded to the NASD when it formulates the distinct eligibility criteria applicable to NMS versus non-NMS issuers.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[31]

Dated: October 5, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24118–Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M.

[Rel. No. IC–17781; Int'l Series Release No. 164; (812–7502)]

New Germany Fund; Notice of Application

October 5, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

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[21] When adopting Rule 19c–4, the Commission stated its belief that the issue of shareholder voting rights has far-reaching implications, and that a rule ensuring a minimum level of shareholder protection from disenfranchising actions is appropriate and consistent with the pruposes of the Act. The Commission remains confident that a rule premised on the prohibitions embodied in Rule 19c–4 is a necessary addition to the standards for quotation of NASDAQ/NMS stocks.

[22] *See* section 19(b) of the Act, 15 U.S.C. 78s(b) (1982).

[23] In its notice of the NASD's rule filing, the Commission specifically solicited comment on the issue of whether the voting rights standard should apply to all NASDAQ-quoted stocks or should be limited, as proposed, to NASDAQ/NMS stocks.

[24] As noted above, as promulgated by the Commission, Rule 19c–4 applied to all NASDAQ quoted stocks.

[25] Section 15(b)(6) stated that a national securities association cannot have rules that unfairly discriminate between any customers, issuers, brokers or dealers.

[26] The Act does not set forth specific eligibility or listing standards, but instead permits the SROs to develop their own standards, subject to Commission review and approval under Section 19(b).

[27] For example, to be listed in NASDAQ/NMS issuers are required to have at least 500,000 publicly held shares with a minimum of 800 holders and net tangible assets of $4 million, while non-NMS issuers are required to maintain 100,000 publicly held shares with a minimum of 300 holders and total assets of $2 million. *See NASD Manual,* Schedule D, Parts II and III.

[28] For example, the NASD requires that only NASDAQ/NMS issuers establish and maintain an Audit Committee composed of a majority of independent directors. Additionally, only NASDAQ/NMS issuers are required to obtain shareholder approval of certain issuances of securities. *See NASD Manual,* Schedule D, Part III, Section 5, paragraph 1812.

[29] As indicated in note 28, *supra,* this is consistent with the Commission's approval of other NASDAQ/NMS corporate governance standards such as shareholder approval requirements, which apply only to NASDAQ/NMS issuers. *See* Securities Exchange Act Release No. 28232 (July 19, 1990), 55 FR 30346 (order approving File No. SR–NASD–89–42).

[30] *See* Securities Exchange Act Release No. 23768 (November 3, 1986), 51 FR 41183 (order approving an NYSE proposed rule change to amend its Rules relating to approved persons of specialists).

[31] 17 CFR 200.30–3(a)(12).

ACTION: Notice of filing of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANTS: The New Germany Fund, Inc. (the "New Germany Fund") and the Future Germany Fund, Inc. (the "Future Germany Fund") (collectively referred to as the "Existing Funds"); and each other investment company for which Deutsche Bank Capital Corporation ("DBCC"), DB Capital Management International GmbH ("CMI"), Deutsche Bank AG ("Deutsche Bank") or any of Deutsche Bank's other subsidiaries or affiliates may in the future serve as investment adviser or manager ("Prospective Funds").

RELEVANT SECTIONS: Order requested under section 6(c) for an exemption from section 12(d)(3) of the 1940 Act.

SUMMARY: Applicants seek an order under Section 6(c) to permit them to invest in securities of the following major West German Banks, which are publicly traded on one or more of the West German Stock Exchanges: Berliner Bank, Bayerische Hypotheken- und Weschelbank, Bayerische Vereinsbank, Berliner Handels- und Frankfurter Bank, Commerzbank, Dresdner Bank, and DSL Holdings (collectively hereinafter referred to as the "Banks"). Such investments would have the same quantitative limits as, and comparable conditions to, those imposed on investments in United States companies deriving more than 15% of their gross annual revenues from securities-related activities by Rule 12d3–1 under the 1940 Act.

FILING DATES: The application was filed on March 29, 1990, and amended on September 4, 1990 and September 20, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 2, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a cetificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of the date of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549; Applicants, The New Germany Fund, Inc. and the Future Germany Fund, Inc., c/o Richard A. Pollack, Esq., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004, J. Eric Maki, Esq., Sullivan & Cromwell, 250 Park Avenue, New York, NY 10177 or John T. Bostleman, Esq., Sullivan & Cromwell, 250 Park Avenue, New York, NY 10177.

FOR FURTHER INFORMATION CONTACT: Thomas G. Sheehan, Staff Attorney, (202) 272–7324 or Stephanie M. Monaco, Branch Chief (202) 272–3030 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 738–1400).

Applicant's Representations

1. Both of the Existing Funds are non-diversified closed-end management companies registered under the 1940 Act.

2. The investment objective of each of the Existing Funds is to seek long-term capital appreciation through investment in equity and equity-linked securities of companies domiciled in West Germany.

3. The Investment Adviser of the Existing Funds is CMI, a corporation organized under the laws of West Germany. The Manager of the Existing Funds is DBCC, a corporation organized under the laws of the State of New York. Both are wholly owned subsidiaries of Deutsche Bank, a corporation organized under the laws of West Germany. Both CMI and DBCC are registered as investment advisers under the Investment Advisers Act of 1940.

4. Pursuant to investment advisory agreements with each of the Existing Funds, CMI makes recommendations to DBCC with respect to the Existing Funds' investments, and upon instructions given by DBCC as to suitable securities for investment by the Existing Funds, transmits purchase and sale orders and selects brokers and dealers to execute portfolio transactions on behalf of the Existing Funds. Pursuant to management agreements, DBCC acts as the corporate manager and administrator of the Existing Funds and, subject to the supervision of the Existing Funds' Boards of Directors and pursuant to the recommendations made by CMI, determines suitable securities for investment by the Existing Funds.

5. West German commercial and banking laws permit banks to act, either directly or indirectly, as securities broker/dealers, investment bankers/underwriters, mutual and other investment funds managers and investment advisers. All the major West German commercial and central savings banks, including the Banks, are members of the West German stock exchanges. Therefore, investment in such Banks by the Existing Funds would be subject to the prohibitions of section 12(d)(3). It is not possible for Applicants to ascertain definitively whether the banks derive more or less than 15% of their gross revenues from securities-related activities for any given period. Because of the extent of the Banks' participation in securities-related business at the present time, Applicants have assumed for purposes of this application that investment in the Banks would be subject to the conditions of Rule 12d3–1(b).

6. As of December 29, 1989, the Banks, not including Berliner Bank and DSL Holdings, represented 9.49% of F.A.Z. Index, which includes a broadly representative list of major industrial, mining, financial and utility stocks. In addition, as of November 1989, Dresdner Bank, Commerzbank, Bayerische Hypotheken- und Weschelbank, Bayerische Vereinsbank and Berliner Handels- und Frankfurter Bank were the 11th, 17th, 18th, 24th, and 45th largest companies in West Germany, respectively, based on market capitalization.

Applicants' Legal Analysis

7. Applicants have reviewed all of the conditions set forth in Rule 12d3–1(b) and represent that they will be able to satisfy all but one of the conditions. Applicants cannot satisfy the condition that any equity security acquired must be a "margin security" as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System. Because the equity securities of the Banks are not listed on a United States securities exchange or traded in the United States in the over-the-counter market, they cannot be "margin securities." Because Applicants are unable to satisfy all of the conditions of Rule 12d3–1(b), they argue that they are unable to take advantage of good investment opportunities and to increase the diversification of their portfolios, particularly diversification within the financial sector of the West German economy.

8. In support of the requested relief, Applicants submit that the securities of the Banks clearly have at least the degree of investor interests and depth and breadth of market as certain securities traded on United States national securities exchanges or in the United States over-the-counter market

which have been designated as "OTC margin stock." Applicants further submit that their investment in securities issued by the Banks would have no adverse effect on the liquidity of their portfolios.

9. Applicants assert that the public information available about the Banks in West Germany is at least equal to information available in West German issuers in nonregulated industries in which Applicants regularly invest, including those listed on West German stock exchanges. Applicants submit that the requirements imposed by the West German Banking Act, Commercial Code and Stock Exchange Act, while not in all respects as comprehensive as United States securities laws, provide significant disclosure in connection with the issuance of securities which is the "substantial equivalent" of the disclosure required by the Securities Act of 1933.

10. Based on the foregoing, Applicants assert that the Banks and their securities would meet the criteria necessary to qualify as "OTC margin stock" if they were United States issuers. Thus, the policy for the requirement that equity securities acquired must be "margin securities" would not be compromised by allowing Applicants to invest in these well-established and highly-regulated companies.

