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Monday
December 10, 1990

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 720, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Weekly Levels of Volume Regulation for the 1990–91 Season

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends Navel Orange Regulation 720 [55 FR 50157] by revising the percentage allocation between districts regulated under the marketing order for California-Arizona navel oranges during the period from December 7 through December 13, 1990. Consistent with program objectives, such action is needed to maintain orderly marketing conditions for fresh California-Arizona navel oranges and to enhance producer returns. This action was recommended by the Navel Orange Administrative Committee (Committee) which locally administers the marketing order covering navel oranges grown in Arizona and a designated part of California.

EFFECTIVE DATE: Regulation 720, Amendment 1 (7 CFR 907) is effective for the period from December 7 through December 13, 1990.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2524–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–8139.

SUPPLEMENTARY INFORMATION: This amendment is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and a designated part of California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

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

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

There are approximately 130 handlers of navel oranges who are subject to regulation under the marketing order and approximately 4,070 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of producers and handlers of California-Arizona navel oranges may be classified as small entities.

The declaration of policy in the Act includes a provision concerning establishing and maintaining such orderly marketing conditions as will provide, in the interest of producers and consumers, an orderly flow of the supply of a commodity throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices. Limiting the quantity of California-Arizona navel oranges that each handler may handle on a weekly basis is expected to contribute to the Act's objectives of orderly marketing and improving producers' returns.

The 1990–91 season average on-tree price for California-Arizona navel oranges is not expected to exceed the season's average fresh parity equivalent price. Domestic fresh utilization about equal to the Committee's estimate of 51,250 cars is expected to result in a season average fresh on-tree price of $4.33 per carton, about 66 percent of the estimated fresh on-tree parity equivalent price of $6.56 per carton. In contrast, the preliminary estimate of the 1989–90 season average fresh on-tree price is $3.70 per carton, or 58 percent of the preliminary on-tree parity equivalent price of $6.34 per carton.

The Committee met publicly on December 4, 1990, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with six members voting in favor, four opposing, and one abstaining, an amendment to Navel Orange Regulation 720 [55 FR 50157] to decrease the total allotment for all districts from 2,000,000 cartons to 1,900,000 cartons for the week ending on December 13, 1990. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions, and weather and transportation conditions.

At the meeting, Committee members reported that maturity of the navel orange crop remains variable throughout the producing areas. Most Committee members reported that current demand for navel oranges is good. Some Committee members commented that, despite the continued problems with maturity, enough quality fruit was available to warrant recommending the 2,000,000 carton level established for shipment. Those members also commented that a sufficient quantity of California-Arizona navel oranges should be available on retail shelves to compete with fruit from Florida and Chile. The majority of Committee members indicated, however, that the established 2,000,000 carton level was too ambitious. Committee members discussed the pros and cons of implementing volume regulation at this time. Two Committee members favored the established 2,000,000 carton allotment level, two members favored

open movement, and six members favored a 1,900,000 carton allotment level for Districts 1 and 3.

The Department has reviewed the Committee's recommendation in light of its projections set forth in its 1990–91 marketing policy, information provided at the meeting, and as previously established in Navel Orange Regulation 720. Based on this review, the Department has modified the Committee's recommendation to reflect the total allotment level of 2,000,000 cartons as established in Navel Orange Regulation 720. The allotment will be allocated between Districts 1 and 3 as follows: 1,914,000 cartons for District 1 and 86,000 cartons for District 3. Handlers in Districts 2 and 4 are not regulated as they are not shipping a sufficient quantity of navel oranges to warrant volume regulation at this point in the season.

During the week ending on November 29, 1990, shipments of navel oranges to fresh domestic markets, including Canada, totaled 1,480,000 cartons compared with 1,586,000 cartons shipped during the week ending on November 30, 1989. Export shipments totaled 225,000 cartons compared with 166,000 cartons shipped during the week ending on November 30, 1989. Processing and other uses accounted for 313,000 cartons compared with 321,000 cartons shipped during the week ending on November 30, 1989.

Fresh domestic shipments to date this season total 5,385,000 cartons compared with 6,734,000 cartons shipped by this time last season. Export shipments total 589,000 cartons compared with 963,000 cartons shipped by this time last season. Processing and other use shipments total 1,111,000 cartons compared with 1,731,000 cartons shipped by this time last season.

For the week ending on November 29, 1990, regulated shipments of navel oranges to fresh domestic markets were 1,477,000 cartons on an adjusted allotment of 1,500,000 cartons which resulted in net undershipments of 23,000 cartons. Regulated shipments for the current week (November 30 through December 6, 1990), are estimated at 1,940,000 cartons on an adjusted allotment of 1,749,000 cartons. Thus, overshipments of 191,000 cartons could be carried forward into the week ending on December 13, 1990.

The average f.o.b. shipping point price for the week ending on November 29, 1990, was $8.82 per carton based on a reported sales volume of 1,277,000 cartons compared with last week's average of $9.84 per carton on a reported sales volume of 818,000 cartons. The season average f.o.b. shipping point price to date is $9.67 per carton. The average f.o.b. shipping point prices for the week ending on November 30, 1989, was $7.38 per carton; the season average f.o.b. shipping point price at this time last year was $8.47.

According to the National Agricultural Statistics Service, the 1989–90 season average fresh equivalent on-tree price for California-Arizona navel oranges was $4.05 per carton, 64 percent of the season average parity equivalent price of $6.34 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1990–91 season average fresh on-tree price is estimated at $4.33 per carton, about 66 percent of the estimated fresh on-tree parity equivalent price of $6.56 per carton. It is currently estimated that there is a less than one percent probability that the 1990–91 season average fresh on-tree price will exceed the projected season average fresh on-tree parity equivalent price.

Limiting the quantity of navel oranges that may be shipped during the period from December 7 through December 13, 1990, to 2,000,000 cartons would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

Based on considerations of supply and market conditions, and the evaluation of alternatives to the implementation of this volume regulation, the Administrator of the AMS has determined that this final rule will not have a significant economic impact on a substantial number of small entities and that this action will tend to effectuate the declared policy of the Act.

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1990–91 season was published in the September 6, 1990, issue of the **Federal Register** [55 FR 36653]. That rule provided interested persons the opportunity to comment until October 9, 1990, on the need for regulation during the 1990–91 season, the proposed shipping schedule, and other factors relevant to the implementation of such regulations. A final rule concerning this action was published in the **Federal Register** on December 5, 1990 [55 FR 50157], implementing the shipping schedule, as revised, for the season. Amendments may be warranted to that final rule throughout the season based on analysis of the prevailing marketing conditions and available data.

Accordingly, this final rule amends Navel Orange Regulation 720 [55 FR 50157] by revising the percentage allocation between districts regulated under the marketing order for California-Arizona navel oranges during the period from December 7 through December 13, 1990.

Moreover, pursuant to 5 U.S.C. 553, it is found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice on this action, engage in further public procedure with respect to this amendment and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until December 4, 1990, and this action needs to be effective for the regulatory week which begins on December 7, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 907 is amended as follows:

PART 907—[AMENDED]

1. The authority citation for 7 CFR part 907 continues to read as follows:

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

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

2. Section 907.1020 is amended by republishing the introductory text and revising paragraph (a) to read as follows:

§ 907.1020 Navel Orange Regulation 720, Amendment 1.

The shipping schedule below establishes the quantities of navel oranges grown in California and Arizona, by district, which may be handled during the specified weeks as follows:

Week ending	District 1	District 2	District 3	District 4	Total
	Cartons/ Percent (000)	Cartons/ Percent (000)	Cartons/ Percent (000)	Cartons/ Percent (000)	Cartons/ Percent (000)
(a) 12-13-90	1,914.0/95.7		86.0/4.3		2,000

* * * * *

Dated: December 5, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-28917 Filed 12-7-90; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 747]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to domestic markets during the period from December 9 through December 15, 1990. Consistent with program objectives, such action is needed to balance the supplies of fresh lemons with the demand for such lemons during the period specified. This action was recommended by the Lemon Administrative Committee (Committee), which is responsible for local administration of the lemon marketing order.

EFFECTIVE DATE: Regulation 747 (7 CFR part 910) is effective for the period from December 9 through December 15, 1990.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture (Department), Room 2524-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 475-3861.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 910 (7 CFR part 910), as amended, regulating the handling of lemons grown in California and Arizona. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the Act.

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

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

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

There are approximately 70 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2,000 lemon producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

The California-Arizona lemon industry is characterized by a large number of growers located over a wide area. The Committee's estimate of the 1990-91 production is 42,412 cars (one car equals 1,000 cartons at 38 pounds net weight each), compared to 37,881 cars during the 1989-90 season. The production area is divided into three districts which span California and Arizona. The Committee estimates District 1, central California, 1990-91 production at 6,600 cars compared to the 4,158 cars produced in 1989-90. In District 2, southern California, the crop is expected to be 24,700 cars compared to the 24,292 cars produced last year. In District 3, the California desert and Arizona, the Committee estimates a production of 11,112 cars compared to the 9,436 cars produced last year. According to the National Agricultural Statistics Service, 1990-91 lemon production is expected to total 40,200 cars, 8 percent above the 1989-90 season and 1 percent more than the crop utilized in 1988-89.

The three basic outlets for California-Arizona lemons are the domestic fresh, export, and processing markets. The domestic (regulated) fresh market is a preferred market for California-Arizona lemons. Based on its crop estimate of 42,412 cars, the Committee estimates that about 42.2 percent of the 1990-91 crop will be utilized in fresh domestic channels (17,900 cars), compared with the 1989-90 total of 16,600 cars, about 44 percent of the total production of 37,881 cars in 1989-90. Fresh exports are projected at 20 percent of the total 1990-91 crop utilization compared with 22 percent in 1989-90. Processed and other uses would account for the residual 37.8 percent compared with 34 percent of the 1989-90 crop.

Volume regulations issued under the authority of the Act and Marketing Order No. 910 are intended to provide benefits to growers and consumers. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of lemons in the market throughout the marketing season and to avoid unreasonable fluctuations in supplies and prices.

Based on the Committee's marketing policy, the crop and market information provided by the Committee, and other information available to the Department, the costs of implementing the regulations are expected to be more than offset by the potential benefits of regulation.

Reporting and recordkeeping requirements under the lemon marketing order are required by the Committee from handlers of lemons. However, handlers in turn may require individual growers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting requirements may be passed on to growers.

The Committee submitted its marketing policy for the 1990-91 season to the Department on June 19. The marketing policy discussed, among other things, the potential use of volume and

size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Rodriguez. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on December 4, 1990, in Newhall, California, to consider the current and prospective conditions of supply and demand and, by an 11 to 1 vote, recommended that 320,000 cartons is the quantity of lemons deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations were compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, the preceding week's shipments and shipments to date, crop conditions, weather and transportation conditions, and a reevaluation of the prior week's recommendation in view of the above.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1990–91 marketing policy. This recommended amount is 21,000 cartons below the estimated projections in the Committee's current shipping schedule.

During the week ending on December 1, 1990, shipments of lemons to fresh domestic markets, including Canada, totaled 285,000 cartons compared with 285,000 cartons shipped during the week ending on December 2, 1989. Export shipments totaled 162,000 cartons compared with 144,000 cartons shipped during the week ending on December 2, 1989. Processing and other uses accounted for 456,000 cartons compared with 386,000 cartons shipped during the week ending on December 2, 1989

Fresh domestic shipments to date for the 1990–91 season total 5,425,000 cartons compared with 5,219,000 cartons shipped by this time during the 1989–90 season. Export shipments total 2,700,000 cartons compared with 2,832,000 cartons shipped by this time during 1989–90. Processing and other use shipments total 4,961,000 cartons compared with 3,513,000 cartons shipped by this time during 1989–90.

For the week ending on December 1, 1990, regulated shipments of lemons to the fresh domestic market were 285,000 cartons on an adjusted allotment of 291,000 cartons, resulting in undershipments of 6,000 cartons. Regulated shipments for the current week (December 2 through December 8, 1990) are estimated at 310,000 cartons on an adjusted allotment of 300,000 cartons. Thus, overshipments of 10,000 cartons should be carried forward to the week ending on December 15, 1990.

The average f.o.b. shipping point price for the week ending on December 1, 1990, was $9.89 per carton based on a reported sales volume of 286,000 cartons compared with last week's average of $10.29 per carton on a reported sales volume of 269,000 cartons. The 1990–91 season average f.o.b. shipping point price to date is $12.39 per carton. The average f.o.b. shipping point price for the week ending on December 2, 1989, was $12.49 per carton; the season average f.o.b. shipping point price at this time during 1989–90 was $14.14 per carton.

The Department's Market News Service reported that, as of December 4, the demand for lemons is "moderate" and the market for lemons is "steady." At the meeting, a Committee member indicated that demand is moderate. However, that member commented on the inventory buildup of second grade fruit ranging in size from 95 to 200 and on first grade, 165's and smaller fruit. That member also expressed concern over the abundance of small-sized fruit in the market. One Committee member supported open movement and stated that too many small growers and handlers may be negatively impacted if the Committee recommends a restrictive prorate. The Committee, by an 11 to 1 vote, recommended volume regulation for the week ending on December 15, 1990.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the California-Arizona 1990–91 season average fresh on-tree price is estimated at $8.83 per carton, 106 percent of the projected season average fresh on-tree parity equivalent price of $8.35 per carton. The California-Arizona 1989–90 season average fresh on-tree price is estimated at $9.02, 121 percent of the projected season average fresh on-tree parity equivalent price of $7.47 per carton.

Limiting the quantity of lemons that may be shipped during the period from December 9 through December 15, 1990, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of lemons to market.

Based on considerations of supply and market conditions, it is found that this action will tend to effectuate the declared policy of the Act.

Based on the above information, the Administrator of the AMS has determined that issuance of this rule will not have a significant economic impact on a substantial number of small entities.

Pursuant to 5 U.S.C. 553, it is further found and determined that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**. This is because there is insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the Act.

In addition, market information needed for the formulation of the basis for this action was not available until December 4, 1990, and this action needs to be effective for the regulatory week which begins on December 9, 1990. Further, interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 910

Lemons, Marketing agreements, and Reporting and recordkeeping requirements.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.1047 is added to read as follows:

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

§ 910.1047 Lemon Regulation 747.

The quantity of lemons grown in California and Arizona which may be handled during the period from December 9 through December 15, 1990, is established at 320,000 cartons.

Dated: December 5, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-28911 Filed 12-7-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 90-ASO-18]

Amendment of Controlling Agency for Restricted Areas R-2104A, R-2104B, and R-2104C; AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the controlling agency for Restricted Areas R-2104A, B, and C, Huntsville, AL, from FAA, Atlanta Air Route Traffic Control Center (ARTCC) to FAA, Memphis ARTCC. This action is necessary because the restricted areas lie entirely within the airspace controlled by Memphis ARTCC.

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

FOR FURTHER INFORMATION CONTACT: Mike Ostapiej, Military Operations Program Office (ATM-420), Office of Air Traffic System Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9573.

The Rule

This amendment to part 73 of the Federal Aviation Regulations changes the controlling agency for Restricted Areas R-2104A, B, and C, Huntsville, AL, from FAA, Atlanta ARTCC to FAA, Memphis ARTCC. As a result of center boundary resectorization, the restricted areas lie entirely within the airspace controlled by Memphis ARTCC; therefore, this action enhances airspace management. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action, which does not affect the existing configuration of airspace, is a minor technical amendment in which the public would not be particularly interested. Section 73.21 of part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, 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 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 73 of the Federal Aviation Regulations (14 CFR part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.21 [Amended]

2. Section 73.21 is amended as follows:

R-2104A, R-2104B, and R-2104C Huntsville, AL [Amended]

By removing the present Controlling agency and substituting the following:

Controlling agency. FAA, Memphis ARTCC.

Issued in Washington, DC, on November 30, 1990.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division

[FR Doc. 90-28873 Filed 12-7-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 26395; Amdt. No. 1440]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

For Purchase—

Individual SIAP copies may be obtained from:

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

By Subscription—

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

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

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by

reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

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

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

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

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) Does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on November 23, 1990.

Thomas C. Accardi,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—[AMENDED]

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

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

2. Part 97 is amended to read as follows:

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

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

. . . Effective February 7, 1991

Kenai, AK—Kenai Muni, VOR RWY 19, Amdt. 14
Kenai, AK—Kenai Muni, VOR/DME RWY 1, Amdt. 5
Kenai, AK—Kenai Muni, NDB–A, Amdt. 3
Kenai, AK—Kenai Muni, ILS RWY 19, Amdt. 5
La Junta, CO—La Junta Muni, NDB RWY 8, Amdt. 5
Jefferson, GA—Jackson County, NDB RWY 34, Orig.
Newnan, GA—Newnan Coweta County, VOR/DME–A, Amdt. 5
Newnan, GA—Newnan Coweta County, NDB RWY 32, Amdt. 1
Liberal, KS—Liberal Muni, RNAV RWY 12, Amdt. 3, CANCELLED
Frankfort, KY—Capital City, VOR RWY 6, Amdt. 1
Frankfort, KY—Capital City, VOR RWY 24, Amdt. 1
Frankfort, KY—Capital City, VOR RWY 24, Amdt. 9
Laurel/Hattiesburg, MS—Pine Belt Regional, VOR RWY 36, Amdt. 4
Laurel/Hattiesburg, MS—Pine Belt Regional, ILS RWY 18, Amdt. 6
Pascagoula, MS—Jackson County, VOR RWY 18, Amdt. 9, CANCELLED
Pascagoula, MS—Jackson County, NDB–A, Amdt. 1, CANCELLED
Pascagoula, MS—Jackson County, RNAV RWY 13, Amdt. 3, CANCELLED
York, NE—York Municipal, NDB RWY 17, Amdt. 1
York, NE—York Municipal, NDB RWY 35, Amdt. 1
Reno, NV—Reno/Stead, NDB–E, Amdt. 2, CANCELLED
Klamath Falls, OR—Klamath Falls International, VOR/DME or TACAN RWY 32, Amdt. 4
Cody, WY—Yellowstone Regional, VOR–A, Amdt. 5

. . . Effective January 10, 1991

Urbana, IL—Frasca Field, VOR–A, Amdt. 11
Urbana, IL—Frasca Field, VOR/DME–B, Amdt. 6
Kendallville, IN—Kendallville Muni, VOR–A, Amdt. 5
Des Moines, IA—Des Moines Intl, VOR RWY 23, Orig.
Washington, KS—Washington County Memorial, NDB–A, Orig.
Ludington, MI—Mason County, NDB RWY 25, Amdt. 8
Middletown, OH—Hook Field Muni, LOC RWY 23, Amdt. 7
Middletown, OH—Hook Field Muni, NDB–A, Amdt. 2
Middletown, OH—Hook Field Muni, NDB RWY 23, Amdt. 8
Springfield, OH—Springfield–Beckley Muni, VOR RWY 6, Amdt. 8
Springfield, OH—Springfield–Beckley Muni, VOR RWY 24, Amdt. 8
Springfield, OH—Springfield–Beckley Muni, NDB RWY 24, Amdt. 14
Springfield, OH—Springfield–Beckley Muni, ILS1 RWY 24, Amdt. 2
Pittsburgh, PA—Greater Pittsburgh Intl, ILS RWY 32, Amdt. 8
Del Rio, TX—Del Rio Intl, VOR–A, Amdt. 10
Del Rio, TX—Del Rio Intl, VOR/DME–B, Amdt. 3
Del Rio, TX—Del Rio Intl, LOC RWY 23, Amdt. 3
Del Rio, TX—Del Rio Intl, NDB RWY 13, Amdt. 2
Milwaukee, WI—General Mitchell International, LOC RWY 25L, Amdt. 3
Milwaukee, WI—General Mitchell International, ILS RWY 7R, Amdt. 13

. . . Effective November 15, 1990

Rifle, CO—Garfield County Regional, LOC/DME–A, Amdt. 3
Oxford, CT—Waterbury–Oxford, ILS RWY 36, Amdt. 9

Orlando, FL—Orlando Executive, LORAN RNAV RWY 7, Amdt. 1
Orlando, FL—Orlando Executive, LORAN RNAV RWY 25, Amdt. 1
Stillwater, OK—Stillwater Muni, VOR RWY 17, Amdt. 9
Philadelphia, PA—Philadelphia Intl, COVERGING ILS RWY 9R, Amdt. 2
Pittsburgh, PA—Greater Pittsburgh Intl, ILS RWY 28R, Amdt. 5
Pittsburgh, PA—Greater Pittsburgh Intl, ILS RWY 28L, Amdt. 4
Pittsburgh, PA—Greater Pittsburgh Intl, VOR or TACAN RWY 28L/C, Amdt. 3

. . . Effective September 20, 1990

Fargo, ND—Hector International, ILS RWY 17, Amdt. 4
Fargo, ND—Hector International, ILS RWY 35, Amdt. 32

[FR Doc. 90-28738 Filed 12-7-90; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 385

[Docket No. RM90-11-000; Order No. 530]

Streamlining Commission Procedures for Review of Staff Action

Issued: December 3, 1990.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) has amended its regulations to streamline its procedures for review of staff actions. The final rule amends § 385.1902 of the Commission's regulations to simplify and accelerate the review process by condensing the previous two-stage appeal procedure into a single stage of review. The requirement to file an appeal from staff action as a prerequisite to filing a request for rehearing is eliminated. With certain exceptions, orders issued by the Commission's staff pursuant to authority delegated by the Commission constitute final agency action that is immediately subject to rehearing, pursuant to § 385.713 of the Commission's regulations.

The final rule is effective on its date of issuance, and applies to all appeals of staff action that are pending before the Commission on that date (as well as to review of staff action subsequent to that date). All appeals of staff action that are pending on the effective date of the final rule are deemed to be requests for rehearing, and all pending notices of intent to act on such pending appeals are deemed to be orders granting rehearing solely for the purpose of further consideration.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Barry Smoler, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 (202) 208-2067.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208-1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice of proposed rulemaking will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martin L. Allday, Chairman; Charles A. Trabandt, Elizabeth Anne Moler, Jerry J. Langdon and Branko Terzic.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending § 385.1902 of the Commission's regulations to streamline the Commission's procedures for review of staff actions. The amendment simplifies and accelerates the review process by condensing the previous two-stage appeal procedure into a single stage of review. The requirement to file an appeal from staff action as a prerequisite to filing a request for rehearing is eliminated. With certain exceptions, orders issued by the Commission's staff pursuant to authority delegated by the Commission now constitute final agency action that is immediately subject to rehearing, pursuant to § 385.713 of the Commission's regulations.

The final rule is effective on its date of issuance, and applies to all appeals of staff action that are pending before the Commission on that date (as well as to review of staff action subsequent to that date). All appeals of staff action that are pending on the effective date of the final rule are deemed to be requests for rehearing, and all pending notices of intent to act on such pending appeals are deemed to be orders granting rehearing solely for the purpose of further consideration.

II. Background

Subpart C of part 375 of the Commission's regulations sets forth a series of delegations of the Commission's authority to office directors, including limited authority to redelegate.[1] Section 385.301(a) provides in part that "[a]ny action by a staff official under the authority of this subpart may be appealed to the Commission in accordance with § 385.1902 of this chapter."

Prior to its amendment in this final rule, § 385.1902 provided for a two-stage process for seeking review of orders issued by office directors pursuant to delegated authority. Within 30 days after issuance of a director's order, anyone seeking modification of the order could file an appeal to the Commission. Prior § 385.1902(a) made clear that "[a] *Commission decision* on a petition for appeal is a prerequisite to *a request* for rehearing under Rule 713." (Emphasis in the original.)

The vast majority of the staff orders issued on authority delegated by the Commission are issued pursuant to either the Federal Power Act (FPA) [2] or the Natural Gas Act (NGA).[3] Section 313 of the FPA [4] and section 19 of the NGA,[5] as implemented by § 385.713 of the regulations, make the filing (and Commission action thereon) of a request for rehearing a prerequisite to filing a petition for review in the court of appeals. Thus, prior to the adoption of this final rule, any person desiring to challenge an office director's order in court first had to exhaust two consecutive stages of review by the Commission: (1) An appeal resulting in a Commission order resolving the appeal, followed by (2) a request for rehearing resulting in an order on rehearing. These two stages were not hierarchical in the sense of appealing from a lower authority to a higher authority; on the contrary, the order on appeal and the order on rehearing were both issued by the Commission itself.

[1] See also 18 CFR 12.4.
[2] 16 U.S.C. 791a-825r (1988).
[3] 15 U.S.C. 717-717w (1988).
[4] 16 U.S.C. 8251 (1988).
[5] 15 U.S.C. 717r (1988).

On August 1, 1990, the Commission issued a notice of proposed rulemaking (NOPR) in which it proposed to amend § 385.1902 to condense the previous two-stage appeal procedure into a single stage of review.[6] In the NOPR, the Commission explained that its experience had been that, when an appeal of staff action was followed by a request for rehearing of the order resolving the appeal, in most cases the request for rehearing was filed by the same person who filed the appeal of staff action, and reiterated on rehearing the same arguments that had been raised in the appeal. Thus, while a significant percentage of appeals of staff action resulted in Commission orders modifying or reversing the staff action, requests for rehearing of the Commission's orders on appeal rarely resulted in modification or reversal on rehearing. The primary reason for this was that the person requested rehearing in most cases had already fully expressed his views in the prerequisite appeal of staff action, and the Commission had fully considered those views in its order resolving the appeal. The rehearing process therefore constituted, in most cases, an additional procedural step with minimal value to the proceeding, especially when balanced against its demands on the time and resources of parties, the Commission, and its staff.

For these reasons, the Commission proposed to eliminate the intermediate step of filing an appeal of staff action as a prerequisite to filing a request for rehearing. The NOPR proposed to amend § 385.1902 so as to construe orders issued by office directors pursuant to authority delegated by the Commission to the staff as final agency action that is immediately subject to a request for rehearing under § 385.713.

IV. Discussion

Eight comments were received in response to the NOPR.[7] Questar Corp. and the Association of Oil Pipelines support the Commission's proposal. They believe it is a useful means of improving the Commission's efficiency by eliminating a redundant step in processing cases.[8]

Georgia Power Company generally supports the proposal, provided that it is modified so as to stay the effectiveness of office director orders under certain circumstances. In particular, Georgia Power is concerned that hydropower licenses issued by the Director, Office of Hydropower Licensing, may contain conditions requiring significant capital expenditures. Similarly, a "new" license (*i.e.*, in a relicensing proceeding) issued by the Director might require modification of a project's current operations. In these situations the applicant/licenses may wish to seek Commission review on rehearing before implementing license conditions that involve significant financial consequences for the licensee, and to do so without exposing itself to potential enforcement proceedings. Thus, Georgia Power urges us to stay the effectiveness of the Director's orders issuing licenses for 60 days from their date of issuance (30 days to request rehearing and 30 days thereafter for the Commission to act on the request), and to extend the stay if the applicant/licensee feels it is aggrieved unless the proponent of the license condition justifies denial of such a stay.

We believe it is unnecessary to codify Georgia Power's proposals into the regulations. The better approach is for an aggrieved licensee to express its views in a motion for a stay, and for the Commission to evaluate the request on its merits. Under our present practice, licensees frequently request extensions of license article deadlines pending further legal proceedings, and under the circumstances described by Georgia Power such extensions are routinely granted.

The Edison Electric Institute (EEI), the National Hydropower Association (NHA), Pacific Gas and Electric Company (PG&E), and Alabama Power Company all oppose the rule. Inasmuch as they raise similar or parallel arguments, we will address these comments jointly.[9]

EEI and Alabama Power[10] contend that the Commission lacks statutory authority to delegate to its office directors the authority to issue legally binding orders that constitute final agency action, even if such orders are subject to review by the Commission on rehearing. They contend that such delegations of authority, in the context of the proposed rule, are in derogation of the FPA and the Department of Energy Organization Act (DOE Act).[11] In support of its position, Alabama quotes a decision of a U.S. District Court: "Functions constituting final agency action, such as administrative adjudication and rulemaking, must be made or ratified by the Commissioners and may not be delegated to subordinate under broad grants of authority."[12]

As we stated in Order No. 492, "[t]he Commission has broad statutory authority to perform any and all acts and make such rules as are necessary or appropriate to carry out its statutory functions. Courts have held that agencies may delegate these powers to their employees. Delegations which result in final decisions may be reviewed by the Commission. Such review acts as a safeguard in the exercise of delegated authority."[13]

The FPA, the NGA and the DOE Act neither explicitly authorize nor explicitly preclude the exercise of delegated authority at issue herein. As noted in Order No. 492, section 309 of the FPA and section 16 of the NGA both provide broad statutory authority to the Commission to carry out its statutory functions. In that statutory posture, wherein no statutory provision precludes delegation of authority, the courts have upheld use of such delegations, in a broad range of circumstances, as a reasonable means of

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[6] Streamlining Commission Procedures for Review of Staff Action, 55 FR 32,445 (Aug. 9, 1990), IV FERC Stats. & Regs. ¶32,474 (Aug. 1, 1990).

[7] Comments were received from Questar Pipeline Company, Enron Corp., Georgia Power Company, Pacific Gas and Electric Company, Alabama Power Company, the Edison Electric Institute, the National Hydropower Association, and the Association of Oil Pipelines.

[8] The Association of Oil Pipelines, in its comments, also urges us to further amend the regulations to establish procedures by which oil pipelines may file pleadings in response to protests or staff recommendations, procedures for ascertaining disputed issues of material fact, procedures for the issuance of Oil Pipeline Board orders, and procedures for seeking reconsideration by the Board. As the Association recognizes, these matters are beyond the scope of the NOPR.

[9] PG&E also joins in EEI's comments.

[10] NHA and Alabama Power, in their comments, also express their view on the legal operativeness of staff orders issued pursuant to delegated authority, and that were appealed pursuant to § 385.1902 prior to its amendment in this final rule. That matter is beyond the scope of this rulemaking proceeding. In fact, the final rule adopted herein renders that matter substantially moot.

[11] 42 U.S.C. 7101–7352 (1988).

[12] Relco, Inc. v. Consumer Product Safety Commission, 391 F. Supp. 841, 845–846 (S.D. Tex. 1975). As discussed below, the agency action by office directors pursuant to the final rule is not inconsistent with the court's above-quoted statement in Relco because the office director's orders are subject to "ratification" or reversal on rehearing. Alabama Power also cites Thompson v. Department of the Treasury, 533 F. Supp. 90 (D. Utah 1981). In Thompson, the court noted the possibility of a subdelegation issue, but no party raised the issue and the court didn't rule on it.

[13] Regulations Delegating Authority, Order No. 492, III FERC Stats. & Regs. ¶ 30,814 (1988) at 31,117. In footnotes to this quote, the Commission cited section 309 of the Federal Power Act, 16 U.S.C. 825h; section 16 of the Natural Gas Act, 15 U.S.C. 717o; section 501(a) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3411; Fleming v. Mohawk Wrecking & Lumber Co., 331 U.S. 111, 121 (1947); O'Neal v. U.S., 140 F.2d 908 (6th Cir.), *cert. denied*, 322 U.S. 729 (1944); and Davis, Administrative Law Treatise, 2d Ed., Vol. 1, §§ 3.16 and 3.17 (1978).

efficiently managing governmental workload.[14]

In *National Labor Relations Board* v. *Duval Jewelry Company of Miami, Inc.*, 357 U.S. 1 (1957), the Supreme Court upheld delegation of the Board's subpoena power, citing the Board's discretionary authority to revoke subpoenas issued by subordinates on delegated authority: [15]

> Section 11(1) of the Act, as noted, gives a person served with a subpoena *duces tecum* the right to "petition the Board to revoke"; and that section provides that "the Board shall revoke * * * such subpoena if in its opinion" the statutory requirements are not satisfied. The limited nature of the delegated authority distinguishes the case from *Cudahy Packing Co.* v. *Holland*, 315 U.S. 357, and *Fleming* v. *Mohawk Wrecking Co.*, 331 U.S. 111, where the person endowed with the power to issue subpoenas delegated the function to another. While there is delegation here, the ultimate decision on a motion to revoke is reserved to the Board, not to a subordinate. All that the Board has delegated is the preliminary ruling on the motion to revoke. It retains the final decision on the merits. One who is aggrieved by the ruling of the regional director or hearing officer can get the Board's ruling. The fact that special permission of the Board is required for the appeal is not important. Motion for leave to appeal is the method of showing that a substantial question is raised concerning the validity of the subordinate's ruling. If the Board denies leave, it has decided that no substantial question is presented. We think that no more is required of it under the statutory system embodied in § 11. No matter how strict or stubborn the statutory requirement may be, the law does not "preclude practicable administrative procedure in obtaining the aid of assistants in the department."

The same reasoning applies to the final rule before us. A subpoena is binding on its recipient unless it is revoked. Orders issued by the Commission's office directors are binding on all persons affected by them unless they are modified or rescinded on rehearing. Deletion of the intermediate step of appealing the office directors' orders to the Commission (as a prerequisite to seeking rehearing) expedites the process, but does not in any way reduce the ultimate decisional power and authority of the Commission. With or without the intermediate step, it is the office directors who issue the initial orders and the Commission that (if and when asked to do so) makes the ultimate decisions.

Alabama Power also argues that the purpose of the rehearing requirement in section 313 of the FPA is to permit reconsideration by the Commission of an order that the Commission itself has issued, and that this purpose is evaded in derogation of the FPA if the order on rehearing addresses requests for rehearing of an order issued by the staff on delegated authority. The short answer is that orders issued by office directors on delegated authority are orders of the Commission, and that orders on rehearing of such office director orders do in fact constitute orders on rehearing of Commission orders.

NHA expresses concern that failure of a licensee to comply with a validity issued order of the Director, Office of Hydropower Licensing, could result in imposition of a civil penalty pursuant to section 31 of the FPA,[16] and contends that civil penalties should not be applicable unless the licensee violates an order issued by the Commission itself. We categorically reject NHA's position, for the same reason as above: Pursuant to the final rule, the Director's order *is* the Commission order.[17]

All four of the opposing commenters argue that orders issued by office directors on delegated authority are less comprehensive than orders issued by the Commission, and often do not fully disclose the technical record relied upon in reaching the decision. NHA insists that applicants must resort to time-consuming requests for data under the Freedom of Information Act [18] in order to obtain information in the record. These commenters also argue that orders issued on delegated authority often fail to fully disclose the path of the office directors' reasoning, or alternatively, that the Commission, in reviewing such orders on appeal of staff action, uses different reasoning to support the same result.

These commenters contend that if the full record and reasoning relied upon are made clear in an order on appeal that is subject to rehearing, then the parties have an opportunity to file requests for rehearing that address the Commission's own reasoning, and in the context of a more complete record. Conversely, they contend that if orders on appeal of staff action are eliminated, the Commission's reasoning and the full record upon which it is based may not emerge until the order on rehearing is issued, at which point there is no opportunity to address the record and reasoning disclosed in that order.

We reject this characterization of the orders issued by our staff on delegated authority. Inasmuch as the staff also participates significantly in the preparation of the orders that the Commission itself issues, we are confident that the staff is equally capable of using comparable thoroughness in the preparation of orders issued by the office directors. When controversies are apparent in the record, it is important for our office directors to ensure that the orders they issue fully disclose the record evidence and reasoning upon which their decisions are based.

The opposing commenters point out that the 30-day time limit for filing requests for rehearing is mandated by statute and cannot be waived. They contend that orders of office directors sometimes are delayed in the mail for one or more weeks, leaving little time to prepare requests for rehearing if faced with an immutable 30-day deadline for filing them. In more complex cases, even the full 30 days may not afford sufficient time to obtain and analyze record evidence upon which the director's order was based.

These commenters also argue that the rigid 30-day deadline for rehearing requests may foreclose opportunities for applicants to negotiate mutually acceptable settlements or other resolutions with either the staff or other interested parties. In this regard, they also point out that the Commission's regulations preclude such interested parties (or the applicant) from filing pleadings responsive to requests for rehearing, and that such pleadings might assist the Commission in reaching the best resolution of issues raised on rehearing of orders issued on delegated authority.

These points are well taken, but do not justify rejecting the rule. We note at the outset that the Commission issues

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[14] Fleming v. Mohawk Wrecking & Lumber Co., 331 U.S. 111 (1947) (delegation of authority to issue subpoenas), cited in Order No. 492; Jay v. Boyd, 351 U.S. 345, 351, n.8 (1956) (delegation of the Attorney General's power to suspend deportation); Equal Employment Opportunities Commission v. Raymond Metal Products Co., 530 F.2d 590 (4th Cir. (1976) (delegation of determination of reasonable cause); Tabor v. Joint Board for Enrollment of Actuaries, 566 F.2d 705, 708, n.5 (D.C. Cir. 1977) (reliance on examinations conducted by a private association); and House v. Southern Stevedoring Co., 703 F.2d 87 (4th Cir. 1983) (delegation of authority to approve settlement of workers' compensation awards). In Municipal Light Boards of Reading and Wakefield, Massachusetts v. Federal Power Commission, 450 F.2d 1341, 1345–1346 (D.C. Cir. 1971), although the matter of delegated authority was not at issue, the court upheld the rejection of a rate filing by our Commission's Secretary.

[15] 357 U.S. at 7 (footnotes and citations omitted).

[16] 16 U.S.C. 823b(1) (1988).

[17] Orders issued by the Director frequently involve issues of dam safety in which the licensee's failure to take immediate remedial measures pursuant to the Director's order might result in a catastrophic failure involving damage to property, personal injury or loss of life. In such circumstances, the public interest requires immediate compliance with the Director's order, and any delay in compliance with such an order may fully justify imposition of a civil penalty to the maximum extent authorized by section 31.

[18] 5 U.S.C. 552(b) (1988).

many lengthy and complex orders in proceedings in which there has been no prior issuance of an order on delegated authority, and interested parties routinely file lengthy and complex requests for rehearing thereon within the 30 days mandated by statute. The identical situation pertains with respect to orders issued on delegated authority that are now subject to rehearing instead of to appeal. We also note that copies of Commission issuances can be obtained by any interested person or party through the Commission's Public Reference Room or through the Commission's electronic bulletin board, the Commission Issuance Posting System (CIPS). Many interested persons and parties routinely avail themselves of these opportunities.