11. Applicants also submit that their proposed investment in the Banks would satisfy the conditions of the proposed amendments to Rule 12d3–1 as set forth in Investment Company Act Release No. 17096 (August 3, 1989).

12. Applicants submit that, given the significant market share of the Banks and their prominence in the financial services sector of the West German economy, they would be able to take advantage of good investment opportunities and increase the diversification of their portfolios if they are permitted to invest in equity and debt securities of the Banks. Applicants assert that the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants' Conditions

Applicants agree that if the requested order is granted, such order will be subject to the following conditions:

1. Applicants will not invest in any securities issued by Deutsche Bank, or any other affiliate of CMI or DBCC that is engaged in a securities-related business, except as otherwise permitted under section 12(d)(3) (A) and (B) of the 1940 Act; and

2. Applicants will comply with the proposed amendments to Rule 12d3–1 under the 1940 Act as they are currently proposed, or as they may be reproposed, adopted or amended.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24115 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28519; File No. SR–NYSE–90–31]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Extension of Public Comment Period for Proposed Rule Change

On June 25, 1990, the New Stock Exchange, Inc, ("NYSE" or "Exchange") submitted a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, that would allow specialists on the floor of the Exchange to expand their use of options for hedging purposes. The proposal would permit specialists the choice of using either fixed hedge ratios, deltas or any other hedging convention approved by the Exchange to offset risk in an existing specialty stock position. Notice of the proposed rule change was provided in Securities Exchange Act Release No. 28260 (July 24, 1990), 33 FR 31268.

The Commission received one request for an extension of the period for public comment.[1] The Chicago Board Options Exchange, Inc. ("CBOE"), citing their extensive comments in 1985 when the NYSE changed the 50 year ban on specialists holding an interest in options on their specialty stocks, states that they seek to provide additional comments with respect to the proposed changes to expand specialists options transactions. In addition, the CBOE contends that the complexity of the filing and its effect on maket volatility justifies an extension of the comment period.

The NYSE consented to an extension of the period for public comment on the proposed rule change.[2]

The Commission hereby extends the period for public comment on the proposed rule change until October 15, 1990.

For the Commission, by the Division of Market Regulation, purusant to delegated authority.

Dated: October 5, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24117 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

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[1] *See* letter to Jonathan G. Katz, Secretary, Securities and Exchange Commission, from Robert P. Ackermann, Vice President, Chicago Board Options Exchange, Inc., dated August 24, 1990.

[2] Conversation between Jeffrey P. Burns, Options Regulation, SEC, and Brian McNamara, Managing Director, Market Surveillance Division, NYSE, on September 25, 1990.

[Investment Company Act Rel. No. 17776; International Series Rel. No. 163; 812–7600]

The Mexico Equity and Income Fund, Inc.; Notice of Application

October 4, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: The Mexico Equity and Income Fund, Inc.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and Rule 12d3–1.

SUMMARY OF APPLICATION: Applicant seeks a conditional order permitting it to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more that 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser ("foreign securities companies") in accordance with the conditions of the proposed amendments to Rule 12d3–1.

FILING DATE: The application was filed on September 28, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 30, 1990, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549.

Applicant, 200 Liberty Street, New York, NY 10281.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Branch Chief, at (202) 272–3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231–3282 (in Maryland (301) 258–4300)..

Applicant's Representations

1. Applicant is a Maryland corporation and a closed-end management investment company registered under the Act. Applicant's investment advisers are Acci Worldwide, S.A. de C.V. (the "Mexican Adviser") and Advantage Advisers, Inc. (the "U.S. Co-Adviser"). The Mexican Adviser is a newly-formed Mexican subsidiary of Acciones y Valores de Mexico, S.A. de C.V., a Mexican brokerage firm, and is organized under the laws of the United Mexican States. The U.S. Co-Adviser is a newly-formed subsidiary of Oppenheimer & Co., Inc., and is organized under the laws of the State of Delaware. Both the Mexican Adviser and the U.S. Co-Adviser are registered as investment advisers under the Investment Advisers Act of 1940.

2. Applicant seeks to diversify its portfolio further by being permitted to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser.

3. Applicant seeks relief from section 12(d)(3) of the Act and Rule 12d3–1 thereunder to invest in securities of foreign securities companies to the extent allowed in the proposed amendments to Rule 12d3–1. *See* Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). Proposed amended Rule 12d3–1 would, among other things, facilitate the acquisition by applicant of equity securities issued by foreign securities companies. Applicant's proposed acquisitions of securities issued by foreign securities companies will satisfy each of the requirements of proposed amended Rule 12d3–1.

Applicant's Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3–1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of rule 12d3–1 provides that "any equity security of the issuer * * * [must be] a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." Since a "margin security" generally must be one which is traded in the United States markets, securities issued by many foreign securities firms would not meet this test. Accordingly, applicant seeks an exemption from the "margin security" requirements of Rule 12d3–1.

2. Proposed amended Rule 12d3–1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria, as set forth in the proposed amendments, "are based particularly on the policies that underlie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989).

Applicant's Condition

Applicant agrees to the following condition in connection with the relief requested:

Applicant will comply with the provisions of the proposed amendments to Rule 12d3–1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), and as such amendments may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24038 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–17779; 812–7414]

October 5, 1990.

Piper Jaffray Inc., et al.; Notice of Application

AGENCY: Securities and Exchange Commission (SEC).

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Piper Jaffray Incorporated ("Piper Jaffray"); Piper Capital Management Incorporated (the "Adviser"); Piper Jaffray & Hopwood Incorporated (the "Distributor"); and Piper Jaffray Investment Trust Inc. ("Investment Trust," including the following ten series: Institutional Government Income Portfolio, U.S. Government Money Market Fund, Tax-Exempt Money Market Fund, Money Market Fund, National Tax-Exempt Fund, Minnesota Tax-Exempt Fund, Sector Performance Fund, Value Fund, Balanced Fund, and Government Income Fund), American Government Income Fund Inc. ("Income Fund"), American Government Income Portfolio, Inc. ("Income Portfolio"), American Government Term Trust Inc. ("Term Trust"), American Opportunity Income Fund Inc. ("American Opportunity"), and all future series of Investment Trust and all future investment companies for which subsidiaries or affiliates of Piper Jaffray serve as investment adviser and/or principal underwriter (collectively, the "Funds").

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 17(b) from section 17(a) and pursuant to section 17(d) and Rule 17d–1.

SUMMARY OF APPLICATION: Applicants seek an order permitting the indemnification by Piper Jaffray of the fidelity bond issuer for the Adviser, the Distributor, and the Funds, and future similar arrangements, and permitting claims under the fidelity bonds to be settled in accordance with guidelines set forth in the application.

FILING DATE: The application was filed on October 20, 1989 and amended on May 25, 1990.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Hearing requests should be received by the SEC by 5:30 p.m. on November 2, 1990, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Interested persons may request notification of the hearing date by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549;

Applicants, c/o Piper Jaffray Tower, 222 South Ninth Street, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Thomas G. Sheehan, Staff Attorney, (202) 272–7324, or Stephanie M. Monaco, Branch Chief, (202) 272–3022 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier (800) 231–3282 (in Maryland (301) 738–1400).

Applicants' Representations

1. Piper Jaffray is a publicly held corporation engaged through its subsidiaries in various aspects of the financial services industry.

2. The Adviser and the Distributor are wholly-owned subsidiaries of Piper Jaffray. The Adviser furnishes investment advice to open-end and closed-end investment companies, pension and profit sharing funds, corporate funds, and individuals. The Distributor is a full-service broker dealer.

3. Investment Trust is a registered diversified open-end management company which has one class of capital stock that is currently issued in ten separate series (Institutional Government Income Portfolio, U.S. Government Money Market Fund, Tax-Exempt Money Market Fund, Money Market Fund, National Tax-Exempt Fund, Minnesota Tax-Exempt Fund, Sector Performance Fund, Value Fund, Balanced Fund, and Government Income Fund). The Adviser manages Investment Trust. The Distributor serves as the distributor of the ten series of Investment Trust's capital stock.

4. Income Fund, Income Portfolio, Term Trust and American Opportunity are registered closed-end management investment companies whose shares are traded on the New York Stock Exchange. The Adviser is the investment adviser and manager of these companies. The Distributor serves as one of several underwriters for Income Fund, Income Portfolio, Term Trust, and American Opportunity.

5. The Adviser, the Distributor, all series of Investment Trust except the Money Market Fund, and Term Trust are currently joint insureds under a $2 million fidelity bond issued by The Aetna Casualty and Surety Company ("Aetna"); the Adviser, the Distributor, and the Money Market Fund series of Investment Trust are currently joint insureds under a second $2 million fidelity bond issued by Aetna; the Adviser, the Distributor, Income Fund, Income Portfolio, and American Opportunity are currently joint insureds under a third $2 million fidelity bond issued by Aetna (collectively, the "Bonds"). The Bonds meet the requirements set forth in Rule 17g–1 under the 1940 Act.

6. Aetna has no affiliation with Piper Jaffray or with any of Piper Jaffray's affiliates. Aetna's business relationship with these entities is as insurance carrier for the three $2 million Bonds, a $25 million fidelity bond, a $10 million fiduciary liability insurance policy, an excess SIPC policy, and a mail insurance policy covering Piper Jaffray and its affiliates, and a $2 million fidelity bond for the Piper Jaffray Trust Company.

7. One of the Bonds was originally issued in 1987 and covered the insureds then in existence. The remaining two Bonds were originally issued in 1989. There have been no claims submitted to Aetna under the three $2 million Bonds since the Bonds were originally issued.

8. For each of the 1987 and 1988 policy years, the premium for the one $2 million Bond was $1,500. Aetna provided the Bonds at no cost for the 1989 policy year.

9. For each policy year, Piper Jaffray entered into agreements to indemnify Aetna for all loss and expense which Aetna may incur or sustain under the Bonds in order to obtain coverage for the Funds at the lowest cost. Such agreements and similar future agreements are hereinafter referred to as "Indemnification Agreements." In connection with renewing the Indemnification Agreements for the 1989 policy year, Piper Jaffray requested an estimate from its insurance broker of the premium that would be charged for three $2 million fidelity bonds without any indemnity agreements. According to the insurance broker, the insured would be required to pay an estimate of $125,000 to purchase three $2 million fidelity bonds without any indemnity agreements. Aetna was willing to write three $2 million fidelity bonds, with Indemnificatin Agreements, for no cost.

10. In order to obtain coverage for the Funds for no cost, Piper Jaffray entered into the Indemnification Agreements with Aetna for the 1989 policy year. Although the Bonds were issued by Aetna, Piper Jaffray could be regarded as the effective insurer of the Funds, since Piper Jaffray will be obligated to indemnify Aetna for all loss and expense under the Bonds. However, the Bonds are independent contracts between Aetna and the insureds under such Bonds, the validity and effectiveness of which does not depend upon the Indemnification Agreements. Aetna is fully liable to the insureds whether or not Piper Jaffray honors the Indemnification Agreements.

11. The Boards of Directors of Piper Jaffray, the Adviser, the Distributor, and the Funds (the "Boards") concluded, and Applicants hereby represent, that the purchase of the Bonds from Aetna and the execution by Piper Jaffray of the Indemnification Agreements provides the best available protection for the shareholders of the Funds at the lowest cost consistent with such coverage.

12. The Funds also propose the following procedures to permit them to settle claims arising under the Bonds without further exemptive relief:

a. *Reporting of loss.* The officers of each Fund will be required to report all losses covered under the Bonds to the Board.

b. *Determination of the Amount of Loss.* A majority of the disinterested directors who are not "interested persons" as the term is defined under the 1940 Act (the "Disinterested Directors"), with the advice of independent counsel, will determine the amount of loss. The determination will then be submitted to the entire Board for majority approval, and if a majority of the Board and a majority of the Disinterested Directors agree to the amount thereof, the fund will submit a claim for payment for that amount to Aetna.

c. *Settlement of Claim.* If Aetna agrees to pay the amount submitted, the Fund will accept payment and relieve Aetna from further liability with respect to the loss. If Aetna proposes a settlement offer in an amount less than the amount submitted, the Board, including the Disinterested Directors of the Fund, will evaluate the adequacy of the settlement offer. If a majority of the Board and a majority of the Disinterested Directors (upon the advice of their independent counsel) conclude that the proposed settlement offer meets the elements of section 17(b) and section 17(d), then the settlement offer will be accepted without the need for an exemptive order or any other action. The reasons for such Board actions will be recorded in the minutes of the Board, and made available for inspection by the staff of the SEC. Otherwise the Board would reject the proposed settlement offer and continue negotiations with Aetna or institute litigation or other appropriate proceedings. All settlement negotiations will be conducted by the Fund directly with Aetna without the participation of Piper Jaffray. Piper Jaffray will not

attempt to influence the negotiations in any way.

Applicants' Legal Conclusions

13. Because subsidiaries or affiliated persons of Piper Jaffray serve as investment adviser and/or principal underwriter for the Funds, if the Indemnification Agreements were viewed as a sale of property to the Funds, such agreements might be prohibited under section 17(a). Further, the Indemnification Agreements and the settlement of any claims by the Funds could be construed as a joint enterprise or other joint arrangement between Piper Jaffray, the Adviser, the Distributor, and the Funds prohibited by section 17(d).

14. Applicants contend that granting the requested relief for future Indemnification Agreements is appropriate under section 17(a) of the 1940 Act because it is reasonable, fair, and does not involve overreaching on the part of any entity concerned, and is consistent with the policy of the Funds and the purposes of the 1940 Act. Applicants argue that the relief is also appropriate under section 17(d) and Rule 17d–1 because the transaction is consistent with the provisions, policies and purposes of the 1940 Act and is not on a basis different from or less advantageous than that of other participants. The coverage provided by Aetna is the best available protection for the shareholders at the lowest cost available.

15. Applicants also submit that granting the requested relief for the proposed settlement procedures is also appropriate. The reliance placed on the Disinterested Directors in the settlement process, similar to that used in Rules 17a–7 and 17e–1, alleviates any possibility of overreaching or unfairness while at the same time sparing the Funds the additional expenses that would be incurred by the necessity of having to file an exemptive application each time a settlement offer is made.

Applicants' Conditions

Applicants agree that any relief will be subject to the following conditions:

16. Before Piper Jaffray is asked to enter into similar Indemnification Agreements in connection with a renewal of the Bonds, a majority of the Disinterested Directors of each of the Funds, as well as a majority of the directors, must determine that such arrangement would provide the best available protection for the shareholders of the Funds at the lowest cost consistent with such coverage. To make this determination, the Boards will obtain a quote for fidelity bonds without any indemnification arrangements, and compare such quotes and fidelity bonds to the cost and coverage provided by the current or similar fidelity bonds and indemnification arrangements. A Fund that does not approve of the current or similar indemnification arrangement will obtain a separate fidelity bond without any indemnification arrangement.

17. Any future agreements of indemnity with Aetna in connection with the purchase of future, similar bonds will be on substantially the same terms and conditions as the Indemnification Agreements. In connection with such future agreements, each of the Boards will be required to make the determination described in the preceding paragraph.

18. The premiums for the Bonds are to be paid by the insured directly to Aetna. Piper Jaffray has not been and will not be compensated by Aetna or the Insureds, directly or indirectly, for entering into Indemnification Agreements.

19. Applicants acknowledge that the granting of the requested exemptive order does not imply or constitute Commission approval or authorization of, or acquiescence in, any transactions that occured prior to the issuance of the exemptive order.

20. The representations above regarding the proposed settlement of claims under the Bonds, *see* ¶12, are made express conditions to the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24116 Filed 10–11–90; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

[Docket No. 47090]

United States-United Kingdom Regional Airport Case; Notice of Revised Hearing Date

Notice is hereby given that the hearing in this matter that was to have commenced on October 9, 1990 is postponed because of the substantial doubt whether funding for this Department for the new fiscal year will have been effected, either temporarily or permanently, by that date. The new hearing date is October 15, 1990, at 9 a.m. (local time) in Room 5332, 400 7th Street, SW., Nassif Building, Department of Transportation, Washington, DC.

There will be a new hearing site for the second week of the hearing that will be orally announced when the hearing begins.

Burton S. Kolko,

Administrative Law Judge.

[FR Doc. 90–24039 Filed 10–11–90; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Privacy Act; Statement of General Routine Uses Proposed Amendment

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Proposed amendment of a Privacy Act routine use.

SUMMARY: DOT proposes to amend its General Routine Use on use in litigation of information covered by the Privacy Act to conform with Office of Management and Budget (OMB) advice. Public comment is invited.