Under compelling circumstances it may be appropriate for the Commission to grant requests to supplement rehearing material on a timely basis after the 30 days has expired. The statutory deadline will have been met by the filing of whatever request for rehearing can be prepared and filed within that 30-day time frame and, upon a showing of good cause, the Commission can permit a reasonable and timely supplement.

Similarly, the Commission can, under appropriate circumstances and upon a showing of good cause, waive its restriction against the filing of answers to requests for rehearing, or delay issuance of an order on rehearing pending reasonable and good faith efforts to resolve issues through informal negotiation or settlement. The showing of good cause should be filed in writing. If the good cause is in the nature of settlement negotiations, the showing should be made in a joint filing submitted by all of the parties involved in the negotiation. We note, however, that such negotiations can and should be pursued in earnest prior to the issuance of the order, and that the filing of a request for rehearing does not preclude such negotiations pending Commission action on the rehearing.

In short, there are ample means available to the Commission to ameliorate the potential problems identified by the commenters on a case-by-case basis if the circumstances so warrant. These problems need to be addressed and resolved if and when they occur, and under the circumstances presented, but they do not warrant perpetuating the present inefficient system of issuing multiple layers of orders on the same subject.

EEI expresses uncertainty as to which documents issued by the staff constitute orders issued on delegated authority that are subject to rehearing. This should not be a problem because, as § 385.1902 states, all actions on delegated authority are subject to rehearing. In any event, it is no different from ascertaining which staff documents previously constituted staff action ripe for appeal to the Commission. In those areas in which there might be a potential confusion, the solution would be for office directors to clearly identify in their orders that the order constitutes a final action of the Commission that is subject to a 30-day deadline for the filing of a request for rehearing.

Alabama Power asserts that office directors issue orders on matters that involve contested issues of material fact for which formal trial-type hearings should be held. This contention is irrelevant to the final rule. That is an issue that may be raised on rehearing. If a trial-type hearing is required to resolve contested issues of material fact, that requirement will not be satisfied by substitution of a layer of appeals of staff action prior to rehearing. Conversely, if a trial-type hearing is not warranted, then there is no particular justification for interjecting the intermediate, redundant layer of review of the office director's order.

Finally, EEI proposes as an alternative that the Commission provide a procedure for optional waiver of the right to file an appeal of staff action. In other words, persons affected by the director's order could file a pleading waiving the right to appeal and requesting that the Commission proceed to an order on rehearing. While we commend EEI for trying to find an alternative, we believe its proposal would more likely serve to compound the problem than to ameliorate it. It could significantly increase the number of filings to consider rather than reducing them, particularly in light of EEI's further proposal to permit pleadings in response to waivers.

In the NOPR, the Commission stated that, in its discretion, it would pursue a policy of entertaining motions for reconsideration after acting on the order on rehearing. Thus, an aggrieved party could appeal the staff action, which would be deemed a final order of the Commission, to the Commission in a request for rehearing. Once the Commission had acted on the request for rehearing, and if the aggrieved party still did not agree with the order on rehearing, the aggrieved party could then either (1) seek immediate judicial review of the order on rehearing or (2) if the aggrieved party believed that the Commission had not fully grasped the facts presented in its request for rehearing, file a motion for reconsideration of the order on rehearing. Once the Commission acted on the motion for reconsideration, which it would intend to do on an expeditious basis, the aggrieved party could then decide to forego judicial review or file an appeal with the U.S. Circuit Court.[19] In the NOPR, the Commission sought comment on this policy approach and such use of the motion for reconsideration procedure as an additional opportunity for considering and resolving appeals of staff action.

Six of the eight commenters addressed this procedure. Enron suggests that reconsideration after rehearing is in itself redundant, but has no objection to it because it is purely voluntary. The Association of Oil Pipelines finds it a potentially useful alternative.

NHA characterizes the reconsideration procedure as an unsatisfactory substitute for rehearing following an order on appeal, and advances many of the arguments we have already addressed above. Alabama Power contends that the procedure constitutes an unlawful substitute for the rehearing mandated by the FPA, because it is voluntary and not mandatory. The short answer to Alabama Power is that the final rule does not eliminate rehearing; it eliminates appeals of staff action as a prerequisite to rehearing. The reconsideration procedure is in addition to rehearing, not in lieu thereof.

EEI, NHA and PG&E contend that the reconsideration procedure would not be useful because the deadline for filing petitions for review in the Circuit Court is mandated by statute and would not be tolled by the filing or pendency of a motion for reconsideration. Thus, they contend that the reconsideration procedure would inevitably generate jurisdictional confusion resulting from multiple simultaneous filings in different fora.

We believe that a procedure for "expeditious consideration" of motions for reconsideration could serve a useful purpose under the new administrative appeal process, although clearly not required as a matter of law. The phrase "expeditious consideration" simply means that if parties file their request for reconsideration within 25 days of our order, we will endeavor to act before the 60 day time limit for filing an appeal in court. There may well be instances in which the Commission may overlook or

[19] We noted, however, and reemphasize here, that the deadlines for filing petitions for review in the court of appeals are statutory and cannot be waived or tolled by the Commission, and that the filing of a motion for reconsideration would not extend those statutory deadlines for seeking court review.

misunderstand a point made in a request for rehearing of a delegated order, and may be persuaded to modify its order in response to a motion for reconsideration. We have entertained motions for reconsideration in the past, and we are not foreclosing that possibility in the future.

Thus, the practice of entertaining motions for reconsideration of orders on rehearing will continue, recognizing that "expeditious" processing of such motions may become impractical if all parties use this option routinely and as a substitute for the appeal process abolished by this rule. For this reason, the Commission will review in six months from the issuance date of this order, the administrative burden associated with handling "expeditiously" the volume of motions for reconsideration filed during that time frame to see if such practice should continue or as necessary, be modified. We think such practice, if used prudently by parties who feel they have been aggrieved by Commission action, will provide more than ample opportunity to those parties to fully develop their case before the Commission, while retaining the option for judicial review.

As we stressed in the NOPR, the final rule does not in any way lessen the opportunity to seek review by the Commission of orders issued by the staff on delegated authority. Anyone seeking modification or reversal of an office director's order has the same opportunity to appeal it to the Commission; the only change is that (1) The appeal is now styled a "request for rehearing" rather than an "appeal of staff action"; and (2) the Commission's order is ripe for review in court without first exhausting a second stage of review by the Commission.[20]

As explained in the NOPR, new § 385.1902(a) provides two exceptions to these procedures. The first preserves without change the exception for decisions and rulings of presiding officers made in proceedings set for hearing under subpart E of part 385. Those decisions and rulings continue to be subject to the procedures for exceptions, briefs and interlocutory appeals in §§ 385.711 and 385.715.[21]

The second exception is for orders issued by the Oil Pipeline Board pursuant to the delegation of authority in § 385.306.[22] Those orders are subject to the statutory procedural requirements of section 17 of the Interstate Commerce Act (ICA).[23] Section 17(5) of the ICA provides a 20-day period in which interested parties may file exceptions to those orders.

Section 17(6) of the ICA authorizes the Commission to provide for rehearing. It requires rehearing by the Commission as a prerequisite for court review with respect to orders issued by the Commission's staff on delegated authority, but not with respect to orders issued by the Commission itself. New § 385.1902(b) implements this statutory discretion by providing: (1) That the filing of exceptions is not a prerequisite to the filing of a request for rehearing; (2) that the filing of a request for rehearing is not a prerequisite to the filing of a petition for review in the court of appeals of an order issued by the Commission pursuant to the ICA; but (3) that the filing of a request for rehearing *is* a prerequisite for filing a petition for review in the court of appeals of an order issued by the Oil Pipeline Board *if* the Commission has not issued an order on exceptions to the Oil Pipeline Board's order. Thus, after the Oil Pipeline Board has issued its order, interested persons can file either exceptions or a request for rehearing, and the filing of one or the other (but not both) is a prerequisite to filing a petition for review in the court of appeals.

With respect to administrative appeals of orders issued by the Oil Pipeline Board, the final rule differs from the Commission's prior practice in several respects. Prior to its amendment in this final rule, § 385.1902 provided 30 days in which to file an "appeal of staff action," and such an appeal was a prerequisite to filing a request for rehearing. New § 385.1902(b) provides 20 days (instead of 30) to file "exceptions" to the Oil Pipeline Board's orders, but the filing of exceptions is not a prerequisite to the filing of a request for rehearing. Further, in recognition of the ICA provision for a 20-day period for filing exceptions, the final rule provides that requests for rehearing may be filed up to 50 days after service of Oil Pipeline Board orders if no exceptions are filed within the 20-day period after service of the order (*i.e.*, 30 days after expiration of the 20-day period). If exceptions are filed, the deadline for requesting rehearing is 30 days after issuance of the Commission order on the exceptions (*i.e.*, the same 30-day deadline for all other requests for rehearing under § 385.713).

The NOPR recognized that there were approximately 126 appeals of staff action then pending before the Commission for decision. The Commission had issued notices of intent to act on these appeals, such that they were not deemed denied automatically in the absence of a Commission order on their merits within 30 days of the filing of the appeal. New § 385.1902(c) of the final rule deems all appeals of staff action that are pending before the Commission on the effective date of the final rule to be requests for rehearing, and all notices of intent to act on those appeals to be orders granting rehearing for the sole purpose of further consideration. Thus, there is no need for any person to file a request for rehearing with respect to any pending appeal of staff action.[24] New § 385.1902(c), however, provides a one-time 30-day opportunity to file supplementary pleadings with respect to any appeal of staff action that was filed prior to the effective date of the final rule and was pending for decision on that date.

Attached to the NOPR were two appendices listing the dockets that the Commission believed fell within the parameters of the proposed rule. We have updated these appendices as attachments to this order.

Finally, we emphasize here, as we did in the NOPR, that, pursuant to section 313 of the FPA and section 19 of the NGA, prosecuting a request for rehearing is a prerequisite to filing a petition for review in the court of appeals, and the request for rehearing must be filed within 30 days of the date of issuance of the office director's order sought to be reheard. Unlike the 30-day limit for filing the appeals of staff action, the 30-day limit for filing requests for

[20] The NOPR noted, as we reemphasize here, that the amendment to § 385.1902(a) does not alter in any way the existing requirements (imposed by the FPA and the NGA, as interpreted by the courts) that an argument not raised on rehearing before the Commission cannot be raised on judicial review. See, *e.g.*, Sierra Association for Environment v. FERC, 791 F.2d 1403, 1406–07 (9th Cir. 1986); Delmarva Power & Light Co. v. FERC, 770 F.2d 1131, 1137 (D.C. Cir. 1985). Thus, if the Commission on rehearing reverses an order issued (pursuant to the FPA or the NGA) on delegated authority by an office director, and thereby aggrieves someone other than the person who requested the rehearing, the newly aggrieved person will need to file a request for rehearing of the order on rehearing as a prerequisite to filing a petition for review in the court of appeals.

[21] 18 CFR 385.711 and 385.715 (1990).

[22] 18 CFR 385.306 (1990).

[23] 49 U.S.C. 17 (1976).

[24] As we noted in the NOPR, and reemphasize here, the final rule does not affect in any way the previously existing requirement to file a request for rehearing as a prerequisite to filing a petition for review in the court of appeals with respect to all orders on appeal of staff action that were issued prior to the effective date of the final rule. Similarly, the final rule has no effect on requests for rehearing that are currently pending before the Commission.

rehearing is prescribed by statute and cannot be waived or extended by the Commission.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) [25] generally requires a description and analysis of rules that will have a significant economic impact on a substantial number of small entities. The final rule is purely procedural in nature, and streamlines the Commission's processes by eliminating duplicative stages of review. Accordingly, the Commission certifies that this rule does not have a "significant economic impact on a substantial number of small entities."

V. Environmental Statement

The Commission concludes that promulgating the final rule does not represent a major federal action having a significant adverse effect on the human environment under the Commission regulations implementing the National Environmental Policy Act.[26] This final rule is procedural in nature and therefore falls within the categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required.[27]

IV. Effective Date

Because this final rule is purely procedural in nature, it is effective on its date of issuance, December 3, 1990.

List of Subjects in 18 CFR Part 385

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

In consideration of the foregoing, the Commission amends part 385, chapter I, title 18 of the *Code of Federal Regulations* as set forth below.

By the Commission. Commissioner Moler dissented in part with a separate statement attached.

Lindwood A. Watson, Jr.,

Acting Secretary.

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 385 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1988); E.O. 12009, 3 CFR 1978 Comp., p. 142; Administrative Procedure Act, 5 U.S.C. 551–557 (1988); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1988); Federal Power Act, 16 U.S.C. 717–717w (1988); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1988); Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645 (1988); Interstate Commerce Act, 49 U.S.C. 1–27 (1976).

2. Section 385.1902 is revised to read as follows:

§ 385.1902 Appeals from action of staff (Rule 1902).

(a) Any staff action (other than a decision or ruling of presiding officer, as defined in Rule 102(e)(1), made in a proceeding set for hearing under subpart E of this part, or a decision of the Oil Pipeline Board under § 375.306 of this chapter) taken pursuant to authority delegated to the staff by the Commission is a final agency action that is subject to a request for rehearing under Rule 713 (request for rehearing).

(b) Orders issued by the Oil Pipeline Board pursuant to § 375.306 of this chapter are subject to the procedural rules in section 17 of the Interstate Commerce Act, 49 U.S.C. 17. Interested parties may file exceptions to Oil Pipeline Board orders no later than 20 days after the service of such orders. If no exceptions are filed within this 20-day period, interested parties may file requests for rehearing pursuant to Rule 713 no later than 50 days after service of the Oil Pipeline Board's order. Interested parties may also file requests for rehearing, pursuant to Rule 713, of orders issued by the Commission on exceptions to Oil Pipeline Board orders. The filing of exceptions is not a prerequisite to filing a request for rehearing. The filing of either exceptions or a request for rehearing (but not both) is a prerequisite to filing a petition for review in the court of appeals of any order issued by the Oil Pipeline Board. The filing of a request for rehearing is not a prerequisite to the filing of a petition for review in the court of appeals of any order issued by the Commission pursuant to the Interstate Commerce Act.

(c) All appeals of staff action that were timely filed prior to December 3, 1990 and that had not been acted upon by the Commission on their substantive merits are deemed to be timely filed requests for rehearing of final agency action. All notices issued by the Commission prior to December 3, 1990 stating the Commission's intent to act on appeals of staff action such that they are not deemed denied by the expiration of a 30-day period after the filing of the appeal, are deemed to be orders granting rehearing of final agency action for the sole purpose of further consideration, unless the Commission issued an order on the substantive merits of the appeal prior to December 3, 1990. No later than January 2, 1991, persons who had timely filed appeals of staff action prior to December 3, 1990 which were pending before the Commission on that date may file additional pleadings to update or supplement those appeals.

Note: The following appendices will not be published in the *Code of Federal Regulations.*

Appendix A

This appendix lists the applicant and docket in which an appeal of staff action has been filed with the Commission, and the Commission has issued a notice of intent to act such that the appeal is not deemed denied within 30 days of its filing. In each instance, by virtue of the final rule the appeal of staff action is deemed to be a request for rehearing, and the notice of intent to act is deemed to be an order granting rehearing for the purpose of further consideration.

Docket	Applicant	Date of Issuance of Notice of Intent to Act
EL88–25–001	Iliamna-Newhalen-Nondalton Elec	June 9, 1989.
P–1417–010	Platte River Trust	October 10, 1989.
P–1835–023	Platte River Trust	October 10, 1989.
P–1957–004	Wisconsin Public Service Corp	December 27, 1989.
P–2322–006	Central Maine Power Company	March 27, 1989.
P–2325–003	Central Maine Power Company	March 27, 1989.
P–2389–007	August Development Corp	April 30, 1990.
P–2516–014	Potomac Edison Company	August 27, 1990.
P–2531–009	Central Maine Power Company	June 9, 1989.

[25] 5 U.S.C. 601–612 (1988).

[26] 52 FR 47,897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987) (*codified at* 18 CFR part 380).

[27] See 18 CFR 380.4(a)(1) (1990.

Docket	Applicant	Date of Issuance of Notice of Intent to Act
P-2552-003	Central Maine Power Company	March 27, 1989.
P-2574-007	Merimil Limited Power Co	March 27, 1989.
P-2611-009	Scott Paper Co., et. al	March 27, 1989.
P-2785-002	Wolverine Power Corporation	January 29, 1988.
P-2785-008	Wolverine Power Corporation	November 30, 1988.
P-2785-009	Wolverine Power Corporation	February 24, 1989.
P-2801-012	Mary C. Heather	January 18, 1990.
P-2827-004	City of Redding, California	July 20, 1990.
P-2832-016	Boise-Kuna Irrigation Dist., et al	December 3, 1990.
P-3344-022	Town of Gassaway	February 5, 1990.
P-3494-036	Allegheny No. 6 Hydro Partners	August 17, 1990.
P-4238-003	Racehorse Company	October 29, 1987.
P-4444-008	Trans Mountain Hydro Corp	August 17, 1990.
P-4639-010	Christine Falls Corporation	February 21, 1990.
P-4669-008	Rancho Riata Hydro Partners, Inc	December 29, 1988.
P-4669-018	Rancho Riata Hydro Partners, Inc	August 11, 1989.
P-4669-019	Rancho Riata Hydro Partners, Inc	September 8, 1989.
P-4900-030	Trafalgar Power, Inc	February 21, 1990.
P-5000-018	Trafalgar Power, Inc	February 21, 1990.
P-5073-016	Benton Falls Associates	March 27, 1989.
P-5984-001	Niagara Mohawk Power Corp., et. al	September 29, 1987.
P-5984-002	Niagara Mohawk Power Corporation	February 22, 1989.
P-6568-003	Delmer Wagner	August 28, 1987.
P-6879-001	Southeastern Hydro-Power, Inc	April 29, 1985.
P-6902-015	City of New Martinsburg	September 24, 1990.
P-8121-003	Warren B. Nelson	January 17, 1989.
P-8185-007	Bluestone Energy Design	August 9, 1990.
P-8357-010	Highland Hydro Construction, Inc	December 9, 1990.
P-8377-002	Central Hydroelectric Corporation	July 29, 1988.
P-8377-003	Central Hydroelectric Corporation	July 29, 1988.
P-8377-014	Central Hydroelectric Corporation	April 7, 1989.
P-8499-004	City of Redding, California	August 30, 1990.
P-8747-005	Power Resources Development Corp	November 19, 1990.
P-8974-002	So. New Hampshire Hydro. Devl. Corp	June 13, 1988.
P-9042-011	Galio Hydro Partners	September 24, 1990.
P-9419-002	JDJ Energy Company	December 9, 1988.
P-9607-003	JDJ Energy Company	July 30, 1990.
P-9685-008	Trafalgar Power, Inc	February 21, 1990.
P-9709-014	Trafalgar Power, Inc	February 21, 1990.
P-9821-023	Trafalgar Power, Inc	February 21, 1990.
P-9840-001	Appomattox River Water Authority	February 21, 1989.
P-9851-001	Long Lake Energy Corporation	May 18, 1987.
P-9852-001	Long Lake Energy Corporation	May 18, 1987.
P-10035-004	Hynergix, Inc	May 4, 1989.
P-10464	Long Lake Energy Corp	February 1, 1990.
P-10521	Mahoning Hydro Associates	July 6, 1990.
P-10533	Franklin Hydro Company	October 4, 1990.
P-10551	City of Oswego, New York	February 1, 1990.
P-10655-004	Manter Corporation	October 5, 1990.
P-10668-001	Barbara K. Londergan	March 15, 1989.
P-10675-002	Western Massachusetts Elec. Co	October 19, 1990.
P-10676-002	Western Massachusetts Elec. Co	October 19, 1990.
P-10677-002	Western Massachusetts Elec. Co	October 19, 1990.
P-10678-002	Western Massachusetts Elec. Co	October 19, 1990.
P-10704-001	Pacific Water and Power, Inc	August 23, 1989.
P-10707-001	Clark Gruening	February 9, 1989.
P-10725-001	Little Horn Energy Wyoming, Inc	August 4, 1989.
P-10727-001	Robert W. Shaw	June 1, 1989.
P-10731-002	South Hadley Electric Light Dept	October 19, 1990.
P-10732-002	South Hadley Electric Light Dept	October 19, 1990.
P-10733-002	South Hadley Electric Light Dept	October 19, 1990.
P-10734-002	South Hadley Electric Light Dept	October 19, 1990.
P-10745-001	Robert Hoe	December 20, 1989.
P-10802-001	Grover Kelly No. 2, et al	December 20, 1989.
P-10846-001	Alpine Hydroelectric Company	February 5, 1990.
P-10866-001	Phoenix Hydro Corporation	April 26, 1990.
P-10923-001	Town of Westernport, Maryland	October 5, 1990.
P-10968-001	Inter-West, Ltd	October 31, 1990.
P-233-023	Pacific Gas and Electric Company	February 4, 1988.
P-2570-011	Ohio Power Company	February 12, 1988.
P-3407-031	Magic Reservoir Hydroelectric, Inc	May 9, 1990.
P-3623-030	Youghiogheny Hydroelectric Auth	July 10, 1990.
P-3671-034	Allegheny Hydro Partners	August 17, 1990.
P-3756-006	City of Bountiful	October 17, 1988.
P-5223-011	International Falls Power Company	August 10, 1989.
UL87-14-001	Upper Peninsula Power Company	May 27, 1987.
UL87-15-001	Upper Peninsula Power Company	May 27, 1987.
UL88-17-001	Central Vermont Public SVC. Corp	November 30, 1988.
UL89-8-002	Sheldon Jackson College	July 11, 1989.
UL89-11-001	Mass. Water Resources Authority	December 20, 1989.
UL89-14-002	North American Hydro, Inc	January 17, 1989.

Docket	Applicant	Date of Issuance of Notice of Intent to Act
UL89-16-001	Consolidated Hydro, Inc	June 21, 1989.
UL89-33-001	Madison Electric Works	November 22, 1989.
UL90-6-001	Habersham Mills	July 17, 1990.
UL90-9-001	Wisconsin Power Light Company	November 26, 1990.
ER88-439-001	Central Illinois Public SVC Company	August 11, 1988.
ER88-527-001	Union Electric Company	November 4, 1988.
ER89-571-001	Southwestern Electric Power Company	September 17, 1990.
ER90-127-001	Southwestern Electric Power Company	April 16, 1990.
ER90-142-001	Arizona Public Service Company	April 16, 1990.
ER90-330-001	Eua Corp	July 18, 1990.
ER90-482-001	West Texas Utilities Company	November 14, 1990.
CP81-107-031	Cng Transmission Corporation	October 6, 1989.
CP83-403-014	Cng Transmission Corporation	October 6, 1989.
CP87-253-001	Williston Basin Interstate P/L Co	August 20, 1990.
CP87-285-004	Cng Transmission Corporation	October 6, 1989.
CP87-389-006	Cng Transmission Corporation	October 6, 1989.
CP88-422-002	Cng Transmission Corporation	October 6, 1989.
CP88-487-001	Transcontinental Gas Pipeline Corp	January 29, 1990.
CP88-868-002	K N Energy, Inc	August 20, 1990.
CP89-276-001	Viking Gas Transmission Company	October 16, 1989.
CP89-1006-001	Texas Gas Transmission Corporation	October 5, 1989.
CP89-2095-001	Trunkline Gas Company	December 29, 1989.
CP89-2165-001	Algonquin Gas Transmission Co	August 16, 1990.
CP90-14-004	Transwestern Pipeline Company	July 23, 1990.
CP90-738-001	National Fuel Gas Supply Corp	November 23, 1990.
CP90-989-001	National Fuel Gas Supply Corp	August 2, 1990.
RP85-169-044	Cng Transmission Corporation	October 16, 1989.
RP85-178-070	Tennessee Gas Pipeline Company	October 29, 1990.
RP87-110-002	Northwest Pipeline Corporation	January 11, 1988.
RP88-191-023	Tennessee Gas Pipeline Company	October 29, 1990.
RP89-11-007	Trunkline Gas Company	July 10, 1989.
RP89-119-005	Texas Gas Transmission Corp	October 16, 1989.
RP89-208-001	Texas Gas Transmission Corp	October 16, 1989.
RP90-64-001	Texas Gas Transmission Corp	March 19, 1989.
RP90-122-003	Tennessee Gas Pipeline Company	October 29, 1990.
RP90-132-001	United Gas Pipe Line Company	September 6 , 1990.
TA87-1-37-011	Northwest Pipeline Corp	November 25, 1987.
TM90-3-18-001	Texas Gas Transmission Corp	April 16, 1990.
TM90-3-33-003	El Paso Natural Gas Company	May 4, 1990.
TM90-5-17-001	Texas Eastern Transmission Corp	May 7, 1990.
TM90-5-18-001	Texas Gas Transmission Corp	October 1, 1990.
TM90-6-18-001	Texas Gas Transmission Corp	October 18, 1990.
TM90-10-28-001	Panhandle Eastern Pipe Line Company	March 12, 1990.
TM90-11-28-001	Panhandle Eastern Pipe Line Company	March 12, 1990.
TM90-14-28-001	Panhandle Eastern Pipe Line Company	October 15, 1990.
TQ90-2-4-001	Raton Gas Transmission Company	June 4, 1990.
TQ90-3-27-001	North Penn Gas Company	October 19, 1990.
CS86-97-002	Harbert Energy Corporation	November 21, 1990.
EL85-42-001	Guy M. Carlson	June 10, 1987.
HB20-85-1-002	Public Service Co. of Indiana	August 4, 1988.
HB61-85-1-001	Public Service of New Hampshire	September 2, 1987.

Appendix B

This appendix lists the applicant and docket in which an appeal of staff action has been filed with the Commission within the last 30 days, and the Commission has not issued a notice of intent to act. In each instance, by virtue of the final rule the appeal of staff action is deemed to be a request for rehearing.

Docket	Applicant
P-4797-003	Cogeneration, Inc.
P-5797-004	B & C Energy, Inc.
P-6310-004	Gull Industries, Inc.
P-6986-005	Tranquillity Irrigation District
P-7728-012	Robley Point Hydro Partners
P-9340-005	Lawrence E. & Veronica P. Smith
RP90-167-001	ANR Pipeline Company
RP91-8-002	National Fuel Gas Supply Corp.

December 3, 1990.

Moler, Commissioner, *dissenting in part:*

I believe this order simply goes too far in delegating the Commission's policymaking and decisionmaking responsibilities to the staff. It also takes away a party's statutory right to seek rehearing of *Commission* orders (not staff orders). Thus it truncates the review process for those officially responsible under the various statutes we administer—the duly appointed members of the Commission who, in my view, can and should bear the decisionmaking responsibilities in major cases. I believe in doing so we abdicate our responsibilities in the name of administrative efficiency. Therefore, I dissent.[1]

This rule does not deal with merely ministerial duties or matters for which the Commission has provided specific and readily applicable standards. If such were the case, I should have no objections to this change in our procedures. Rather, we also deal with matters providing staff the authority to decide questions of first impression involving the exercise of critical judgment for which parties may be held liable at their peril.[2] Under this rule, such orders

[1] I do not dissent from those parts of the rule addressing orders issued by the Oil Pipeline Board. As the Preamble makes clear (at pp. 19–21) in this respect the changes track the statutory prescriptions of the Interstate Commerce Act under which we operate.

[2] Originally designated to encompass only "routine ministerial Commission functions" and matters "requir[ing] limited discretionary decisionmaking on the part of the named office director", Delegations To Various Office Directors Of Certain Commission Authority, FERC Stats. & Regs. ¶ 30,016 at p. 30,077 [Regulations Preambles 1977–1981], the delegations have grown to encompass much more. See, *e.g.* Order No. 492: Regulations Delegating Authority, FERC Stats. & Regs ¶ 30,814 (1988), providing, among other things, authority to the Chief Accountant or his designee to

Continued

can now be issued by Office Directors and their designees in the Commission's name without any Commissioner having ever seen, much less voted on, the orders. These orders are, nonetheless, final pending Commission "rehearing", however long that may take. The safeguards built into our process to ensure that the result is a "Commission" action no longer apply.[3] I cannot endorse such a rule.

Nor is it by any means clear that the Commission can lawfully vest staff with the authority to decide cases in its name. The general provisions the Commission invokes "to perform any and all acts and make such rules as are necessary or appropriate to carry out its statutory function" (Preamble at pp. 7–8),[4] while sufficient to allow for the subdelegation of authority in most cases, cannot be invoked if the subdelegation is inconsistent with the purposes of the statute.[5]

Congress well knows how to craft broad statutory authorizations allowing commissions to delegate their functions to staff.[6] It did not use such language when it created the FERC.[7] Moreover, as the comments point out, the rehearing provisions of the Federal Power, Natural Gas and Natural Gas Policy Acts provide a strong indication that what the Commission does here is inconsistent with its statutory mandates.[8]

The rehearing provisions operate, contrary to the normal rule of administration law, to allow Commission orders to be enforceable without yet being final or subject to judicial review.[9] Indeed, this rehearing requirement is provided at the expense of efficiency:

"[W]e do not think the purpose of the statute is purely one of administrative exhaustion * * *. We have no basis for assuming that the need for prompt resolution of Commission affairs is any less important a goal than that of permitting the Commission a second chance to modify its decisions."

Boston Gas Company v. *FERC*, 575 F.2d 975, 979 (1st Cir. 1978). The rule change adopted today is in fundamental conflict with these provisions.

A "second chance" for the Commission to modify "its decisions" necessarily requires that the Commission had a first chance. Stated another way, the necessary predicate for *re*hearing is that the Commission has heard the matter at least once before. Here, there is no "rehearing", the Commission will review staff action *de novo*. (The majority's response to the comments raising this issue (Preamble at 10) completely ignores this crucial point by begging the question presented.)

I have no quarrel with the majority's desire to speed up our administrative process. Indeed, we share a common dissatisfaction with the length of time required for providing the public with final, enforceable, agency decisions and a common responsibility to promptly act on matters brought before us.[10] But, "[c]onvenience and efficiency are not the primary objectives—or the hallmarks—of democratic government," *Immigration and Naturalization Service* v. *Chadha*, 462 U.S. 919, 944 (1983). We are governed by a process designed by the Congress to ensure public accountability for our decisions. Members of the Commission are the duly appointed policymakers, not the staff. Here, the majority eschews that principal and acts not to delegate but rather to abdicate its decisionmaking responsibilities. In doing so, the majority simply goes too far for me to be comfortable that we, as members of the Commission, are meeting our statutory responsibilities.

Elizabeth Anne Moler,

Commissioner.

[FR Doc. 90–28814 Filed 12–7–90; 8:45 am]

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pass on contested audit reports, 18 CFR 375.303(f) (1990) and for the Director of the Office of Hydropower Licensing or his designee to determine whether the Commission has jurisdiction over an unlicensed project, 18 CFR 375.314(h)(2) (1990).

[3] Indeed, several parties including EEI, PG&E and Alabama point up that it is not clear what constitutes official staff action under delegated authority. The majority fails to address this issue in the rule today.

Comments also suggest that, under the earlier delegation-and-appeal scheme, staff's orders could not be lawfully enforced. See, *e.g.*, the comments of Alabama Power Company, pp. 6-7. If true, this adds force to the argument that the Commission today goes too far. If there is a question as to whether a Commission ruling is enforceable, that question should, in my view, be resolved through action of the Commissioners, not through action of the staff.

[4] More precisely, the FERC is provided the authority, "to perform any and all acts, and to prescribe, issue, make, amend, and rescind such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this chapter." Section 16 of the Natural Gas Act, 15 U.S.C. 717*o* (1988); see also section 309 of the Federal Power Act, 16 U.S.C. 825h (1988) (identical language). The authority of these two provisions originally vested in the Commission's predecessor, the Federal Power Commission, is explicitly vested in the FERC. See section 402(a)(2) of the Department of Energy Organization Act, Pub. L. No. 95–91 (1977), 91 Stat. 584 (1977) (DOE Act), codified at 42 U.S.C. 7172(a)(2) (1988). In addition, similar authority is independently provided the Commission under section 401(f) of the DOE Act (Commission "is authorized to establish such procedural and administrative rules as are necessary to the exercise of its functions"), 42 U.S.C. 7171(f) (1988) and under section 501(a) of the Natural Gas Policy Act, 15 U.S.C. 3411(a) (1988).

[5] Rodriguez v. Compass Shipping Co., 617 F.2d 955, 958 (2nd Cir. 1980), *aff'd on other grounds*, 451 U.S. 596 (1981); see also Fleming v. Mohawk Wrecking and Lumber Co., 331 U.S. 111, 120–122 (1947); House v. Southern Stevedoring Company, 703 F.2d 87, 88–89 (4th Cir. 1983); Exxon Corp. v. FTC, 665 F.2d 1274, 1279 (D.C. Cir. 1981) (per curiam).

[6] See, *e.g.*, 15 U.S.C. 78d–1 (1988) which authorizes the Securities and Exchange Commission "to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, an administrative law judge, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any work, business or matter."

[7] Indeed, in the only provision that I have found where Congress explicitly spoke to the Commission's authority to delegate its functions to staff, Congress limits that authority to designating personnel to "conduct any hearing or other inquiry necessary or appropriate to its functions," section 401(g) of the DOE Act, 42 U.S.C. 7171(g) (1988).

[8] See section 313 of the Federal Power Act, 16 U.S.C. 825/ (1988); section 19 of the Natural Gas Act, 15 U.S.C., 717r (1988); and section 506(a) of the Natural Gas Policy Act, 15 U.S.C. 3416(a) (1988).

[9] A mandatory petition-for-rehearing requirement, with or without the additional requirement of raising the very objection urged on appeal, is virtually unheard-of, but both requirements happen to exist in all three of the major statutes administered by FERC * * *. [These operate] quite the opposite of the usual rule, set forth in the Administrative Procedure Act, that "agency action otherwise final is final for the purposes of [judicial review] whether or not there has been presented or determined an application for * * * any form of reconsiderations."

Asarco, Inc. v. FERC, 777 F.2d 764, 774 and 773 (D.C. Cir. 1985) (Scalia, J. for the court) (quoting 5 U.S.C. 704 (1982)).

[10] Nor have I any quarrel with staff's ability to act promptly to decide the matters delegated to it and to do so with the high level of professionalism we and the public too often take for granted.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. H–033d]

RIN 1218–AA26

Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Extension of partial stay and amendment of final rule.

SUMMARY: The Occupational Safety and Health Administration OSHA is hereby extending the partial administrative stay of the revised final standards for occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry (29 CFR 1910.1001) and construction (29 CFR 1926.58), insofar as they apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite. The current partial stay, originally set to expire on April 21, 1987 and extended until November 30, 1990 is being further extended until August 31, 1991 to allow OSHA to complete supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated in the same standard as asbestos, or should be treated in some other way. OSHA also is making minor conforming amendments to notes to the affected standards.

DATES: The partial stay of 29 CFR 1910.1001 and 1926.58 is extended until August 31, 1991.

FOR FURTHER INFORMATION CONTACT: James F. Foster, Director of Information

and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, room N-3647, 200 Constitution Avenue NW., Washington, DC 20210, Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: In June 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry and construction which were to be effective on June 21, 1986. (See 51 FR 22812 *et seq.*, June 20, 1986).

On October 17, 1986, OSHA published a partial stay of the revised standards insofar as they apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite, in order to enable the Agency to review new submissions raising questions about the appropriateness of regulating these minerals in the revised asbestos standards, and to allow sufficient time to reopen the rulemaking record and conduct supplemental rulemaking proceedings limited to this issue (51 FR 37002).

OSHA extended the stay until July 21, 1988 in a notice published on April 30, 1987 (52 FR 15722), until July 21, 1989, in a notice published on July 20, 1988 (53 FR 27345), and again until November 30, 1990, in a notice published on July 21, 1989 (54 FR 30704).

The last extension was issued in order to allow OSHA sufficient time to conclude rulemaking on whether and how to regulate the non-asbestiform minerals at issue.

Subsequently, on February 12, 1990 OSHA published a notice of proposed rulemaking (55 FR 4938) to amend the asbestos standards (29 CFR 1910.1001, 1926.58) to remove non-asbestiform tremolite, anthophyllite and actinolite from their scope.

Public hearings were held in Washington, DC, May 8-14, 1990. At the close of the hearings, the Administrative Law Judge set the following deadlines for participants to send material to OSHA: June 28, 1990 for the submission of additional information and July 23, 1990 for submission of comments, summations and briefs.

After the close of the post-hearing comment periods, the American Thoracic Society (ATS) submitted a report to the record concerning the health risks of non-asbestiform tremolite, actinolite and anthophyllite (Ex. 525). The Agency set an additional period, later extended to December 14, 1990, to enable the public to submit written comments and analyses on all issues raised in the ATS report. (See 55 FR 40677, 55 FR 46958).

At the close of this comment period, the Agency will evaluate the rulemaking record to determine whether it supports the proposal to remove the non-asbestiform minerals from the scope of the asbestos standards.

To date, the record consists of 526 exhibits, 24 comments and transcripts of the five days of rulemaking hearings. OSHA anticipates receiving a significant number of additional submissions relating to the ATS report.

Because of the size of the record and the complexity of the issues, the Agency's review of the rulemaking record and formulation of a final regulatory determination will not be completed until August 31, 1991. Thus, an extension of the stay until August 31, 1991 is necessary to conclude the rulemaking on the regulation of non-asbestiform tremolite, anthophyllite and actinolite.

As was the case with the initial partial stay, the 1972 standard governing occupational exposure to asbestos (redesignated 29 CFR 1910.1101) will remain in effect to the extent of the stay during the period of the extension.

The full text of the stay with respect to these non-asbestiform minerals was published in the October 17, 1988 **Federal Register** (51 FR 37002).

With respect to the extension of the partial stay, OSHA finds that advance notice and opportunity for comment are impractical and unnecessary within the meaning of 5 U.S.C. 553 in view of the limited duration of the extension and the continued applicability of the 1972 standard (29 CFR 1910.1101) to cover the gaps in coverage created by the partial stay.

The minor amendments to the notes to 29 CFR 1910.1001, 1910.1101, and 1926.58, similarly are made without advance notice and opportunity for comment. OSHA finds such process unnecessary and impracticable in that the changes merely reference the extension of the stay and restate the applicability of the 1972 standard. No evidentiary issues are involved.

List of Subjects in 29 CFR Parts 1910 and 1926

Asbestos, Occupational safety and health.