DATES: Comments should be received by November 13, 1990. If no comments are received, the amended Routine Use will take effect on November 21, 1990. If comments are received, the unamended Routine Use will remain in effect pending resolution of the comments and further publication in the **Federal Register.**

ADDRESSES: Comments should be sent to Robert I. Ross, Office of the General Counsel, C–10, Department of Transportation, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, (202) 366–9154.

SUPPLEMENTARY INFORMATION: Under the Privacy Act, a routine use is a use to which information subject to the Act is put that is compatible with the original purpose for collecting the information. DOT has a number of routine uses that apply to all DOT Privacy Act systems unless otherwise noted (General Routine Uses). DOT proposes to amend General Routine Use #4, on use in litigation of information covered by the Privacy Act, to reflect, in large part, current OMB advice.

DOT's current General Routine Use for Litigation reads as follows:

"4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations."

OMB advises that a routine use such as this one may not be specific enough, thereby permitting inappropriate

disclosure. Therefore, DOT proposes to adopt the following language:

4.a. *Routine use for disclosure for use in litigation:* It shall be a routine use of the records in this system of records to disclose them to the Department of Justice or other Federal agency conducting litigation when

(a) The Department of Transportation (DOT), or any agency thereof, or

(b) Any employee of DOT or any agency thereof (including a member of the Coast Guard), in his/her official capacity, or

(c) Any employee of DOT or any agency thereof (including a member of the Coast Guard), in his/her individual capacity where the Department of Justice has agreed to represent the employee, or

(d) The United States or any agency thereof, where DOT determines that litigation is likely to affect the United States.

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or other Federal agency conducting the litigation is deemed by DOT to be relevant and necessary in the litigation, provided, however, that in each case, DOT determines that disclosure of the records in the litigation is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

b. *Routine use for Agency disclosure in other proceedings:* It shall be a routine use of records in this system to disclose them in proceedings before any court or adjudicative or administrative body before which the Department of Transportation (DOT) or any agency thereof, appears, when

(a) DOT, or any agency thereof, or

(b) Any employee of DOT or any agency thereof (including a member of the Coast Guard) in his/her official capacity, or

(c) any employee of DOT or any agency thereof (including a member of the Coast Guard) in his/her individual capacity where DOT has agreed to represent the employee, or

(d) the United States or any agency thereof, where DOT determines that the proceeding is likely to affect the United States,

is a party to the proceeding or has an interest in such proceeding, and DOT determines that use of such records is relevant and necessary in the proceeding, provided, however, that in each case, DOT determines that disclosure of the records in the proceeding is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

Public comment is invited.

Issued in Washington, DC, on September 24, 1990.

Paul T. Weiss,

Deputy Assistant Secretary for Administration.

[FR Doc. 90-24040 Filed 10-11-90; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-90-41]

Petitions for Exemption; Summary and Disposition

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior pettions.

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

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 1, 1990.

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

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

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on October 2, 1990.

Denise Donohue Hall,

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

Petitions for Exemption

Docket no.: 23358
Petitioner: Clarke Outdoor Spraying Company, Inc.
Sections of the FAR affected: 14 CFR 91.313(c)
Description of relief sought: To extend Exemption No. 5010, which allows petitioner, under certain conditions, to carry passengers in restricted category aircraft, namely two Bell 4765 helicopters, while performing aerial service. Exemption No. 5010 will expire on January 31, 1991.

Docket no.: 23492
Petitioner: United States Hang Gliding Association, Inc.
Sections of the FAR affected: 14 CFR 103.1 (a) and (b)
Description of relief sought: To extend Exemption No. 4721, as amended, which allows USHGA members to operate two-place unpowered ultralight vehicles for the purpose of sport and recreation or flight instruction conducted by USHGA certified instructors. Exemption No. 4721, as amended, will expire on October 31, 1990.

Docket no.: 23901
Petitioner: General Motors Corporation
Sections of the FAR affected: 14 CFR 21.197(a)(1)
Description of relief sought: To extend Exemption No. 5136, which allows petitioner to operate its Cessna Model 650 airplanes without obtaining a special flight permit when the flaps fail in the up position. Exemption No. 5136 will expire on February 28, 1991.

Docket no.: 25351
Petitioner: USAir
Sections of the FAR affected: 14 CFR 121.371(a) and 121.378
Description of relief sought: To extend Exemption No. 5005A, which allows petitioner to utilize certain foreign equipment manufacturers and related repair facilities to perform maintenance, preventive maintenance, and alterations on the components, parts, and appliances that are produced by such manufacturers, which are used on the BAe-146, B737, MD-80, F-28, F-100, and B767 aircraft operated by petitioner. Exemption No. 5005A will expire on December 28, 1990.

Docket no.: 26223
Petitioner: Airbus Service Company/ Training Center, Inc.

Sections of the FAR affected: 14 CFR 121.411; 121.413; and part 121, Appendix H

Description of relief sought: To allow petitioner to use certain highly qualified instructor pilots and, if appropriate, flight engineer instructors, trained by petitioner, to train the initial cadre of pilots and, if appropriate, flight engineers of part 121 certificate holders. In addition, the exemption, if granted, would allow the petitioner to train part 121 certificate holders' airmen in initial, transition, upgrade, differences, and recurrent training in an approved simulator and in turbojet-powered airplanes manufactured by petitioner without the instruction meeting all of the applicable training requirements of subpart N and the employment requirements of appendix H of part 121 and without petitioner holding an air carrier operating certificate.

Dispositions of Petitions

Docket no.: 15590
Petitioner: Embry-Riddle Aeronautical University
Sections of the FAR affected: 14 CFR part 141, appendixes A, C, D, F, and H
Description of relief sought/disposition: To extend Exemption No. 2329 that exempts students in petitioner's pilot training courses from the minimum flight time requirements of appendixes A, C, D, F, and H of part 141.
Grant, September 21, 1990, Exemption No. 2329G

Docket no.: 21802
Petitioner: Sowell Aviation Company, Inc.
Sections of the FAR affected: 14 CFR 141.65
Description of relief sought/disposition: To amend and extend Exemption No. 4551, as amended, which permits petitioner to hold examining authority for flight instructor and airline transport pilot written tests.
Grant, September 27, 1990, Exemption No. 4551C

Docket no.: 23647
Petitioner: Embry-Riddle Aeronautical University
Sections of the FAR affected: 14 CFR 141.65
Description of relief sought/disposition: To extend Exemption No. 3859, as amended, that permits petitioner to recommend graduates of its flight instructor certification courses for flight instructor certificates (with the associated ratings) without having to take the FAA written or flight tests.
Grant, September 28, 1990, Exemption No. 3859E

Docket no.: 24283
Petitioner: American Flyers
Sections of the FAR affected: 14 CFR 141.65
Description of relief sought/disposition: To extend and amend Exemption No. 4287, as amended, which permits petitioner to hold examining authority for flight instructor and airline transport pilot written tests.
Grant, September 27, 1990, Exemption No. 4287C

Docket no.: 24741
Petitioner: United Airlines
Sections of the FAR affected: 14 CFR part 121, Appendix H
Description of relief sought/disposition: To amend Exemption No. 5171 to allow petitioner to utilize as flight instructors former military pilots of high performance aircraft who have not been employed by the petitioner as pilot in command or second in command for 1 year. Exemption No. 5171 limits the petitioner to the use of flight instructors who had been employed by another certificate holder for 1 year.
Grant, September 26, 1990, Exemption No. 5219A

Docket no.: 24993
Petitioner: Mountain Air Cargo, Ltd.
Sections of the FAR affected: 14 CFR 21.197
Description of relief sought/disposition: To renew Exemption No. 4751, which permits issuance of a special flight permit with continuing authorization. Exemption No. 4751 expired on September 30, 1988.
Denial, September 21, 1990, Exemption No. 4751A

Docket no.: 25989
Petitioner: Capitol City Express
Sections of the FAR affected: 14 CFR 43.3(g)
Description of relief sought/disposition: To allow petitioner's pilots to change the seat configuration in air taxi aircraft.
Partial Grant, September 17, 1990, Exemption No. 5237

Docket no.: 26087
Petitioner: Boeing Commercial Airplanes
Sections of the FAR affected: 14 CFR 121.312
Description of relief sought/disposition: To amend Exemption No. 5176, which extends the applicability of § 121.312(a)(1) from August 19, 1990, to November 8, 1990, for airplanes manufactured by the petitioner. The exemption permits the petitioner to manufacture airplanes meeting only the interim requirements of a maximum peak heat release rate of 100 kilowatts per square meter and a maximum total heat release of 100 kilowatt-minutes per square meter, rather than the definitive maximum peak release rate of 65 kilowatts per square meter, the maximum total heat release of 65 kilowatt-minutes per square meter, and the maximum smoke emission specific optical smoke density (D_s) of 200.
Grant, September 17, 1990, Exemption No. 5176A