Authority and Signature

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

It is issued pursuant to sections 4, 6(b), 6(c) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), the Longshore and Harbor Workers Compensation Act (33 U.S.C. 941), 29 CFR part 1911, Secretary of Labor's Order No. 1-90 (55 FR 9033), as applicable.

Signed at Washington, DC, this 4th day of December 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

Amended Standards

Part 1910 of title 29 of the Code of Federal Regulations is hereby amended as follows:

PART 1910—[AMENDED]

1. The authority citation for subpart Z of part 1910 continues to read as follows:

Authority: Sections 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labors Orders Nos. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033) as applicable; and 29 CFR part 1911.

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b), except those substances listed in the Final Rule Limits columns of Table Z-1-A, which have identical limits listed in the Transitional Limits columns of Table Z-1-A, Table Z-2 or Table Z-3. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, the Transitional Limits columns of Table Z-1-A, Table Z-2, and Table Z-3 also issued under 5 U.S.C. 553. Section 1910.1000, Tables Z-1-A, Z-2 and Z-3 not issued under 29 CFR part 1911 except for the arsenic, benzene, cotton dust, and formaldehyde listings.

Section 1910.1001 also issued under section 107 of Contract Work Hours and Safety Standards Act, 40 U.S.C. 333.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR part 1911; also issued under 5 U.S.C. 653.

Section 1910.1003 through 1910.1018 also issued under 29 CFR part 653.

Section 1910.1025 also issued under 29 U.S.C. 653 and 5 U.S.C. 553.

Section 1910.1028 also issued under 29 U.S.C. 653.

Section 1910.1043 also issued under 5 U.S.C. 551 *et seq.*

Sections 1910.1045 and 1910.1047 also issued under 29 U.S.C. 653.

Section 1910.1048 also issued under 29 U.S.C. 653.

Sections 1910.1200, 1910.1499 and 1910.1500 also issued under 5 U.S.C. 553.

§ 1910.1001 [Amended]

2. Section 1910.1001 is hereby amended by revising the note after appendix H to § 1910.1001 to read as follows:

Note: Pursuant to an administrative stay effective July 21, 1986, published on October 17, 1986 (51 FR 37002), extended to July 21, 1988 (52 FR 15722), to July 21, 1989 (53 FR 27345), to November 30, 1990 (54 FR 30704) and to August 31, 1991 (55 FR _____) enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

3. Section 1910.1101 is hereby amended by revising the note preceding § 1910.1101(a) to read as follows:

§ 1910.1101 Asbestos.

Note: This section applies in lieu of the revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite (29 CFR 1910.1001; 29 CFR 1926.58), during the period and to the extent that the revised standards have been partially stayed. (See 51 FR 37002, October 17, 1986, 52 FR 15722, April 30, 1987, 53 FR 27345, July 20, 1988, and 54 FR 30704, July 21, 1989, and 55 FR _____; December 10, 1990, for a description of the stay).

Part 1926 of the Code of Federal Regulations is hereby amended as follows:

PART 1926—[AMENDED]

Subpart D—[Amended]

4. The authority citation for subpart D of part 1926 continues to read as follows:

Authority: Sections 4, 6 and 8, Occupational Safety and Health Act of 1970, (29 U.S.C. 653, 655, 657) Section 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333, and Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable. Sections 1926.55(c) and 1926.58 also issued under 29 CFR part 1911.

§ 1926.58 [Amended]

5. Section 1926.58 is hereby amended by revising the note after appendix J to § 1926.58 to read as follows:

Note: Pursuant to an administrative stay effective July 21, 1986, published October 17, 1986 (51 FR 37002), extended to July 21, 1988 (at 52 FR 1577, April 30, 1987), to July 21, 1989 (53 FR 27345, July 20, 1988) to November 30, 1990 (54 FR 30704; July 21, 1989), and to August 31, 1991, (55 FR _____, December 10, 1990), enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

[FR Doc. 90–28835 Filed 12–7–90; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS–400041A; FRL–3799–1]

Terephthalic Acid; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is delisting terephthalic acid (TA), CAS Registry No. 100–21–0, from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). By promulgating this rule, EPA is relieving facilities of their obligation to report releases of TA that occurred during the 1990 calendar year, and thereafter. This relief applies only to reporting requirements under section 313 of EPCRA.

DATES: This rule is effective January 9, 1991.

FOR FURTHER INFORMATION CONTACT: Maria Doa, Acting Petition Coordinator, Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Stop OS–120, 401 M St., SW., Washington DC 20460, Toll free: 800–535–0202.

SUPPLEMENTARY INFORMATION:

I. Description of Petition

EPA received a section 313(e) petition to delete Terephthalic acid (TA), CAS No. 100–21–0, from the list of toxic chemicals in 40 CFR 372.65. The petition from the Amoco Corporation was received on July 27, 1989.

After reviewing the petition and additional related information, EPA concluded that TA did not meet the listing criteria under section 313(d)(2) for acute human health effects, chronic health effects or environmental toxicity. While EPA considered data which were suggestive of developmental and systemic toxicity, these data were inadequate to support a conclusion that TA can reasonably be anticipated to cause these effects in humans. It is EPA's determination that the available data do not demonstrate that TA can cause or can reasonably be anticipated to cause significant adverse human health or environmental effects. As a result, EPA issued a proposed rule to delete TA from section 313 reporting requirements in the **Federal Register** of February 15, 1990 (55 FR 5472).

The proposed rule contains a detailed summary of EPA's review of the petition to delete TA. The proposed rule also discussed EPA's consideration of proposing a test rule under section 4 of the Toxic Substances Control Act (TSCA) to address potential developmental and systemic toxicity. This proposed test rule will be published in the **Federal Register** in the near future. The proposal to delete TA indicated that EPA might choose, if it proposed a test rule, to await the results of such testing before promulgating the deletion of TA from section 313 of EPCRA. However, in light of additional information, EPA has decided to promulgate the deletion of TA from the section 313 list.

II. Response to Public Comment

EPA received five comments on the proposed rule. All of the comments received on the proposed rule to delete TA were from industry and industry associations. Comments were submitted by Amoco Corporation, the Chemical Manufacturers Association (CMA), Eastman Kodak Company, E.I. Du Pont De Nemours and Company, and Monsanto Company.

All of the commenters were supportive of EPA's decision to delete TA from section 313 reporting requirements. However, all of the commenters objected to delaying promulgation of the deletion of TA from EPCRA section 313 pending a test rule under section 4 of TSCA stating it would take years to promulgate a rule and complete such testing. Commenters stated that the Administrator should base section 313 petition decisions on readily available data. Furthermore, they stated that section 313 of EPCRA does not provide EPA with the authority to obtain additional toxicity testing for making petition decisions.

EPA acknowledges that additional testing cannot be obtained under EPCRA section 313. However, the indirect use or knowledge of data gathering efforts under other statutory authorities to obtain information to make proper assessments may be warranted under certain circumstances. In reviewing the subject EPCRA section 313 petition, EPA has decided for this particular case, not to delay promulgation of the deletion of TA pending any TSCA section 4 action. EPA will propose testing under TSCA section 4 at a later date in the **Federal Register**. If testing under TSCA section 4 should provide EPA with evidence that TA does meet the section 313 listing criteria,

Note: Pursuant to an administrative stay effective July 21, 1986, published on October 17, 1986 (51 FR 37002), extended to July 21, 1988 (52 FR 15722), to July 21, 1989 (53 FR 27345), to November 30, 1990 (54 FR 30704) and to August 31, 1991 (55 FR _____) enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

3. Section 1910.1101 is hereby amended by revising the note preceding § 1910.1101(a) to read as follows:

§ 1910.1101 Asbestos.

Note: This section applies in lieu of the revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite (29 CFR 1910.1001; 29 CFR 1926.58), during the period and to the extent that the revised standards have been partially stayed. (See 51 FR 37002, October 17, 1986, 52 FR 15722, April 30, 1987, 53 FR 27345, July 20, 1988, and 54 FR 30704, July 21, 1989, and 55 FR _____; December 10, 1990, for a description of the stay).

Part 1926 of the Code of Federal Regulations is hereby amended as follows:

PART 1926—[AMENDED]

Subpart D—[Amended]

4. The authority citation for subpart D of part 1926 continues to read as follows:

Authority: Sections 4, 6 and 8, Occupational Safety and Health Act of 1970, (29 U.S.C. 653, 655, 657) Section 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333, and Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable. Sections 1926.55(c) and 1926.58 also issued under 29 CFR part 1911.

§ 1926.58 [Amended]

5. Section 1926.58 is hereby amended by revising the note after appendix J to § 1926.58 to read as follows:

Note: Pursuant to an administrative stay effective July 21, 1986, published October 17, 1986 (51 FR 37002), extended to July 21, 1988 (at 52 FR 1577, April 30, 1987), to July 21, 1989 (53 FR 27345, July 20, 1988) to November 30, 1990 (54 FR 30704; July 21, 1989), and to August 31, 1991, (55 FR _____, December 10, 1990), enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period and to the extent of this stay, the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect.

[FR Doc. 90–28835 Filed 12–7–90; 8:45 am]

BILLING CODE 4510–26–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[OPTS–400041A; FRL–3799–1]

Terephthalic Acid; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is delisting terephthalic acid (TA), CAS Registry No. 100–21–0, from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA), also known as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). By promulgating this rule, EPA is relieving facilities of their obligation to report releases of TA that occurred during the 1990 calendar year, and thereafter. This relief applies only to reporting requirements under section 313 of EPCRA.

DATES: This rule is effective January 9, 1991.

FOR FURTHER INFORMATION CONTACT: Maria Doa, Acting Petition Coordinator, Emergency Planning and Community Right-to-Know Hotline, Environmental Protection Agency, Mail Stop OS–120, 401 M St., SW., Washington DC 20460, Toll free: 800–535–0202.

SUPPLEMENTARY INFORMATION:

I. Description of Petition

EPA received a section 313(e) petition to delete Terephthalic acid (TA), CAS No. 100–21–0, from the list of toxic chemicals in 40 CFR 372.65. The petition from the Amoco Corporation was received on July 27, 1989.

After reviewing the petition and additional related information, EPA concluded that TA did not meet the listing criteria under section 313(d)(2) for acute human health effects, chronic health effects or environmental toxicity. While EPA considered data which were suggestive of developmental and systemic toxicity, these data were inadequate to support a conclusion that TA can reasonably be anticipated to cause these effects in humans. It is EPA's determination that the available data do not demonstrate that TA can cause or can reasonably be anticipated to cause significant adverse human health or environmental effects. As a result, EPA issued a proposed rule to delete TA from section 313 reporting requirements in the **Federal Register** of February 15, 1990 (55 FR 5472).

The proposed rule contains a detailed summary of EPA's review of the petition to delete TA. The proposed rule also discussed EPA's consideration of proposing a test rule under section 4 of the Toxic Substances Control Act (TSCA) to address potential developmental and systemic toxicity. This proposed test rule will be published in the **Federal Register** in the near future. The proposal to delete TA indicated that EPA might choose, if it proposed a test rule, to await the results of such testing before promulgating the deletion of TA from section 313 of EPCRA. However, in light of additional information, EPA has decided to promulgate the deletion of TA from the section 313 list.

II. Response to Public Comment

EPA received five comments on the proposed rule. All of the comments received on the proposed rule to delete TA were from industry and industry associations. Comments were submitted by Amoco Corporation, the Chemical Manufacturers Association (CMA), Eastman Kodak Company, E.I. Du Pont De Nemours and Company, and Monsanto Company.

All of the commenters were supportive of EPA's decision to delete TA from section 313 reporting requirements. However, all of the commenters objected to delaying promulgation of the deletion of TA from EPCRA section 313 pending a test rule under section 4 of TSCA stating it would take years to promulgate a rule and complete such testing. Commenters stated that the Administrator should base section 313 petition decisions on readily available data. Furthermore, they stated that section 313 of EPCRA does not provide EPA with the authority to obtain additional toxicity testing for making petition decisions.

EPA acknowledges that additional testing cannot be obtained under EPCRA section 313. However, the indirect use or knowledge of data gathering efforts under other statutory authorities to obtain information to make proper assessments may be warranted under certain circumstances. In reviewing the subject EPCRA section 313 petition, EPA has decided for this particular case, not to delay promulgation of the deletion of TA pending any TSCA section 4 action. EPA will propose testing under TSCA section 4 at a later date in the **Federal Register**. If testing under TSCA section 4 should provide EPA with evidence that TA does meet the section 313 listing criteria,

time during the premating period. In addition, the male CD rats in the 0.03 percent group exhibited a significant reduction in mean body weight and mean body weight gain at 13 weeks. Eastman Kodak discounted this reduction (as did other commenters) since a statistically significant decrease was not observed in the 0.125 percent group and went on to conclude that this was the No Observable Effect Level (NOEL) (DuPont considered 0.5 percent a NOEL). EPA did not discount the reduction and believes that the poor power of this study makes it inadequate for determining the NOEL for TA. Obviously, this discrepancy could be solved with the inclusion of body weight data for later time periods (i.e. during the mating and postmating periods). It is precisely the lack of such data that makes interpretation difficult, and why the study was viewed as inadequate.

There was also disagreement regarding the dose levels at which postnatal developmental toxicity occurred. EPA concluded that there was evidence suggestive of postnatal developmental toxicity at all doses. Eastman Kodak concluded that toxicity only occurred at 2 and 5 percent TA. At concentrations of 2 and 5 percent TA postnatal survival was reduced. Commenters argued that the reduced postnatal survival was due to decreased care resulting from acute maternal toxicity or to the formation of bladder calculi in the pups at these doses.

One commenter claimed that the number of pups which were denoted as "dead at birth" may be attributed to how soon after birth, the newborn pups were evaluated. However, information on this point was not provided in the study and hence no conclusion may be drawn. Eastman Kodak went into some detail about the finding of bladder calculi in many of the pups that died, presumably to establish that exposure levels that do not result in calculi do not increase the risk of toxic effects due to TA. They pointed out that there were incidence of renal and urinary tract pathology at low doses in both strains of rat used in the CIIT study (Ref. 1) and that the EPA reviewer's statement concerning "no significant increase in lesions" for these doses was inaccurate. EPA did not discount these data and, while poorly phrased, the statement was meant to indicate a lack of statistical significance. The point of this argument concerning the influence of bladder calculi on pup death late in the testing is unclear, as neither Eastman Kodak nor EPA would argue, or did argue, that there was no correlation. The Agency's position on maternal and developmental toxicity has already been made public. The EPA 1989 Proposed Amendments to the Guidelines for the Health Assessment of Suspect Developmental Toxicants (Ref. 10) state that developmental effects produced only at maternally toxic doses should be examined carefully and should not be discounted as being secondary to maternal toxicity.

In addition, since the publication of the proposed rule for TA, EPA has reviewed a one-generation reproductive dietary toxicity study on rats submitted for the herbicide, Dacthal, under FIFRA on a close analog of TA, dimethyl tetrachloroterephthalate (Ref. 9). The study was not adequate for hazard assessment according to the EPA test guidelines, but it does provide additional support for concern for potential postnatal developmental toxicity. There was a significant reduction in postnatal survival (day 1 to 21 interval) in the high-dose group (1 percent level) and in the low-dose group (0.1 percent - with no clear dose-response relationship). The lack of a clear dose-response in the low-dose group is disturbing, but it provides additional support that additional testing is needed to address postnatal developmental toxicity. Interestingly, there was no evidence of maternal toxicity at either exposure level.

In the CIIT study (Ref.1), pup body weight data were only provided for postnatal days 0, 1, and 21. The treated CD pups exhibited a reduction in mean body weight on day 21; mean body weights were reduced by 14, 5, 10, 22, and 51 percent in the 0.03, 0.125, 0.5, 2.0, and 5.0 percent TA groups, respectively, and the differences were statistically significant for the 5.0 percent group. Eastman Kodak concluded that the difference observed in the 2.0 percent group was biologically significant as well, but the reductions in the 0.03, 0.125, and 0.5 percent groups were not. EPA concluded that in the absence of more complete data, the possibility that the observed reductions were indicative of developmental toxicity should not be discounted. Again, this is simply a disagreement that a properly conducted study of greater power would solve.

IV. Reasons for Issuing Final Rule

EPA has determined that the weight of the evidence supports removal of TA from the section 313 list. EPA has determined that the available data do not demonstrate that TA can cause or reasonably be anticipated to cause significant adverse human health or environmental effects described in section 313 (d) (2). However, in other cases denial of a petition to remove a chemical may be warranted even if the evidence of toxicity is less than adequate to meet current EPA testing standards. EPA views the weight of the evidence determination as a continuum to be evaluated on a case-by-case basis.

V. References

(1) Chemical Industry Institute of Toxicology (CITT). A 90-day study of terephthalic acid-induced urolithiasis and reproductive performance in Wistar and CD rats. CIIT Docket No. 11622. CIIT, Six Davis Drive, P.O. Box 12137, Research Triangle Park, NC 22709. 1982.

(2) Chun, J., Lucas, F., and Killeen, J. A Teratology Study with Technical DCPA in Rabbits: Proj. ID 87-3204. Unpublished Ricerca Document 1116-87-0067-TX-002 prepared by Bio/dynamics Inc. 775 p. (OPP MRID: 41054820). 1989.

(3) Ford, W. A Teratology Study in Rats with Technical DCPA: Document No. 712-5TX-85-0039-003: Report SDS-893. Unpublished study prepared by SDS Biotech Corp. in cooperation with Argus Research Laboratories, Inc. 194 p. (OPP MRID: 00160685). 1986.

(4) Environmental Criteria and Assessment Office, Office of Health and Environmental Assessment, U.S. Environmental Protection Agency. Health and Environmental Effects Profile for Phthalic Acids. EPA 600/X-86/292. 1986.

(5) Hoshi, A. and Kuretani, K. Metabolism of Terephthalic Acid. III. Absorption of Terephthalic Acid from Gastrointestinal Tract and Detection of its Metabolites. Chem. Pharm. Bull. 15:19791984. 1967.

(6) Hoshi, A. and Kuretani, K. Distribution of Terephthalic Acid in Tissues. Chem. Pharm. Bull. 16:131-135. 1968.

(7) Mizens, M. A Teratology Study in Rats with Tetrachloroterephthalic Acid: SDS-954: Document No. 687-5TX-84-0035-002. Unpublished study prepared by SDS Biotech Corp. 177 p. (OPP MRID: 00158010). 1985.

(8) Nagasawa, H. and Fujimoto, M. Inhibition of terephthalic acid of spontaneous mammary tumorigenesis in mice. Experiential 29:89-90. 1973.

(9) Paynter, O. E. and Kundzin, M. Reproduction Study--Albino Rats. (Unpublished study received Dec 15, 1963 under PPO411; prepared by Hazelton Laboratories, Inc., submitted by Diamond Shamrock Agricultural Chemicals, Cleveland, Ohio; CDL:090443-N). (OPP MRID: 00083578). 1963.

(10) Proposed Amendments to the Guidelines for the Health Assessment of Suspect Developmental Toxicants. **Federal Register** 54 FR 9386-9403. March 6, 1989.

(11) Wolkowski-Tyl, R., Chin, T. Y., and Heck, H. Chemical urolithiasis. III. Pharmacokinetics and transplacental transport of terephthalic acid in Fischer-344 rats. Drug Metab. Dispos. 10:486-490. 1982.