Docket no.: 26337
Petitioner: Embraer Empresa Brasileira de Aeronautica S.A.
Sections of the FAR affected: 14 CFR 121.312(a)(2)
Description of relief sought/disposition: To permit operation by current and future U.S. operators of 35 EMB–120 airplanes that do not fully comply with the heat release and smoke density requirements for interior materials as specified in the regulation. The exemption would also permit the operation of 35 airplanes, whose dates of manufacture are after August 20, 1990, with certain specified interior components that do not comply with the heat release and smoke emissions requirement.
Partial Grant, September 14, 1990, Exemption No. 5236

Docket no.: 085CE
Petitioner: Burkhart Grob
Sections of the FAR affected: 14 CFR 23.841 (a) and (b)(6)
Description of relief sought/disposition: To allow the Grob Model Egrett G 520 airplane, for operation over 31,000 feet, to have a cabin pressure altitude of more than 15,000 feet in the event of any probable failure or malfunction in the pressurization system. For operation over 29,000 feet, to allow the warning indication to be for a cabin pressure altitude of 20,000 feet instead of 10,000 feet. When the airplane is operating above 29,000 feet, the pilot will be wearing a full pressure suit.
Grant, September 13 , 1990, Exemption No. 5223

[FR Doc. 90–24083 Filed 10–11–90; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1986, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an

international boycott (within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986). The list reflects the recent union of the Arab Republic of Yemen and the Peoples Democratic Republic of Yemen, the new state being named the Republic of Yemen.

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1986].

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Republic of

Dated: October 1, 1990.

Kenneth W. Gideon,

Assistant Secretary for Tax Policy.

[FR Doc. 90-24072 Filed 10-11-90; 8:45 am]

BILLING CODE 481025-M

Internal Revenue Service

Performance Review Board Membership

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, HR:H:E, room 3515, 1111 Constitution Avenue, NW., Washington, DC 20224, Telephone No. (202) 566-4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for senior executives in the Office of the Chief Inspector are as follows:

Michael J. Murphy, Senior Deputy Commissioner, Chairperson, Helen L. White, Assistant to the Commissioner (Equal Opportunity), Donald E. Kirkendall, Inspector General, Department of the Treasury

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Frederick T. Goldberg, Jr.,

Commissioner.

[FR Doc. 90-24129 Filed 10-11-90; 8:45 am]

BILLING CODE 4830-01-M

Performance Review Board Membership

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of members of Senior Executive Service Performance Review Board.

EFFECTIVE DATE: Performance Review Board effective October 1, 1990.

FOR FURTHER INFORMATION CONTACT: DiAnn Kiebler, HR:H:E, room 3515, 111 Constitution Avenue NW., Washington, DC 20224, Telephone No. (202) 566-4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: Pursuant to section 4314(c)(4) of the Civil Service Reform Act of 1978, the members of the Internal Revenue Service's Senior Executive Service Performance Review Board for Assistant Commissioners, Regional Commissioners and senior executives in the Office of the Commissioner are as follows:

Teddy R. Kern, Chief Inspector
John D. Johnson, Deputy Commissioner (Planning & Resources)/Chief Financial Officer
David L. Jordon, Deputy Chief Counsel
Richard J. Mihelcic, Associate Chief Counsel (Finance and Management)

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Frederick T. Goldberg, Jr.,

Commissioner.

[FR Doc. 90-24130 Filed 10-11-90; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

English Teaching Advisory Panel; Meeting

The United States Information Agency announces the following meeting:

Name: English Teaching Advisory Panel.

Date and time: November 14, 1990, 9 a.m. to 5 p.m., November 15, 1990, 9 a.m. to 5 p.m.

Place: Room 840, U.S. Information Agency, 301 4th Street SW., Washington, DC.

Type of meeting: Part Open. Open: November 14, 1990, 9 a.m. to 5 p.m., Closed: November 15, 9 a.m. to 3 p.m.

Contact person: William Royer, Chief, English Language Programs Division, Room 304, U.S. Information Agency, 301 4th Street SW., Washington, DC., Tel. 619-5877.

Minutes: William Royer, Chief, English Language Programs Division, Room 304, U.S. Information Agency, 301 4th Street SW., Washington, DC., Tel. 619-5877.

Purpose of meeting: The purpose of the Advisory Panel meeting is to review overseas English Teaching programs conducted by USIA during FY 90. The Panel will review these programs as a response to the world-wide demand for English. It will prepare a report for the Director of USIA, making recommendations for improving and refining the Agency's activities in the field of Teaching English as a Foreign Language.

Agenda: The panel will discuss USIA's world wide English teaching programming, especially as executed by the English Language Programs Division. In doing this the panel will review the activities of the Program, Materials Development and the English Teaching Forum Branches of the Division. The Division's budget for FY-91 will also be discussed.

The English Language Teaching By Broadcast project, which was developed jointly with Maxwell Macmillan, will be reviewed as well as the Agency's English Teaching Fellow program.

There will be an open discussion on topics of professional concern affecting the execution of Division responsibilities.

In addition to reviewing USIA programs the Panel will discuss the role played in English teaching overseas by other US government agencies, in particular, the Peace Corps and USAID.

Reason for closing: In its final session on November 15, in preparing its reports to the Director of USIA, the Panel will review information of a proprietary nature, including technical information and financial data, such as salaries. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

Richard A. Murphy,

Deputy Chief, English Language Programs Division.

[FR Doc. 90-24039 Filed 10-11-90; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF VETERANS AFFAIRS

Information Collection Under OMB Review

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

The Department of Veterans Affairs has submitted to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). This document lists the following information: (1) The agency responsible for sponsoring the information collection; (2) the title of the information collection; (3) the Department form number(s), if applicable; (4) a description of the need and its use; (5) frequency of the information collection, if applicable; (6) who will be required or asked to respond; (7) an estimate of the number of responses; (8) an estimate of the total number of hours needed to complete the information collection; and (9) an indication of whether section 3504(h) of Public Law 96–511 applies.

ADDRESSES: Copies of the proposed information collection and supporting documents may be obtained from John Turner, Veterans Benefits Administration, (23), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233–2744.

Comments and questions about the items on the list should be directed to VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395–7316. Please do not send applications for benefits to the above addresses.

DATES: Comments on the information collection should be directed to the OMB Desk Officer on or before November 13, 1990.

Dated: October 5, 1990.

By direction of the Secretary

Frank E. Lalley,

Director, Office of Information Resources Policies.

Revision

1. Veterans Benefits Administration
2. Homeless Veteran Contact
3. VA Form 27–0528
4. The form is completed by Regional Office personnel to identify homeless veterans who request services from VA and provide VA with basic data to develop additional initiatives, programs and services if warranted. The Homeless Veteran Contact form will provide information relative to the numbers of homeless veterans receiving services and benefits from VA or to substantiate the effectiveness of VA benefit programs as they relate to homeless veterans.
5. On occasion
6. Individuals or households
7. 6,000 responses
8. 1/12 hour
9. Not applicable.

[FR Doc. 90–24069 Filed 10–11–90; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 198
Friday, October 12, 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 RESERVE SYSTEM BOARD OF GOVERNORS.

TIME AND DATE: 10:00 a.m., Wednesday, October 17, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a record announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 10, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–24226 Filed 10–10–90; 8:45 am]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 55, No. 198
Friday, October 12, 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 THE INTERIOR

National Park Service

36 CFR Part 79

Curation of Federally-Owned and Administered Archeological Collections

Correction

In rule document 90-21348 beginning on page 37616 in the issue of Wednesday, September 12, 1990, make the following corrections:

1. On page 37619, in the second column, in the fourth line, "of" should read "in".

2. On page 37620, in the third column, in the fourth paragraph, in the fourth line, insert "resulting" after "thereby".

3. On page 37621, in the first column, in the first full paragraph, in the eighth line, "defined" should read "defines".

4. On the same page, in the same column, in the third line of the last paragraph, insert "a" after "for".

5. On page 37622, in the second column, in the 14th line from the bottom, the first "in" should read "is".

6. On the same page, in the third column, in the next-to-last paragraph, in the second line, the complete section citation should read "§ 79.8(e)".

7. On page 37623, in the second column, in the fifth complete paragraph, in the second line, "describes" should read "describe".

8. On the same page, in the third column, in the third complete paragraph, starting in the 13th line at "within" and continuing through the 15th line, ending with "collections", remove all text; it is a duplication of text in the 11th through 13th lines.