VI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "major rule" because it will not have an effect on the economy of $100 million or more. This rule will decrease the impact of the section 313 reporting requirements on covered facilities and will result in cost-savings to industry, EPA, and States.

This rule was submitted to the Office of Management and Budget (OMB) under Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, EPA must conduct a small business analysis to determine whether a substantial number of small entities will be significantly affected. Because the rule will result in cost savings to facilities, EPA certifies that small entities will not be significantly affected by this rule.

C. Paperwork Reduction Act

This rule relieves facilities from having to collect information on the use and releases of TA. Therefore, there were no information collection requirements for OMB to review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 372

Chemicals, Community right-to-know, Environmental protection, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: December 4, 1990.

Victor J. Kimm,

Acting Assistant Administrator, Office of Pesticides and Toxic Substances.

Therefore, 40 CFR part 372 is amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. Section 372.65(a) and (b) are amended by removing the entire entry for terephthalic acid under paragraph (a) and removing the entire CAS No. entry for 100–21–0 under paragraph (b).

[FR Doc. 90–28874 Filed 12–7–90; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 73 and 74

[MM Docket No. 88–140; FCC 90–375]

Broadcast Service; Amendment of the Rules Concerning FM Translator Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: FM translators were first authorized in 1970 as stations that receive the signals of FM radio broadcast stations and simultaneously retransmit those signals on another frequency. On November 8, 1990, the Commission adopted amendments to part 74 of the Commission's Rules governing the FM translator service. This action makes the FM translator rules more consistent with the intended purpose of the service in order to ensure that the development of FM radio broadcast stations is not harmed by translator operations. In particular, we revise and clarify the service rules regarding ownership and financial support of translators, methods for selecting among mutually exclusive translator applications, and the definition of a "major change" in translator coverage areas. We also adopt new technical rules to govern the use of commercial FM and auxiliary band frequencies, interference criteria, and maximum power output. The Commission also concludes that the freeze on applications for new commercial FM translators and major changes to existing commercial FM translators will continue for 60 days after the effective date of these new rules and that, within sixty days thereafter, applicants with pending applications should amend their applications to conform with the new rules. Existing stations must comply with the new service rules within three years of their effective date, and we will entertain waiver requests where service to the public would be unduly lost as a result. Since most translators already comply with the new technical rules, we will "grandfather" existing translators until interference problems occur, at which time compliance will be required.

EFFECTIVE DATE: March 1, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jim Coltharp, Mass Media Bureau, Policy and Rules Division, (202) 632–6302; or, Gordon Godfrey, Mass Media Bureau, Engineering Policy Branch, (202) 632–9660.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order (Report) in MM Docket No. 88–140, FCC 90–375, adopted November 8, 1990, and released December 4, 1990. The complete text of this Report is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Synopsis of Report and Order

1. In this Report, the Commission revises and clarifies several of the FM translator rules. The rulemaking restores the service to its intended role as a secondary service supplementing the development of FM radio broadcast stations where distance and intervening terrain barriers impede the direct reception of the primary station. The following summary describes the principle rule changes regarding the service and technical standards for FM translators as set forth in the Report and Order.

Service Issues

2. The Commission adopts a definition for an FM translator station's "coverage area". Accordingly, the coverage contour of a translator providing fill-in service—i.e., the FM translator's coverage contour is contained within the coverage contour of the primary station—is defined congruent with the coverage (or protected) contour of the primary station for respective station classes. An FM translator's protected contour is defined as 1 mV/m both for protection of authorized FM translator stations and for determining applications that are to be considered mutually exclusive. For "other area" translators, *i.e.*, where the FM translator's coverage contour extends beyond the coverage contour of the primary station, the coverage area is defined by maximum power and permissible coverage distance limitations as detailed below.

3. The Report also adopts changes to the ownership rule. The Commission continues to believe that relaxed restrictions on commercial primary station ownership of translators would be contrary to the public interest, which is best served by maximizing service through FM radio broadcast stations. Consequently, while fill-in translators may be owned by commercial primary

stations or independent parties, ownership of "other area" commercial translators will be restricted to independent parties. Noncommercial educational FM (NCE–FM) translators remain exempt from ownership limitations. In areas beyond the protected contour of any full-time aural service, or "white areas", where a licensee establishes that service is indeed unavailable, the Commission will be favorably disposed toward requests for waivers of the rules to permit commercial primary station ownership of FM translators. Independent parties may establish FM translators to serve any area.

4. With respect to financial support of FM translators by commercial primary stations, the Commisssion's Notice of Proposed Rule Making, 55 FR 13296 (1990), suggested revisions intended to remove the ambiguities that precipitated the alleged abuses reported by commenting parties. Under the revised rule, commercial primary stations may support fill-in translators both before and after the translator commences operation, but they may not provide direct or indirect financial support beyond technical assistance to FM translators serving other areas. Once again, the Commission will be favorably disposed toward requests for waivers of this financial support restriction upon showing that the translator would serve a "white area". NCE–FM translators remain exempt from financial support restrictions.

5. The Commission retains the existing fundraising and program origination rules that permit translators to originate announcements of only 30 seconds per hour for acknowledging and soliciting financial support, while also permitting emergency warnings of imminent danger. The 30-second announcement may be split during the hour and no local service obligations will be imposed. Under these rules, FM translators will continue to function as a secondary service useful for informing local residents of emergency situations. Several commenters proposed intermediate program origination options, including Gerard A. Turro's request for waiver of § 74.1231 of the Commission's Rules to permit his FM translator to originate local programming for residents in Bergen County, New Jersey. However, the Commission denies Turro's request for a number of reasons, primarily that Bergen County is amply served by stations licensed to nearby communities and New York City, as well as NCE–FM stations licensed in the county.

6. The Report also modifies the rules regarding signal delivery and use of auxiliary frequencies. In order to enhance the quality of signal transmission, commercial translators providing "fill-in" service may use any terrestrial means to receive the primary station signals, with waivers seeking similar permission regarded favorably for "white area" translators. "Other area" commercial translators are restricted to receiving the signal off-air. Commercial "fill-in" translators will also be authorized to use aural intercity relay frequencies on a secondary basis following advance notification of local frequency coordination committees, and waiver requests for translators serving "white areas" will be viewed favorably. The Commission will continue to prohibit use of a translator solely to relay signals of a primary station to more distant facilities, but will permit incidental relays.

7. The Commission clarifies that licensees may operate multiple translators following a showing of "need" on technical grounds as determined by the quality of signal received from the intended primary station or any operating translator. Also, a priority scheme will be used to resolve mutually exclusive applications such that "full-in" translators of the commonly owned primary station will have highest priority; alternative frequencies will be assigned when possible; when alternative frequencies are unavailable, and alternative system using factors considered for FM allotments will be applied. Where mutual exclusivity is unresolved by the above scheme, the Commission will select applications on a first-come-first-served basis.

8. The Report also determines that a "major change" will be defined as any change in output frequency, or any change or increase (but not decrease) in the predicted 1 mV/m coverage area of more than 10 percent of the previously authorized coverage area. The Commission makes this ruling on the grounds that it is appropriate to give licensees some flexibility to make minor facility adjustments without triggering the "major change" process. Finally, rules are retained exempting FM translators from multiple ownership rules and prohibiting rebroadcast of AM signals.

Technical Issues

9. In order to reduce actual interference problems through an expanded range of channels, the Commission will allow all FM translators to operate on any of the 80 non-reserved commercial channels with the 20 reserved noncommercial educational channels remaining available for NCE–M translator use. With respect to the maximum permissible translator power output, the Report reduces the proposed maximum effective radiated power (ERP) standard of 1 kilowatt to 250 watts at low antenna height (HAAT). The 250 watt maximum ERP limit will be applied to all parts of the country, with the exception that FM translators in the border areas are also subject to the bilateral agreements with Mexico and Canada. Fill-in translators are constrained by the requirement that there coverage contour must not reach beyond the coverage contour of the primary station. Furthermore, the coverage of "other area" translators will also be restricted to power and height combinations that produce a distance to the translator's 1 mV/m coverage contour not exceeding 7 kilometers (km) in Southern California and east of the Mississippi, and 13 km elsewhere. The Commission will also be favorably disposed toward waiving the power rule to permit higher power up to 250 watts at any HAAT if the applicant demonstrates that the service to a greater distance reaches only a "white area". As applied to NCE–FM translator applications, a "white area" will be defined as any area that is not served by a full-service public radio station. All applications requesting greater than 100 watts ERP will be required to determine whether excessive human exposure to RF radiation would result, and, if so, to submit, an environmental assessment.

10. The Report clarifies the standards for antennas by allowing composite, multiple array, and directional antennas, pursuant to the specific standards adapted from § 73.316 of the rules. In addition, the Commission adopts the proposed prohibition of contour overlap to avoid predicted translator interference to FM stations and TV Channel 6 stations. However, the Report finds it inappropriate to introduce explicit standards for determining actual interference, but instead, the Commission modifies its proposed rule to emphasize that FM translator licensees are responsible for resolving all interference complaints by appropriate means. The Commission also makes minor changes to clarify other aspects of the FM translator rules, including conforming some FM booster rules with the revised FM translator rules and simplifying the procedures and requirements for approval of transmission equipment.

11. The Commission seeks to ensure that the revised rules will not withdraw FM translator service from areas

stations or independent parties, ownership of "other area" commercial translators will be restricted to independent parties. Noncommercial educational FM (NCE–FM) translators remain exempt from ownership limitations. In areas beyond the protected contour of any full-time aural service, or "white areas", where a licensee establishes that service is indeed unavailable, the Commission will be favorably disposed toward requests for waivers of the rules to permit commercial primary station ownership of FM translators. Independent parties may establish FM translators to serve any area.

4. With respect to financial support of FM translators by commercial primary stations, the Commisssion's Notice of Proposed Rule Making, 55 FR 13296 (1990), suggested revisions intended to remove the ambiguities that precipitated the alleged abuses reported by commenting parties. Under the revised rule, commercial primary stations may support fill-in translators both before and after the translator commences operation, but they may not provide direct or indirect financial support beyond technical assistance to FM translators serving other areas. Once again, the Commission will be favorably disposed toward requests for waivers of this financial support restriction upon showing that the translator would serve a "white area". NCE–FM translators remain exempt from financial support restrictions.

5. The Commission retains the existing fundraising and program origination rules that permit translators to originate announcements of only 30 seconds per hour for acknowledging and soliciting financial support, while also permitting emergency warnings of imminent danger. The 30-second announcement may be split during the hour and no local service obligations will be imposed. Under these rules, FM translators will continue to function as a secondary service useful for informing local residents of emergency situations. Several commenters proposed intermediate program origination options, including Gerard A. Turro's request for waiver of § 74.1231 of the Commission's Rules to permit his FM translator to originate local programming for residents in Bergen County, New Jersey. However, the Commission denies Turro's request for a number of reasons, primarily that Bergen County is amply served by stations licensed to nearby communities and New York City, as well as NCE–FM stations licensed in the county.

6. The Report also modifies the rules regarding signal delivery and use of auxiliary frequencies. In order to enhance the quality of signal transmission, commercial translators providing "fill-in" service may use any terrestrial means to receive the primary station signals, with waivers seeking similar permission regarded favorably for "white area" translators. "Other area" commercial translators are restricted to receiving the signal off-air. Commercial "fill-in" translators will also be authorized to use aural intercity relay frequencies on a secondary basis following advance notification of local frequency coordination committees, and waiver requests for translators serving "white areas" will be viewed favorably. The Commission will continue to prohibit use of a translator solely to relay signals of a primary station to more distant facilities, but will permit incidental relays.

7. The Commission clarifies that licensees may operate multiple translators following a showing of "need" on technical grounds as determined by the quality of signal received from the intended primary station or any operating translator. Also, a priority scheme will be used to resolve mutually exclusive applications such that "full-in" translators of the commonly owned primary station will have highest priority; alternative frequencies will be assigned when possible; when alternative frequencies are unavailable, and alternative system using factors considered for FM allotments will be applied. Where mutual exclusivity is unresolved by the above scheme, the Commission will select applications on a first-come-first-served basis.

8. The Report also determines that a "major change" will be defined as any change in output frequency, or any change or increase (but not decrease) in the predicted 1 mV/m coverage area of more than 10 percent of the previously authorized coverage area. The Commission makes this ruling on the grounds that it is appropriate to give licensees some flexibility to make minor facility adjustments without triggering the "major change" process. Finally, rules are retained exempting FM translators from multiple ownership rules and prohibiting rebroadcast of AM signals.

Technical Issues

9. In order to reduce actual interference problems through an expanded range of channels, the Commission will allow all FM translators to operate on any of the 80 non-reserved commercial channels with the 20 reserved noncommercial educational channels remaining available for NCE–M translator use. With respect to the maximum permissible translator power output, the Report reduces the proposed maximum effective radiated power (ERP) standard of 1 kilowatt to 250 watts at low antenna height (HAAT). The 250 watt maximum ERP limit will be applied to all parts of the country, with the exception that FM translators in the border areas are also subject to the bilateral agreements with Mexico and Canada. Fill-in translators are constrained by the requirement that there coverage contour must not reach beyond the coverage contour of the primary station. Furthermore, the coverage of "other area" translators will also be restricted to power and height combinations that produce a distance to the translator's 1 mV/m coverage contour not exceeding 7 kilometers (km) in Southern California and east of the Mississippi, and 13 km elsewhere. The Commission will also be favorably disposed toward waiving the power rule to permit higher power up to 250 watts at any HAAT if the applicant demonstrates that the service to a greater distance reaches only a "white area". As applied to NCE–FM translator applications, a "white area" will be defined as any area that is not served by a full-service public radio station. All applications requesting greater than 100 watts ERP will be required to determine whether excessive human exposure to RF radiation would result, and, if so, to submit, an environmental assessment.

10. The Report clarifies the standards for antennas by allowing composite, multiple array, and directional antennas, pursuant to the specific standards adapted from § 73.316 of the rules. In addition, the Commission adopts the proposed prohibition of contour overlap to avoid predicted translator interference to FM stations and TV Channel 6 stations. However, the Report finds it inappropriate to introduce explicit standards for determining actual interference, but instead, the Commission modifies its proposed rule to emphasize that FM translator licensees are responsible for resolving all interference complaints by appropriate means. The Commission also makes minor changes to clarify other aspects of the FM translator rules, including conforming some FM booster rules with the revised FM translator rules and simplifying the procedures and requirements for approval of transmission equipment.

11. The Commission seeks to ensure that the revised rules will not withdraw FM translator service from areas

coverage contour of their commercial primary FM stations, between FM radio stations and their co-owned FM booster stations, or for such other purposes as authorized in §74.531 of this part.

* * * * *

24. Section 74.531 is amended by redesignating paragraphs (c) through (g) as (d) through (h) and adding new paragraph (c) to read as follows:

§ 74.531 Permissible service.

* * * * *

(c) An aural broadcast intercity relay station is authorized to transmit aural program material between an FM radio station and an FM translator station operating within the coverage contour of its commercial primary FM station. This use shall not interfere with or otherwise preclude use of these broadcast auxiliary stations transmitting aural programming between the studio and transmitter location of a broadcast station or between broadcast stations as provided in paragraphs (a) and (b) of this section.

* * * * *

25. Section 74.532 is amended by revising paragraph (a) to read as follows:

§ 74.532 Licensing requirements.

(a) An aural broadcast STL or intercity relay station will be licensed only to the licensee or licensees of broadcast stations, other than international broadcast stations, and for use by a broadcast station or an FM booster station owned entirely by or under common control of the licensee or licensees, or for use by an FM translator station operating within the coverage contour of the commercial primary FM station being rebroadcast.

* * * * *

26. Section 74.1201 is amended by adding paragraphs (g), (h) and (i) to read as follows:

§ 74.1201 Definitions.

* * * * *

(g) *Translator coverage contour.* The coverage contour for an FM translator providing "fill-in" service is congruent with its parent station: For a fill-in translator for a commercial Class B station it is the predicted 0.5 mV/m field strength contour; for a fill-in translator for a commercial Cass B1 station it is the predicted 0.7 mV/m field strength contour; and for a fill-in translator for all other classes of commercial stations as well as all noncommercial educational stations it is the predicted 1 mV/m field strength contour. A fill-in FM translator's coverage contour must be contained within the primary station's coverage contour. The protected contour for an FM translator station is its predicted 1 mV/m contour.

(h) *Fill-in area.* The area where the coverage contour of an FM translator or booster station is within the protected contour of the associated primary station (*i.e.,* predicted 0.5 mV/m contour for commercial Class B stations, predicted 0.7 mV/m contour for commercial Class B1 stations, and predicted 1 mV/m contour for all other classes of stations).

(i) *Other area.* The area where the coverage contour of an FM translator station extends beyond the protected contour of the primary station (*i.e.,* predicted 0.5 mV/m contour for commercial Class B stations, predicted 0.7 mV/m contour for commercial Class B1 stations, and predicted 1 mV/m contour for all other classes of stations).

27. Section 74.1202 is amended by revising paragraphs (b) introductory text, (b)(1) and (b)(2); by removing paragraphs (c), (d) and the Note to this section; and by redesignating paragraph (e) as paragraph (c) and revising it to read as follows:

§ 74.1202 Frequency assignment.

* * * * *

(b) Subject to compliance with all the requirements of this subpart, FM broadcast translators may be authorized to operate on the following FM channels, regardless of whether they are assigned for local use in the FM Table of Allotments (§ 73.202(b) of this chapter):

(1) *Commercial FM translators:* Channels 221–300 as identified in § 73.201 of this chapter.

(2) *Noncommercial FM translators:* Channels 201–300 as identified in § 73.201 of this chapter. Use of reserved channels 201–220 is subject to the restrictions specified in § 73.501 of this chapter.

* * * * *

(c) An FM broadcast booster station will be assigned the channel assigned to its primary station.

28. Section 74.1203 is revised to read as follows:

§ 74.1203 Interference.

(a) An authorized FM translator or booster station will not be permitted to continue to operate if it causes any actual interference to:

(1) The transmission of any authorized broadcast station; or

(2) The reception of the input signal of any TV translator, TV booster, FM translator or FM booster station; or

(3) The direct reception by the public of the off-the-air signals of any authorized broadcast station including TV Channel 6 stations, Class D (secondary) noncommercial educational FM stations, and previously authorized and operating FM translators and FM booster stations. Interference will be considered to occur whenever reception of a regularly used signal is impaired by the signals radiated by the FM translator or booster station, regardless of the quality of such reception, the strength of the signal so used, or the channel on which the protected signal is transmitted.

(b) If interference cannot be properly eliminated by the application of suitable techniques, operation of the offending FM translator or booster station shall be suspended and shall not be resumed until the interference has been eliminated. Short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures. If a complainant refuses to permit the FM translator or booster licensee to apply remedial techniques which demonstrably will eliminate the interference without impairment to the original reception, the licensee of the FM translator or booster station is absolved of further responsibility for that complaint.

(c) An FM booster station will be exempted from the provisions of paragraphs (a) and (b) of this section to the extent that it may cause limited interference to its primary station's signal, *provided* it does not disrupt the existing service of its primary station or cause such interference within the boundaries of the principal community of its primary station.