9. On page 37624, in the first column, in the seventh line, "paragraph" was misspelled.

10. On the same page, in the same column, in the sixth complete paragraph, in the 11th line "paragraph (1)" should read "paragraph (l)".

11. On page 37627, in the second column, in the third complete paragraph, in the sixth line, insert "if" after "asked".

12. On page 37628, in the second column, in the first full paragraph, in the seventh line, "the" should read "they".

13. In the same column, in the third complete paragraph, in the ninth line, "at" should read "as".

14. In the same column, in the next-to-last line, "section 208(e)" should read "section 208(3)".

15. On the same page, in the third column, in the 12th line, insert "for" after "caring".

16. On the same page, in the same column, in the third full paragraph, in the 14th line "not" should read "no".

17. On page 37630, in the second column, in the authority citation to part 79, "15 U.S.C." should read "16 U.S.C.".

§ 79.1 [Corrected]

18. In the same column, in § 79.1(a), in the 10th line, insert "110" after "section".

§ 79.2 [Corrected]

19. On the same page, in the third column, in § 79.2:

a. In paragraph (a), in the 9th line insert "110" after "section"; and

b. In the 12th line of paragraph (a) and the 3rd line of paragraph (b) "Archaeological" is the preferred spelling.

§ 79.3 [Corrected]

20. On page 37630, in the third column, in the 10th-from-last line, insert "110" after "section", and in the seventh-from-last line, the correct name of the act is "Archaeological Resources Protection Act".

§ 79.4 [Corrected]

21. In § 79.4(j) on page 37632, in the second column, in the seventh line from the bottom, "of" should read "or".

§ 79.6 [Corrected]

22. In § 79.6, on page 37633, in the second column, in the first line of paragraph (a)(4), insert "into" after "Entering".

§ 79.7 [Corrected]

23. In § 79.7(a)(4), on the same page, in the third column, in the next-to-last line, insert "agency" after "State".

§ 79.9 [Corrected]

24. On page 37635, in the first column, in § 79.9(b)(1)(ix), "properly" should read "property", and in paragraph (b)(2) "property" should read "properly".

§ 79.11 [Corrected]

25. On page 37637, in the first column, in § 79.11(b)(9), in the 13th line, "and" should read "of".

Appendix A to Part 79 [Corrected]

26. On the same page, in the third column, in the 8th and 18th lines from the bottom, "specim.ents" should read "specimens".

BILLING CODE 1505-01-D

federal register

Friday,
October 12, 1990

Part II

Department of Education

The Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990; Notice of Regional Meetings

DEPARTMENT OF EDUCATION

The Carl D. Perkins Vocational and Applied Technology Education Act Amendment of 1990

AGENCY: Department of Education.

ACTION: Notice of Regional meetings.

SUMMARY: The Secretary of Education will convene four regional meetings to solicit input on the content of proposed regulations to implement the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (Act), Public Law 101–392, 104 STAT. 753 (1990). The Secretary invites educators, parents, Federal, State, tribal and local administrators, teachers, members of local boards of education, members and representatives of special populations, and other interested parties to express their views on a variety of regulatory issues.

SUPPLEMENTARY INFORMATION: Section 504 of the Act requires the Secretary to identify at least four key issues for discussion. Information obtained at the meetings will be considered in the development of the proposed regulations. A negotiated rulemaking process will be conducted on draft regulations for at least two key issues. Participants in the negotiation process must be chosen by the Secretary from among participants at the regional meetings. A summary of the comments from the regional meetings will be published in the **Federal Register** along with the notice of proposed rulemaking.

The following four issue areas will be considered at the regional meetings:

(a) Standards and Measures; Assessment and Evaluation
(b) State Administration and Leadership
(c) Use of Funds and Allocations among Eligible Recipients
(d) Special Populations

Please note that although some meeting participants were notified by letter of a fifth issue area called "Special Requirements," the Secretary has decided to consolidate the regulatory questions to be addressed into four issue areas. The Secretary has requested names of attendees from each State Director of Vocational Education and each State Director of Community, Technical and Junior Colleges and from the following educational organizations and interest groups:

American Association of Community and Junior Colleges
American Association of School Administrators
American Federation of Teachers
American Home Economics Association
American Public Welfare Association
American Vocational Association
Business Professionals of America
Center for Law and Education
Correctional Education Association
Council for Exceptional Children
Council of Chief State School Officers
Council of the Great City Schools
Distributive Education Clubs of America
Furture Farmers of America
Furture Homemakers of America
Health Occupations Students of America
Legal Defense Fund
National Advisory Council on Indian Education
National Alliance of Business
National Association for Trade and Industrial Education
National Association of Secondary School Principals
National Association of State Boards of Education
National Association of State Councils on Vocational Education
National Association for the Advancement of Black Americans in Vocational Education
National Business Education Association
National Coalition for Advanced Technology Centers
National Council of La Raza
National Council on Occupational Education
National Education Association
National Governors' Association
National Parent Teachers Association
National School Boards Association
National Vocational Agricultural Teachers Association
Opportunities Industrialization Centers of America, Inc.
Technology Student Association
Vocational Industrial Clubs of America

As a result of this solicitation, approximately 1200 invitations have been mailed.

Meeting Information

The regional meetings will be open to the public, and no registration fee will be required. The meetings are scheduled to be held as follows:

(a) *October 30–31, 1990,* The Barclay Hotel, on Rittenhouse Square, Philadelphia, Pennsylvania 19103, Telephone: (215) 545–0300.

(b) *November 5–6, 1990,* Northwest Atlanta Hilton, 2055 South Park Place, Atlanta, Georgia 30339, Telephone: (404) 953–9300.

(c) *November 7–8, 1990,* Holiday Inn Financial District, 750 Kearny Street, San Francisco, California 94108–1887, Telephone: (415) 433–6600.

(d) *November 14–15, 1990,* Ritz Carlton Kansas City, 401 Ward Parkway, Kansas City, Missouri 64112, Telephone: (816) 765–1500.

The meetings will begin at 8 a.m. both days and conclude at noon on the second day.

Because of the need to issue a notice of proposed rulemaking at the earliest possible time, the Secretary is scheduling regional meetings despite the uncertainty of this Department's fiscal year 1991 funding. Depending on how this uncertainty is resolved, it may be necessary to cancel or postpone one or more of the regional meetings. Participants should plan accordingly.

FOR FURTHER INFORMATION CONTACT: Persons desiring additional information on the meetings or on issues that may be discussed at the meetings should contact Thomas L. Johns, Director, Policy Analysis Staff, Office of Vocational and Adult Education, U.S. Department of Education (Mary E. Switzer Building, Room 4525), 400 Maryland Avenue, SW., Washington, DC 20202–7120. Telephone: (202) 732–2237.

Dated: October 4, 1990.

Betsy Brand,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 90–24029 Filed 10–11–90; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday,
October 12, 1990

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Final Rule Supplement

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018-AA24

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Supplement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; supplement.

SUMMARY: This rule supplements the final rule published in the September 28, 1990, **Federal Register** (55 FR 39828) by prescribing the late open seasons, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl and common snipe seasons in the State of California. The State was unable to make selections early enough to be included in the late-season selection document. This rule is necessary to permit the taking of the designated species during the 1990–91 season because the taking of migratory birds is prohibited unless specifically provided.

EFFECTIVE DATE: October 12, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas J. Dwyer, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Room 634–Arlington Square, Washington, DC 20240, (703) 358–1714.

SUPPLEMENTARY INFORMATION: In the September 28, 1990, **Federal Register** (55 FR 39828), the Fish and Wildlife Service (hereinafter the Service) published a final rule containing the late-season selections from the States and amending subpart K of 50 CFR part 20 to set hunting seasons, hours, areas, and limits for waterfowl and certain other game species for which seasons were not previously selected. In that document the Service reviewed the steps it had taken to provide for public comment and to fulfill procedural requirements for this rulemaking activity.

The State of California was unable to make selections during the normal time period and thus the Service was unable to publish selections for California until this late date. If there were a delay in the effective date of these regulations after this final rulemaking, the State would have insufficient time to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these regulations will, therefore, take effect immediately upon publication. All of the selections are consistent with the final frameworks published in the August 14, 1990, (55 FR 33264) and the September 21, 1990, (55 FR 38898) **Federal Register** documents.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: October 4, 1990.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

PART 20—[AMENDED]

For the reasons set out in the preamble, title 50, chapter I, subchapter B, part 20, subpart K is amended as follows.