(d) A fill-in FM translator operating on the first, second or third adjacent channel to its primary station's channel will be exempt from the provisions of paragraphs (a) and (b) of this section to the extent that it may cause limited interference to its primary station's signal, *provided* it does not disrupt the existing service of its primary station or cause such interference within the boundaries of the principal community of its primary station.

(e) It shall be the responsibility of the licensee of an FM translator station or FM booster station to correct any condition of interference which results from the radiation of radio frequency energy by its equipment on any frequency outside the assigned channel. Upon notice by the Commission to the station licensee or operator that such interference is being caused, the operation of the translator station or booster station shall be immediately suspended and shall not be resumed until the interference has been eliminated or it can be demonstrated that the interference is not due to

spurious emissions by the FM translator station or FM booster station; *provided, however,* That short test transmissions may be made during the period of suspended operation to check the efficacy of remedial measures.

29. A new § 74.1204 is added to read as follows:

§ 74.1204 Protection of FM broadcast stations and FM translators.

(a) An application for an FM translator station will not be accepted for filing if the proposed operation would involve overlap of predicted field strength contours with any other authorized station, including commercial and noncommercial educational FM broadcast stations, FM translators and Class D (secondary) noncommercial educational FM stations, as set forth below:

(1) Commercial Class B FM Stations (Protected Contour: 0.5 mV/m)

Frequency separation	Interference contour of proposed translator station	Protected contour of commercial Class B station
Co-channel	0.05 mV/m (34 dBu)	0.5 mV/m (54 dBu).
200 kHz	0.25 mV/m (48 dBu)	0.5 mV/m (54 dBu).
400 kHz	5.00 mV/m (74 dBu)	0.5 mV/m (54 dBu).
600 kHz	50.0 mV/m (94 dBu)	0.5 mV/m (54 dBu).

(2) Commercial Class B1 FM Stations (Protected Contour: 0.7 mV/m)

Frequency separation	Interference contour of proposed translator station	Protected contour of commercial Class B1 station
Co-channel	0.07 mV/m (37 dBu)	0.7 mV/m (57 dBu).
200 kHz	0.35 mV/m (51 dBu)	0.7 mV/m (57 dBu).
400 kHz	7.00 mV/m (77 dBu)	0.7 mV/m (57 dBu).
600 kHz	70.0 mV/m (97 dBu)	0.7 mV/m (57 dBu).

(3) All Other Classes of FM Stations (Protected Contour: 1 mV/m

Frequency separation	Interference contour of proposed translator station	Protected contour of any other station
Co-channel	0.1 mV/m (40 dBu)	1 mV/m (60 dBu).
200 kHz	0.5 mV/m (54 dBu)	1 mV/m (60 dBu).
400 kHz	10 mV/m (80 dBu)	1 mV/m (60 dBu).
600 kHz	100 mV/m (100 dBu)	1 mV/m (60 dBu).

(b) The following standards must be used to compute the distances to the pertinent contours:

(1) The distances to the protected contours are computed using Figure 1 of § 73.333 [F(50,50) curves] of this chapter.

(2) The distances to the interference contours are computed using Figure 1a of § 73.333 [F(50,10) curves] of this chapter. In the event that the distance to the contour is below 16 kilometers (approximately 10 miles), and therefore not covered by Figure 1a, curves in Figure 1 must be used.

(3) The effective radiated power (ERP) to be used is the maximum ERP of the main radiated lobe in the pertinent azimuthal direction. If the transmitting antenna is not horizontally polarized only, either the vertical component or the horizontal component of the ERP should be used, whichever is greater in the pertinent azimuthal direction.

(4) The antenna height to be used is the height of the radiation center above the average terrain along each pertinent radial, determined in accordance with § 73.313(d) of this chapter.

(c) An application for a change (other than a change in channel) in the authorized facilities of an FM translator station will be accepted even though overlap of field strength contours would occur with another station in an area where such overlap does not already exist, if:

(1) The total area of overlap with that station would not be increased:

(2) The area of overlap with any other station would not increase;

(3) The area of overlap does not move significantly closer to the station receiving the overlap; and,

(4) No area of overlap would be created with any station with which the overlap does not now exist.

(d) The provisions of this section concerning prohibited overlap will not apply where the area of such overlap lies entirely over water. In addition, an application otherwise precluded by this section will be accepted if it can be demonstrated that no actual interference will occur due to intervening terrain, lack of population or such other factors as may be applicable.

(e) The provisions of this section will not apply to overlap between a proposed fill-in FM translator station and its primary station operating on a first, second or third adjacent channel, *provided* That such operation may not result in interference to the primary station within its principal community.

(f) An application for an FM translator station will not be accepted for filing even though the proposed operation would not involve overlap of field strength contours with any other station, as set forth in paragraph (a) of this section, if the predicted 1 mV/m field strength contour of the FM translator station will overlap a populated area already receiving a regularly used, off-the-air signal of any authorized co-channel, first, second or third adjacent channel broadcast station, including Class D (secondary) noncommercial educational FM stations and grant of the authorization will result in interference to the reception of such signal.

(g) An application for an FM translator station specifying a channel that is separated by 53 or 54 channels from the channel of an FM radio broadcast station will not be accepted for filing if it fails to meet the required separation distance set out in § 73.207 of this chapter. For purposes of determining compliance with § 73.207 of this chapter, translator stations will be treated as Class A stations; provided, however, that translator stations operating with 10 watts or less ERP will be treated as Class D stations and will not be subject to intermediate frequency separation requirements.

(h) An application for an FM translator station will not be accepted for filing if it specifies a location within 320 kilometers (approximately 199 miles) of either the Canadian or Mexican borders and it does not comply with § 74.1235(d) of this part.

(i) FM booster stations shall be subject to the requirement that the signal of any first adjacent channel station must exceed the signal of the booster station by 6 dB at all points within the protected contour of any first adjacent channel station, except that in the case of FM stations on adjacent channels at spacings that do not meet the minimum distance separations specified in § 73.207 of this chapter, the signal of any first adjacent channel station must exceed the signal of the booster by 6 dB at any point within the predicted interference free contour of the adjacent channel station.

(j) FM translator stations authorized prior to March 1, 1991 with facilities that do not comply with the predicted interference protection provisions of this section, may continue to operate, *provided* That operation is in conformance in § 74.1203 of this part regarding actual interference. Applications to modify such FM translator stations must specify facilities that comply with the provisions of this section.

30. A new § 74.1205 is added to read as follows:

§ 74.1205 Protection of channel 6 TV broadcast stations.

(a) An application for a construction permit for new or modified facilities for a noncommercial educational FM translator station operating on Channels 201–220 must include a showing that demonstrates compliance with paragraph (b), (c) or (d) of this section if it is within the following distances of a TV broadcast station which is authorized to operate on Channel 6.

FM Channel	Distance (kilometers)
201	148
202	146
203	143
204	141
205	140
206	137
207	135
208	135
209	135
210	135
211	135
212	135
213	135
214	134
215	134
216	133
217	133
218	132
219	132
220	131

(b) *Collocated stations.* An application for a noncommercial educational FM translator station operating on Channels 201–220 and located at 0.4 kilometer (approximately 0.25 mile) or less from a TV Channel 6 station will be accepted if it includes a certification that the applicant has coordinated its antenna with the affected TV station.

(c) *Contour overlap.* Except as provided in paragraph (b) of this section, an application for a noncommercial educational FM translator station operating on Channels 201–220 will not be accepted if the proposed operation would involve overlap of its interference field strength contour with any TV Channel 6 station's Grade B contour, as set forth below.

(1) The distances to the TV Channel 6 station Grade B (47 dBu) field strength contour will be predicted according to the procedures specified in § 73.684 of this chapter, using the F(50,50) curves in § 73.699, Figure 9 of this chapter.

(2) The distances to the applicable noncommercial educational FM translator interference contour will be predicted according to the procedures specified in § 74.1204(b) of this part.

(3) The applicable noncommercial educational FM translator interference contours are as follows:

FM channel	Interference Contour F(50,10) curves (dBu)
201	54
202	56
203	59
204	62
205	64
206	69
207	73
208	73
209	73
210	73
211	73
212	74
213	75
214	77
215	78
216	80
217	81
218	85
219	88
220	90

(d) FM translator stations authorized prior to March 1, 1991 with facilities that do not comply with the predicted interference protection provisions of this section, may continue to operate, *provided* That operation is in conformance with § 74.1203 of this part regarding actual interference. Applications to modify such FM translator stations must specify facilities that comply with the provisions of this section.

31. Section 74.1231 is amended by revising paragraph (b) and adding an accompanying Note to (b), revising paragraphs (c), (e), (g), and (h), and an accompanying Note to (h), and removing paragraph (i) to read as follows:

§ 74.1231 Purpose and permissible service.

* * * * *

(b) An FM translator may be used for the purpose of retransmitting the signals of a primary FM radio broadcast station or another translator station which have been received directly through space, converted, and suitably amplified. However, a commercial FM translator providing fill-in service may use any terrestrial facilities to receive the signal that is being rebroadcast. An FM booster station or a noncommercial educational FM translator station operating on a reserved channel (Channel 201–220) and owned and operated by the licensee of the primary noncommercial educational FM station it rebroadcasts may use alternative signal delivery means, including, but not limited to, satellite and terrestrial microwave facilities. *Provided, however,* That an applicant for a noncommercial educational FM translator station operating on a reserved channel (Channel 201–220) and owned and operated by the licensee of the primary noncommercial educational FM station it rebroadcasts complies with either paragraph (b)(1) or (b)(2) of this section:

(1) The applicant demonstrates that:

(i) The transmitter site of the proposed FM translator station is within 80 kilometers of the predicted 1 mV/m contour of the primary station to be rebroadcast; or,

(ii) The transmitter site of the proposed FM translator station is more than 160 kilometers from the transmitter site of any authorized full service noncommercial educational FM station; or,

(iii) The application is mutually exclusive with an application containing the showing as required by § 74.1231(b)(2) (i) or (ii) of this section; or,

(iv) The application is filed after October 1, 1992.

(2) If the transmitter site of the proposed FM translator station is more than 80 kilometers from the predicted 1 mV/m contour of the primary station to be rebroadcast or is within 160 kilometers of the transmitter site of any authorized full service noncommercial educational FM station, the applicant must show that:

(i) An alternative frequency can be used at the same site as the proposed FM translator's transmitter location and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour; or,

(ii) An alternative frequency can be used at a different site and can provide signal coverage to the same area encompassed by the applicant's proposed 1 mV/m contour.

Note: For paragraphs 74.1231(b) and 74.1231(h) of this section, auxiliary intercity relay station frequencies may be used to deliver signals to FM translator and booster stations on a secondary basis only. Such use shall not interfere with or otherwise preclude use of these frequencies for transmitting aural programming between the studio and transmitter location of a broadcast station, or between broadcast stations, as provided in paragraphs 74.531 (a) and (b) of this part. Prior to filing an application for an auxiliary intercity relay microwave frequency, the applicant shall notify the local frequency coordination committee, or, in the absence of a local frequency coordination committee, any licensees assigned the use of the proposed operating frequency in the intended location or area of operation.

(c) The transmissions of each FM translator or booster station shall be intended only for direct reception by the general public. An FM translator or booster shall not be operated solely for the purpose of relaying signals to one or more fixed received points for

retransmission, distribution, or further relaying in order to establish a point-to-point FM radio relay system.

* * * * *

(e) An FM translator shall not deliberately retransmit the signals of any station other than the station it is authorized to retransmit. Precautions shall be taken to avoid unintentional retransmission of such other signals.

* * * * *

(g) The aural material transmitted as permitted in paragraph (f) of this section shall be limited to emergency warnings of imminent danger and to seeking or acknowledging financial support deemed necessary to the continued operation of the translator. Originations concerning financial support are limited to a total of 30 seconds an hour. Within this limitation the length of any particular announcement will be left to the discretion of the translator station licensee. Solicitations of contributions shall be limited to the defrayal of the costs of installation, operation and maintenance of the translator or acknowledgements of financial support for those purposes. Such acknowledgements may include identification of the contributors, the size or nature of the contributions and advertising messages of contributors. Emergency transmissions shall be no longer or more frequent than necessary to protect life and property.

(h) FM broadcast booster stations provide a means whereby the licensee of an FM broadcast station may provide service to areas in any region within the primary station's predicted, authorized service contours. An FM broadcast booster station is authorized to retransmit only the signals of its primary station which have been received directly through space and suitably amplified, or received by alternative signal delivery means including, but not limited to, satellite and terrestrial microwave facilities. The FM booster station shall not retransmit the signals of any other station nor make independent transmissions, except that locally generated signals may be used to excite the booster apparatus for the purpose of conducting tests and measurements essential to the proper installation and maintenance of the apparatus.

Note: In the case of an FM broadcast station authorized with facilities in excess of those specified by § 73.211 of this chapter, an FM booster station will only be authorized within the protected contour of the class of station being rebroadcast as predicted on the basis of the maximum powers and heights set forth in that section for the applicable class of FM broadcast station concerned.

32. Section 74.1232 is amended by revising paragraph (b) and adding a Note to (b), by revising paragraph (d), removing the notes following paragraph (d), by redesignating paragraphs (e) through (g) as paragraphs (f) through (h), revising redesignated paragraphs (f) through (h), and adding new paragraph (e) to read as follows:

§ 74.1232 Eligibility and licensing requirements.

* * * * *

(b) More than one FM translator may be licensed to the same applicant, whether or not such translators serve substantially the same area, upon an appropriate showing of technical need for such additional stations. FM translators are not counted as FM stations for the purpose of § 73.3555 of this chapter concerning multiple ownership.

Note: As used in this section need refers to the quality of the signal received and not to the programming content, format, or transmission needs of an area.

* * * * *

(d) An authorization for an FM translator whose coverage contour extends beyond the protected contour of the commercial primary station will not be granted to the licensee or permittee of a commercial FM radio broadcast station. Similarly, such authorization will not be granted to any person or entity having any interest whatsoever, or any connection with a primary FM station. Interested and connected parties extend to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members and business associates. For the purposes of this paragraph, the protected contour of the primary station shall be defined as follows: the predicted 0.5mV/m contour for commercial Class B stations, the predicted 0.7 mV/m contour for commercial Class B1 stations and the predicted 1 mV/m field strength contour for all other FM radio broadcast stations. The contours shall be as predicted in accordance with § 73.313(a) through (d) of this chapter. In the case of an FM radio broadcast station authorized with facilities in excess of those specified by § 73.211 of this chapter, a co-owned commercial FM translator will only be authorized within the protected contour of the class of station being rebroadcast, as predicted on the basis of the maximum powers and heights set forth in that section for the applicable class of FM broadcast station concerned. An FM translator station in operation prior to March 1, 1991, which is owned by a commercial FM (primary) station and whose coverage contour extends beyond the protected contour of the primary station, may continue to be owned by such primary station until March 1, 1994. Thereafter, any such FM translator station must be owned by independent parties.

(e) An FM translator station whose coverage contour goes beyond the protected contour of the commercial primary station shall not receive any support, before or after construction, either directly or indirectly, from the commercial primary FM radio broadcast station. Such support also may not be received from any person or entity having any interest whatsoever, or any connection with the primary FM station. Interested and connected parties extend to group owners, corporate parents, shareholders, officers, directors, employees, general and limited partners, family members and business associates. Such an FM translator station may, however, receive technical assistance from the primary station to the extent of installing or repairing equipment or making adjustments to equipment to assure compliance with the terms of the translator station's construction permit and license. FM translator stations in operation prior to March 1, 1991 may continue to receive contributions or support from the commercial primary station for the operation and maintenance of the translator station until March, 1, 1994. Thereafter, any such FM translator station shall be subject to the prohibitions on support contained in this section.

(f) An FM broadcast booster station will be authorized only to the licensee or permittee of the FM radio broadcast station whose signals the booster station will retransmit, to serve areas within the protected contour of the primary station, subject to Note, § 74.1231(h) of this part.

(g) No numerical limit is placed upon the number of FM booster stations which may be licensed to a single licensee. A separate application is required for each FM booster station. FM broadcast booster stations are not counted as FM broadcast stations for the purposes of § 73.5555 of this chapter concerning multiple ownership.

(h) Any authorization for an FM translator station issued to an applicant described in paragraphs (d) and (e) of this section will be issued subject to the condition that it may be terminated at any time, upon not less than sixty (60) days written notice, where the circumstances in the community or area served are so altered as to have prohibited grant of the application had

such circumstances existed at the time of its filing.

33. A new § 74.1233 is added to read as follows:

§ 74.1233 Processing FM translator and booster station applications.

(a) Applications for FM translator and booster stations are divided into two groups:

(1) In the first group are applications for new stations or for major changes in the facilities of authorized stations. In the case of FM translator stations, a major change is any change in frequency (output channel), or change (only the gain should be included in determining amount of change) or increase (but not decrease) in area to be served greater than ten percent of the previously authorized 1 mV/m contour. All other changes will be considered minor. All major changes are subject to the provisions of §§ 73.3580 and 1.1104 of this chapter pertaining to major changes.

(2) In the second group are applications for licenses and all other changes in the facilities of the authorized station.

(b) Applications for FM translator and booster stations will be processed as nearly as possible in the order in which they are filed. Such applications will be placed in the processing line in numerical sequence, and will be drawn by the staff for study, the lowest file number first. In order that those applications which are entitled to be grouped for processing may be fixed prior to the time processing of the earliest filed application is begun, the FCC will periodically release a Public Notice listing applications which have been accepted for filing and announcing a date (not less than 30 days after publication) on which the listed applications will be considered available and ready for processing and by which all mutually exclusive applications and/or petitions to deny the listed applications must be filed.

(c) In the case of an application for an instrument of authorization, other than a license pursuant to a construction permit, grant will be based on the application, the pleadings filed, and such other matters that may be officially noticed. Before a grant can be made it must be determined that:

(1) There is not pending a mutually exclusive application filed in accordance with paragraph (b) of this section.

(2) The applicant is legally, technically, financially and otherwise qualified;

(3) The applicant is not in violation of any provisions of law, the FCC rules, or established policies of the FCC; and

(4) A grant of the application would otherwise serve the public interest, convenience and necessity.

(d) Applications for FM translator stations proposing to provide fill-in service (within the primary station's protected contour) of the commonly owned primary station will be given priority over all other applications.

(e) Where applications for FM translator stations are mutually exclusive and do not involve a proposal to provide fill-in service of a commonly owned primary station, the FCC may stipulate different frequencies as necessary for the applicants.

(f) Where there are no available frequencies to substitute for a mutually exclusive application, the FCC will base its decision on the following priorities: (1) First full-time aural services; (2) second full-time aural services; and (3) other public interest matters including, but not limited to the number of aural services received in the proposed service area, the need for or lack of public radio service, and other matters such as the relative size of the proposed communities and their growth rate.

(g) Where the procedures in paragraph (d), (e) and (f) of this section fail to resolve the mutual exclusivity, the applications will be processed on a first-come-first-served basis.

34. Section 74.1235 is revised to read as follows:

§ 74.1235 Power limitations and antenna systems.

(a) An application for an FM translator station filed by the licensee or permittee of the primary station to provide fill-in service within the primary station's coverage area will not be accepted for filing if it specifies an effective radiated power (ERP) which exceeds 250 watts.