1. The authority citation for part 20 continues to read as follows:

Authority: Migratory Bird Treaty Act of July 3, 1918, (40 Stat. 755; 16 U.S.C. 701–711) and the Fish and Wildlife Improvement Act of 1978, (92 Stat. 3112; 16 U.S.C. 712).

BILLING CODE 4310-55-M

Note - The following annual hunting regulations provided for by §§ 20.104, 20.105, and 20.109 of 50 CFR Part 20 will not appear in the Code of Federal Regulations because of their seasonal nature.

2. Section 20.104 is amended as follows:

§20.104 Seasons, limits, and shooting hours for rails, woodcock, and common snipe

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are as follows:

Note: The following seasons are in addition to other seasons published previously in the August 28, 1990, (55 FR 35266) and the September 28, 1990, (55 FR 39828) Federal Register.

	Rails (Sora & Virginia)	Rails (Clapper & King)	Woodcock	Common Snipe
Daily bag limit	25 (1)	See footnote (2).	5 (3)	8
Possession limit	25 (1)	See footnote (2).	10 (3)	16

Shooting and Hawking Hours: One-half hour before sunrise until sunset daily on all species, unless otherwise restricted.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS, INCLUDING AREA DESCRIPTIONS.

* * * * *

Seasons in the Pacific Flyway:

* * * * *

California	Closed	Closed	Closed	Oct. 6-Jan. 20

* * * * *

3. Section 20.105 is amended as follows:

§20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules

Subject to the applicable provisions of the preceding sections of this part, the areas open to hunting, the respective open seasons (dates inclusive), the shooting and hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Note: The following seasons are in addition to other seasons published previously in the September 28, 1990, (55 FR 39828) Federal Register.

PACIFIC FLYWAY

Definitions

The Pacific Flyway includes the States of Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana (including and to the west of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington, and Wyoming (west of the Continental Divide including the Great Divide Basin).

White geese include lesser snow (including blue) geese, greater snow geese, and Ross' geese.
Dark geese include Canada geese, white-fronted geese, emperor geese, and brant.

Flywaywide Restrictions

Shooting (including hawking) hours: One-half hour before sunrise to sunset daily, except as otherwise noted--Check State regulations for further restrictions. States that further restrict shooting hours (in specified seasons, dates, or locations) include, but are not limited to: Nevada, Oregon, Idaho, Utah, and Washington.

Duck and Merganser Limits: Daily bag limits for ducks (including mergansers) may include no more than 3 mallards but only 1 female (hen) mallard, 1 pintail, and either 2 redheads or 2 canvasbacks, or 1 of each. The possession limit is twice the daily limit.

Goose Limits:
Aleutian Canada Geese: The season is closed on Aleutian Canada geese throughout the Flyway.
Cackling Canada Geese: The season is closed in California, Oregon, and Washington.
White Geese and Dark Geese: Unless otherwise noted, seasons and limits for white geese are either singly or in the aggregate; and seasons and limits for dark geese are either singly or in the aggregate, except in Washington, Oregon, and California where there are separate seasons and limits on brant.

Zones: Boundaries are described in the September 21, 1990, Federal Register (55 FR 38898) and in the appropriate State regulations.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS AND DELINEATION OF GEOGRAPHICAL AREAS OR ZONES WITHIN STATES. SPECIAL RESTRICTIONS MAY APPLY ON FEDERAL AND STATE PUBLIC HUNTING AREAS AND FEDERAL INDIAN RESERVATIONS.

	Season Dates	Limits: Bag	Limits: Possession
* * * * *			
California			
Ducks:			
Northeastern Zone	Oct. 13-Dec. 10	4	8
Colorado River Zone	Oct. 12-Nov. 16 &	4	8
	Dec. 15-Jan. 6	4	8
Southern Zone	Oct. 27-Nov. 18 &	4	8
	Dec. 1-Jan. 5	4	8
Balance-of-State Zone	Oct. 27-Nov. 18 &	4	8
	Dec. 1-Jan. 5	4	3

	Season Dates	Limits Bag	Possession
California (cont.)			
Coots and common moorhens (singly or in the aggregate)			
Northeastern Zone	Same as for ducks	25	25
Colorado River Zone	Same as for ducks	25	25
Southern Zone	Oct. 27-Jan. 5	25	25
Balance-of-State Zone	Oct. 27-Jan. 5	25	25
Aleutian and Cackling			
Canada Geese	Closed	-	-
Brant	Nov. 1-Nov. 30	2	4
Other Geese:			
Northeastern Zone:		3	6
Canada Geese	Oct. 13-Jan. 13	2	4
White-fronted Geese	Oct. 13-Nov. 4	1	2
White Geese	Oct. 13-Jan. 13	3	6
Colorado River Zone:		5	5
Canada Geese	Oct. 25-Jan. 20	2	2
White-fronted Geese	Closed	-	-
White Geese	Oct. 25-Jan. 20	3	3
Southern Zone:		6	6
Dark Geese:		3	3
Canada:			
District 22	Oct. 20-Jan. 13	1	2
Remainder of Southern Zone	Oct. 20-Jan. 13	2	2
White-fronted	Oct. 13-Jan. 13	3	3
White Geese	Oct. 13-Jan. 13	3	3
Balance-of-the-State:		3	3
Dark Geese(5)(13):		1	1
Canada:			
Del Norte and Humboldt	Closed	-	-
Sacramento Valley	Closed	-	-
San Joaquin Valley	Oct. 27-Nov. 22	1	1
Remainder of Balance-of-the-State	Oct. 27-Jan. 13	1	1
White-fronted:			
Sacramento Valley	Oct. 27-Nov. 30	1	1
Remainder of Balance-of-the-State	Oct. 27-Dec. 30	1	1
White Geese	Oct. 27-Jan. 13	3	3

* * * * *

(5) In California, Oregon, and Washington; the season is closed on cackling and Aleutian Canada geese.

* * * * *

(13) In California, the dark goose limits may be expanded to 2 per day and 4 in possession provided they are Canada geese, except for cackling Canada and Aleutian Canada geese for which the season is closed.

* * * * *

4. Section 20.109 is amended as follows:

§20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry

Subject to the applicable provisions of this part, the areas open to hunting, the respective open seasons (dates inclusive), the hawking hours, and the daily bag and possession limits on the species designated in this section are prescribed as follows:

Daily bag limit ..... 3 singly or in the aggregate.
Possession limit ..... 6 singly or in the aggregate.

These limits apply during both regular hunting seasons and extended falconry seasons--unless further restricted by State Regulations. Unless otherwise specified, extended falconry for ducks does not include sea ducks within the special sea duck areas. Only extended falconry seasons are shown below. Most States also permit falconry during the regular gun seasons. Please consult State regulations for details.

Hawking hours: One-half hour before sunrise to sunset daily--unless otherwise restricted.

Zones: Boundaries are described in the September 12, 1990, Federal Register (55 FR 38898) and in the appropriate State regulations.

CHECK STATE REGULATIONS FOR ADDITIONAL RESTRICTIONS

* * * * *

Pacific Flyway

California:

Ducks and mergansers:	
Northeastern Zone	Dec. 11-Jan. 27
Colorado River Zone	Nov. 17-Dec. 14 & Jan. 7-Jan. 26
Southern Zone	Nov. 19-Nov. 30 & Jan. 6-Feb. 10
Balance-of-the-State	Nov. 19-Nov. 30 & Jan. 6-Feb. 10
Coots:	
Northeastern Zone	Dec. 11-Jan. 27
Colorado River Zone	Nov. 17-Dec. 14 & Jan. 7-Jan. 26
Southern Zone	Jan. 6-Feb. 10
Balance-of-the-State	Jan. 6-Feb. 10

Canada geese (9):	
Northeastern Zone	Jan. 14-Jan. 27
Colorado River Zone	Oct. 12-Oct. 24 & Jan. 21-Jan. 26
Southern Zone	No Extended Season
Balance-of-the-State	Jan. 14-Feb. 10
White-fronted geese (9):	
Northeastern Zone	Nov. 5-Jan. 27
Colorado River Zone	Closed
Southern Zone	No Extended Season
Balance-of-the-State	Dec. 31-Feb. 10
Brant:	
Northeastern Zone	Oct. 13-Oct. 31 & Dec. 1-Jan 27
Colorado River Zone	Oct. 12-Oct. 31 & Dec. 1-Jan. 26
Southern Zone	Oct. 27-Oct. 31 & Dec. 1-Feb. 10
Balance-of-the-State	Oct. 27-Oct. 31 & Dec. 1-Feb. 10
White geese:	
Northeastern Zone	Jan. 14-Jan. 27
Colorado River Zone	Oct. 12-Oct. 24 & Jan. 21-Jan. 26
Southern Zone	No Extended Season
Balance-of-the-State	Jan. 14-Feb. 10

* * * * *

(9) In California, the falconry season for Canada geese is closed in Del Norte and Humboldt Counties and in the Sacremento Valley Area; and will extend from November 23, 1990-February 10, 1991, in the San Joaquin Valley Area. The falconry season for white-fronted geese in the Sacremento Valley Area is December 1, 1990-February 10, 1991. The season is closed on Aleutian and cackling Canada geese.

[FR Doc. 90-24071 Filed 10-11-90; 8:45 am]
BILLING CODE 4310-55-C

federal register

Friday
October 12, 1990

Part IV

The President

Proclamation 6199—Dwight D. Eisenhower Day, 1990

Presidential

Part IV

The Presidency

Proclamation 8195—Dwight D. Eisenhower Day, 1969

Federal Register
Vol. 55, No. 198
Friday, October 12, 1990

Presidential Documents

Title 3—

The President

Proclamation 6199 of October 10, 1990

Dwight D. Eisenhower Day, 1990

By the President of the United States of America

A Proclamation

October 14, 1990, marks the 100th anniversary of the birth of Dwight David Eisenhower, the 34th President of the United States, the commander of Allied Forces in Europe during World War II, and one of this country's most distinguished statesmen and public servants. A small-town boy who proudly came from "the heart of America," Dwight Eisenhower earned a special place of honor in our history through his courageous and determined efforts to defend the universal cause of freedom. He also set a standard of leadership that other military professionals and elected officials have since strived to emulate.

Dwight Eisenhower's career began in our Nation's military. He graduated from the United States Military Academy at West Point in 1915, and later ranked first in his class at the Command and General Staff School, Fort Leavenworth, Kansas. As a staff officer, he served the Generals Fox Conner, John Pershing, Douglas MacArthur, and George Marshall.

During World War II, after serving as Chief of the War Plans Division of the War Department, Eisenhower was entrusted with the command of the Allied Forces landing in North Africa in 1942. At the end of 1943, he was named Supreme Allied Commander of the Allied Expeditionary Forces in Europe. His leadership and example in that post animated the most successful wartime coalition in history and paved the way for an unprecedented military feat: the successful invasion of Normandy by land, sea, and air on June 6, 1944. In June 1945, one month after accepting the unconditional German surrender, Dwight Eisenhower returned home to a hero's welcome.

For 3 years after his return to the United States, General Eisenhower served as Army Chief of Staff. He then devoted his talent and energy to education, becoming President of Columbia University in June 1948. By December 1950, however, duty called again, and Eisenhower took leave from his academic post to become Supreme Allied Commander of the North Atlantic Treaty Organization. Organizing the defense forces of NATO member nations, he helped to lay a strong foundation for the Alliance. In 1952, upon accepting the Republican nomination for the Presidency and after more than 3 decades of distinguished service, Ike resigned from the military.

During his two terms as President, Dwight Eisenhower ably handled the tensions and uncertainties of the postwar era and administered policies leading to unprecedented growth and prosperity here at home. Crises in Suez, Berlin, and Lebanon tested his remarkable leadership abilities; yet, in each case, Eisenhower responded with characteristic courage and resolve. On the domestic front, Ike not only met challenges such as those of 1957 in Little Rock, Arkansas, but also helped to launch the Nation's civil space program and the Interstate Highway System. He also helped to balance the Nation's budget—three times.

Even in retirement Ike continued to serve the Nation, generously accommodating those successors who sought his counsel and sharing with an attentive Nation his views on matters of foreign policy. He died on March 28, 1969, but his legacy continues to enrich and inspire us.

How pleased Dwight Eisenhower would be to know that freedom's holy light, borne so bravely by American and Allied troops in battle, now burns brightly in countries that once suffered under the shadow of tyranny. Indeed, the positive developments we have witnessed around the world during the past year would not have been possible without his leadership at a critical moment in history. Neither would they have been possible without the vigilance, strength, and resolve of free nations, rooted in ideals Ike cherished.

In 1990, we do well to honor the memory of Dwight Eisenhower by rededicating ourselves to the principles he fought so hard to uphold. This great man himself once observed:

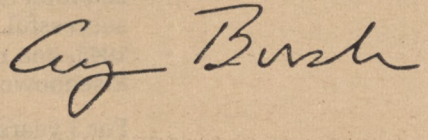
> We know—and all the world constantly reminds us—that the future well-being of humanity depends directly upon America's leadership. I say emphatically that this leadership depends no less directly upon the faith, the courage, the love of freedom, and the capacity for sacrifice of every American citizen, every home, every American community.

Today we can be greatful for the extraordinary example he set.

The Congress, by Public Law 101–258, has designated October 14, 1990, the 100th anniversary of his birth, as "Dwight D. Eisenhower Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim October 14, 1990, as Dwight D. Eisenhower Day. I call upon the people of the United States to observe that day with appropriate ceremonies and activities in remembrance of his devotion to freedom and democracy and his many contributions to our Nation and the world.

IN WITNESS WHEREOF, I have hereunto set my hand this tenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 90–24311
Filed 10–11–90; 11:03 am]
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federal register

Friday
October 12, 1990

Part V

Commission on Civil Rights

Sunshine Act Meeting; Notice

Federal Register

U.S. COMMISSION ON CIVIL RIGHTS.

October 11, 1990.

DATE AND TIME: Monday, October 15, 1990, 11:00 A.M.–1:00 P.M.

PLACE: 1121 Vermont Avenue, NW, Room 512, Washington, DC 20425.

STATUS: Telephonic Conference Meeting, Open to the Public.

MATTER TO BE CONSIDERED: Statement by Commission on Civil Rights Regarding Budgetary Reduction by Congress as Pertains to Civil Rights.

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 376–8312.

Emma Monroig,

Solicitor.

[FR Doc. 90–24324 Filed 10–11–90; 12:17 pm]

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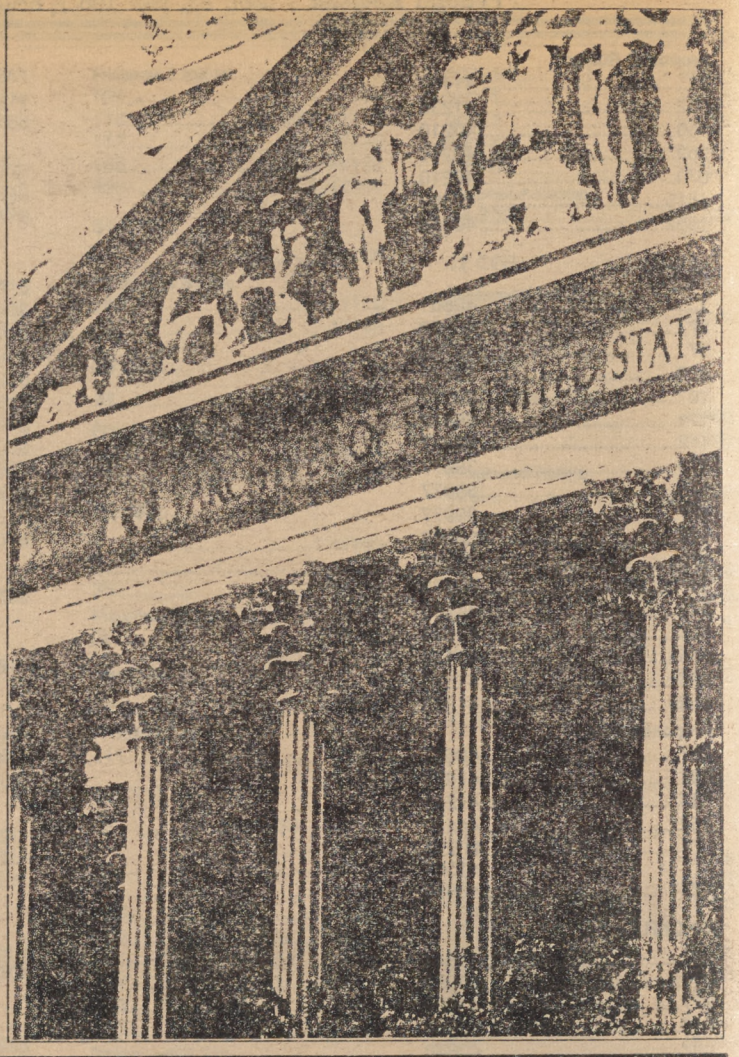

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