(b) An application for an FM translator station, other than one for fill-in service which is covered in paragraph (a) of this section, will not be accepted for filing if it specifies an effective radiated power (ERP) which exceeds the maximum ERP (MERP) value determined in accordance with this paragraph. The antenna height above average terrain (HAAT) shall be determined in accordance with § 73.313(d) of this chapter for each of 12 distinct radials, with each radial spaced 30 degrees apart and with the bearing of the first radial bearing true north. Each raidal HAAT value shall be rounded to the nearest meter. For each of the 12 radial directions, the MERP is the value corresponding to the calculated HAAT in the following tables that is appropriate for the location of the translator. For an application specifying a nondirectional transmitting antenna, the specified ERP must not exceed the smallest of the 12 MERP's. For an application specifying a directional transmitting antenna, the ERP in each azimuthal direction must not exceed the MERP for the closest of the 12 radial directions.

(1) For FM translators located east of the Mississippi River or in Zone I–A as described in § 73.205(b) of this chapter:

Radial HAAT (meters)	Maximum ERP (MERP in watts)
Less than or equal to 32	250
33 to 39	170
40 to 47	120
48 to 57	80
58 to 68	55
69 to 82	38
83 to 96	27
97 to 115	19
116 to 140	13
Greater than or equal to 141	10

(2) For FM translators located in all other areas:

Radial HAAT (meters)	Maximum ERP (MERP in watts)
Less than or equal to 107	250
108 to 118	205
119 to 130	170
131 to 144	140
145 to 157	115
158 to 173	92
174 to 192	75
193 to 212	62
213 to 235	50
236 to 260	41
261 to 285	34
286 to 310	28
311 to 345	23
346 to 380	19
381 to 425	15.5
426 to 480	13
481 to 540	11
Greater than or equal to 541	10

(c) The effective radiated power of FM booster stations shall be limited such that the predicted service contour of such stations computed in accordance with § 73.313, paragraphs (a) through (d) of this chapter, may not extend beyond the area covered by the predicted service contour of the primary station that they rebroadcast and that such FM booster effective radiated power may not exceed 20 percent of the maximum allowable effective radiated power for the primary station's class.

(d) Applications for FM translator stations located within 320 km of the Canadian border will not be accepted if they specify more than 50 watts effective radiated power in any direction or have a 34 dBu interference contour, calculated in accordance with

§ 74.1204 of this part, that exceeds 32 km. FM translator stations located within 320 kilometers of the Mexican border must be separated from Mexican allotments and assignments in accordance with § 73.207(b)(3) of this chapter and are limited to a transmitter power output of 10 watts or less. For purposes of compliance with that section, FM translators will be considered as Class D FM stations.

(e) In no event shall a station authorized under this subpart be operated with a transmitter power output (TPO) in excess of the transmitter type-accepted rating. A station authorized under this subpart for a TPO that is less than its transmitter type-accepted rating shall determine its TPO in accordance with § 73.267 of this chapter and its TPO shall not be more than 105 percent of the authorized TPO.

(f) Composite antennas and antenna arrays may be used where the total ERP does not exceed the maximum determined in accordance with paragraphs (a), (b) or (c) of this section.

(g) Either horizontal, vertical, circular or elliptical polarization may be used provided that the supplemental vertically polarized ERP required for circular or elliptical polarization does not exceed the ERP otherwise authorized. Either clockwise or counterclockwise rotation may be used. Separate transmitting antennas are permitted if both horizontal and vertical polarization is to be provided.

(h) All applications must comply with § 73.316, paragraphs (d) through (h) of this chapter.

(i) An application that specifies use of a directional antenna must comply with § 73.316, paragraphs (c)(1) through (c)(3) of this chapter. Prior to issuance of a license, the applicant must: (1) Certify that the antenna is mounted in accordance with the specific instructions provided by the antenna manufacturer; and (2) certify that the antenna is mounted in the proper orientation. In instances where a directional antenna is proposed for the purpose of providing protection to another facility, a condition may be included in the construction permit requiring that before program tests are authorized, a permittee: (1) Must submit the results of a complete proof-of-performance to establish the horizontal plane radiation patterns for both the horizontally and vertically polarized radiation components; and, (2) must certify that the relative field strength of neither the measured horizontally nor vertically polarized radiation component shall exceed at any azimuth the value indicated on the composite radiation pattern authorized by the construction permit.

(j) FM translator stations authorized prior to March 1, 1991, with facilities that do not comply with the ERP limitation of paragraph (a) or (b) of this section, as appropriate, may continue to operate, *provided* That operation is in conformance in § 74.1203 of this part regarding interference. Applications to modify such FM translator stations must specify facilities that comply with paragraph (a) or (b) of this section, as appropriate.

35. Section 74.1236 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 74.1236 Emission and bandwidth.

(a) The license of a station authorized under this subpart allows the transmission of either F3 or other types of frequency modulation (see § 2.201 of this chapter) upon a showing of need, as long as the emission complies with the following:

* * * * *

36. Section 74.1237 is amended by revising paragraph (d) to read as follows:

§ 74.1237 Antenna location.

* * * * *

(d) The transmitting antenna of a commonly owned FM translator or booster station shall be located within the protected contour of its FM station, subject to Note, § 74.1231(h) of this part.

37. Section 74.1250 is revised to read as follows:

§ 74.1250 Transmitters and associated equipment.

(a) FM translator and booster transmitting apparatus, and exciters employed to provide a locally generated and modulated input signal to translator and booster equipment, used by stations authorized under the provisions of this subpart must be type accepted or notified upon the request of any manufacturer of transmitters in accordance with this section and subpart J of part 2 of this chapter. If acceptable, the apparatus will be included in the FCC's "Radio Equipment List, Equipment Acceptable for Licensing." In addition, FM translator and booster stations may use FM broadcast transmitting apparatus notified or type accepted under the provisions of part 73 of this chapter.

(b) Transmitting antennas, antennas used to receive signals to be rebroadcast, and transmission lines are not subject to the requirement for type acceptance.

(c) The following requirements must be met before translator, booster or exciter equipment will be notified or type accepted in accordance with this section:

(1) Radio frequency harmonics and spurious emissions must conform with the specifications of § 74.1236 of this part.

(2) The local oscillator or oscillators, including those in an exciter employed to provide a locally generated and modulated input signal to a translator or booster, when subjected to variations in ambient temperature between minus 30 degrees and plus 50 degrees centigrade, and in primary supply voltage between 85 percent and 115 percent of the rated value, shall be sufficiently stable to maintain the output center frequency within plus or minus 0.005 percent of the operating frequency and to enable conformance with the specifications of § 74.1261 of this part.

(3) The apparatus shall contain automatic circuits to maintain the power output in conformance with § 74.1235(e) of this part. If provision is included for adjusting the power output, then the normal operating constants shall be specified for operation at both the rated power output and the minimum power output at which the apparatus is designed to operate. The apparatus shall be equipped with suitable meters or meter jacks so that the operating constants can be measured while the apparatus is in operation.

(4) Apparatus rated for transmitter power output of more than 1 watt shall be equipped with automatic circuits to place it in a nonradiating condition when no input signal is being received in conformance with § 74.1263(b) of this part and to transmit the call sign in conformance with § 74.1283(c)(2) of this part.

(5) For exciters, automatic means shall be provided for limiting the level of the audio frequency voltage applied to the modulator to ensure that a frequency swing in excess of 75 kHz will not occur under any condition of the modulation.

38. Section 74.1251 is amended by revising the section heading, revising paragraphs (b) introductory text, (b)(7), (b)(8), removing paragraph (b)(9), and adding paragraph (c) to read as follows:

§ 74.1251 Technical and equipment modifications.

* * * * *

(b) Formal application on FCC Form

349 is required of all permittees and licensees for any of the following changes:

* * * * *

(7) Any change of authorized effective radiated power.

(8) Any change in area being served.

(c) Changes in the primary FM station being retransmitted must be submitted to the FCC in writing.

39. Section 74.1261 is revised to read as follows:

§ 74.1261 Frequency tolerance.

(a) The licensee of an FM translator or booster station with an authorized transmitter power output of 10 watts or less shall maintain the center frequency at the output of the translator within 0.01 percent of its assigned frequency.

(b) The licensee of an FM translator or booster station with an authorized transmitter power output greater than 10 watts shall maintain the center frequency at the output of the translator or booster station in compliance with the requirement of § 73.1545(b)(1) of this chapter.

40. Section 74.1263 is revised to read as follows:

§ 74.1263 Time of operation.

(a) The licensee of an FM translator or booster station is not required to adhere to any regular schedule of operation. However, the licensee of an FM translator or booster station is expected to provide a dependable service to the extent that such is within its control and to avoid unwarranted interruptions to the service provided.

(b) An FM translator or booster station rebroadcasting the signal of a primary station shall not be permitted to radiate during extended periods when signals of the primary station are not being retransmitted.

(c) The licensee of an FM translator or booster station must notify the Commission of its intent to discontinue operations for 30 or more consecutive days. Notification must be made within 10 days of the time the station first discontinues operation and Commission approval must be obtained for such discontinued operation to continue beyond 30 days. The notification shall specify the causes of the discontinued operation and a projected date for the station's return to operation, substantiated by supporting documentation. If the projected date for the station's return to operation cannot be met, another notification and further request for discontinued operations must be submitted in conformance with the requirements of this section. Within 48 hours of the station's return to operation, the licensee must notify the Commission of such fact. All notification must be in writing.

(d) The licensee of an FM translator or booster station must notify the Commission of its intent to permanently discontinue operations at least two days before operation is discontinued. Immediately after discontinuance of operation, the licensee shall forward the station license and other instruments of authorization to the FCC, Washington, DC for cancellation.

(e) Failure of an FM translator or booster station to operate for a period of 30 or more consecutive days, except for causes beyond the control of the licensee or as authorized pursuant to paragraph (c) of this section, shall be deemed evidence of permanent discontinuance of operation and the license of the station may be canceled at the discretion of the Commission.

41. Section 74.1269 is revised to read as follows:

§ 74.1269 Copies of rules.

The licensee or permittee of a station authorized under this subpart shall have a current copy of Volumes I (parts 0, 1, 2 and 17) and III (parts 73 & 74) of the Commission's Rules and shall make the same available for use by the operator in charge. Each such licensee or permittee shall be familiar with those rules relating to stations authorized under this subpart. Copies of the Commission's Rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

42. Section 74.1283 is revised to read as follows:

§ 74.1283 Station identification.

(a) The call sign of an FM broadcast translator station will consist of the initial letter K or W followed by the channel number assigned to the translator and two letters. The use of the initial letter will generally conform to the pattern used in the broadcast service. The two letter combinations following the channel number will be assigned in order and requests for the assignment of particular combinations of letters will not be considered.

(b) The call sign of an FM booster station will consist of the call sign of the primary station followed by the letters "FM" and the number of the booster station being authorized, e.g., WFCCFM–1.

(c) A translator station authorized under this subpart shall be identified by one of the following methods.

(1) By arranging for the primary station whose station is being rebroadcast to identify the translator station by call sign and location. Three such identifications shall be made during each day: once between 7 a.m. and 9 a.m., once between 12:55 p.m. and 1:05 p.m. and once between 4 p.m. and 6 p.m. Stations which do not begin their broadcast before 9 a.m. shall make their first identification at the beginning of their broadcast days. The licensee of an FM translator whose station identification is made by the primary station must arrange for the primary station licensee to keep in its file, and to make available to FCC personnel, the translator's call letters and location, giving the name, address and telephone number of the licensee or his service representative to be contacted in the event of malfunction of the translator. It shall be the responsibility of the translator licensee to furnish current information to the primary station licensee for this purpose.

(2) By transmitting the call sign in International Morse Code at least once each hour. Transmitters of FM broadcast translator stations of more than 1 watt transmitter output power must be equipped with an automatic keying device that will transmit the call sign at least once each hour, unless there is in effect a firm agreement with the translator's primary station as provided in § 74.1283(c)(1) of this section. Transmission of the call sign can be accomplished by:

(i) Frequency shifting key; the carrier shift shall not be less than 5 kHz nor greater than 25 kHz.

(ii) Amplitude modulation of the FM carrier of at least 30 percent modulation. The audio frequency tone use shall not be within 200 hertz of the Emergency Broadcast System Attention signal alerting frequencies.

(d) FM broadcast booster stations shall be identified by their primary stations, by the broadcasting of the primary station's call signs and location, in accordance with the provisions of § 73.1201 of this chapter.

(e) The Commission may, in its discretion, specify other methods of identification.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–28769 Filed 12–7–90; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 503 and 552

[APD 2800.12A, CHGE 16]

General Services Administration Acquisition Regulation; Procurement Integrity

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) (APD 2800.12A) chapter 5, is amended to revise section 503.104–5 to make it clear that the GSA Form 3617, Record of Authorization of Access to Proprietary or Source Section Information, is available for use in complying with FAR 3.104–5(d)(2); to revise section 503.104–7 to make it clear that employees are presumed to know if they are procurement officials and that employees who are procurement officials at the same time of their departure from Government service are subject to postemployment restrictions regardless of the dollar value of the procurement; and to revise 552.203–72 to reflect the further suspension of subsection 27(f) of the OFPP Act by section 815 of the FY 1991 DoD Authorization Act, Public Law 101–510.

EFFECTIVE DATE: December 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Background

On November 5, 1990, section 27 of the Office of Federal Procurement Policy Act was amended by section 815 of the FY 1991 DoD Authorization Act, Public Law 101–510. Section 815 suspended the postemployment restrictions contained in subsection 27(f) of the Act during the period beginning December 1, 1990, and ending May 31, 1991. Section 815 also provides that contractors need only obtain one certification required by subsection 27(e)(1)(B) from individuals required to certify under that subsection and that this certification be obtained at the earliest possible date after the beginning of the individual's employment or association with that contractor. Federal Acquisition Circular (FAC) 90–2 amended the Federal Acquisition Regulation (FAR) to implement section 815 of Public Law 101–510. In addition, the Office of Federal Procurement Policy, Office of Management and Budget, recommended that certain changes be made in section 503.104–7 of the GSAR in order to clarify the requirements related to the postemployment restrictions applicable to Government employees serving as procurement officials and certifications required from procurement officials leaving Government service. This change revises the GSAR to conform to the FAR as amended by FAC 90–2 and incorporates OFPP's recommended changes.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291 The exemption applies to this rule

C. Regulatory Flexibility Act

This rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because it implements the FAR by providing agency procedures for implementing the procurement integrity provisions at FAR subpart 3.1 Therefore, a Regulatory Flexibility Analysis has not been prepared.

D. Paperwork Reduction Act

This rule contains information collection requirements which implement the provisions of Public Law 100–679, the Office of Federal Procurement Policy Act Amendments of 1988, as amended by section 814 of Public Law 100–189 and section 815 of Public Law 101–510. The referenced public laws require contractors to certify, prior to execution of each contract, modification or extension in excess of $100,000, with respect to conduct prohibited by the Act in contracts for the acquisition of leasehold interests in real property. Because the FAR does not apply to acquisitions of leasehold interests in real property a Certificate of Procurement Integrity substantially the same as the FAR Certificate of Procurement Integrity is provided of use in such acquisitions in this rule The information collections have been approved by OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq) and assigned control number 3090–0247. The title of collection is under 48 CFR part 503—Procurement Integrity. The estimated annual burden for this collection is 1,688 hours. This is based on an estimated average burden hour per response of approximately 2 hours, 1 response per respondent, and an estimated 300 respondents per year. Comments on the information collection requirement may be directed to the Office of Information and Regulatory Affairs of OMB, Attention. Desk Officer for GSA, Washington, DC 20503.

List of Subjects in 48 CFR Parts 503 and 552.

Government procurement.

1 The authority citation for 48 CFR parts 503 and 552 continues to read as follows:

Authority: 40 U S.C. 486(c).

PART 503—[AMENDED]

2. Section 503.104–5 is amended by revising paragraph (c)(4) to read as follows:

503.104–5 Disclosure, protection, and marking of proprietary and source selection information.

* * * * *

(c) * * *

(4) The GSA Form 3617, Record of Authorization of Access to Proprietary or Source Selection Information, may be used to comply with the requirement at FAR 3.104–5(d)(2) to maintain the list of individuals authorized access to proprietary or source selection information at the contracting activity.

* * * * *

3. Section 503.104–7 is amended by revising paragraph (a) to read as follows

503.104–7 Postemployment restriction applicable to Government officers and employees serving as procurement officials and certifications required from procurement officials leaving Government service.

(a) The supervisor of each departing GSA employee shall remind the departing employee that:

(1) He/she is presumed to know if he/she is a procurement official (see FAR 3.104–8(b)(2));

(2) If he/she is a procurement official at the time of departure, he/she is subject to certain postemployment restrictions (see FAR 3.104–7), and

(3) If he/she leaves the Government during the conduct of a procurement expected to result in a contract or modification in excess of $100,000, he/she must certify to the contracting officer that he/she understands the continuing obligation, during the conduct of the procurement, not to disclose proprietary or source selection information related to the procurement

A procurement is not considered complete until all actions associated with the award or modification of the procurement have been taken. A departing employee must submit the certification to the contracting officer if

he/she participated, in a contract or modification expected to exceed $100,000 that has not been completed, even though his/her duties may be complete at the time of departure. The GSA Form 3608, Procurement Integrity Certification of Departing GSA Procurement Officials, must be used by departing employees to make the required certification to contracting officers. The departing employee may list all contracts or modifications for which he/she is a procurement official on the GSA Form 3608. The original or a copy of the form must be submitted to the contracting officer for each contract or modificaiton listed. Each copy must be annotated to identify the contracting officer who received the original certification and the contract number of the contract that the contracting officer is responsible for so that the contract file with the original certification can be retrieved, if necessary.

* * * * *

PART 552—[AMENDED]

4. Section 552.203–72 is amended in the provision by revising paragraph (b)(2); by revising the asterisked footnote to paragraph (b)(1) and moving it to precede the concluding paragraph of (b)(4); and by revising pragraph (e) to read as follows:

552.203–72 Requirement for Certificate of Procurement Integrity.

* * * * *

Requirement for Certificate of Procurement Integrity (November 1990)

* * * * *

(b) * * *

(1) * * *

(2) As required by subsection 27(e)(1)(B) of the Act, I further certify that, to the best of my knowledge and belief, each officer, employee, agent, representative, and consultant of *[Name of offeror]* who has participated personally and substantially in the preparation or submission of this offer has certified that he or she is familiar with, and will comply with, the requirements of subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning a violation or possible violation of subsections 27 (a), (b), and (d), or (f) of the Act, as implemented in the FAR, pertaining to this procurement.

* * * * *

* Subsection 27 (a), (b), and (d) are effective on December 1, 1990. Subsection 27(f) is effective on June 1, 1991

* * * * *

(e) In making the certification in paragraph (2) of the certificate, the officer or employee of the competing contractor responsible for the offer may rely upon a onetime certification from each individual required to submit a certification to the competing Contractor, supplemented by periodic training. These certifications shall be obtained at the earliest possible date after an individual required to certify begins employment or association with the contractor. If the contractor decides to rely on a certification executed prior to the suspension of section 27 (i.e., before December 1, 1989), the contractor shall ensure that an individual who has so certified is notified that section 27 has been reinstated. These certifications shall be maintained by the Contractor for 6 years from the date of a certifying employee's employment with the company ends or, for an agent, representative, or consultant, 6 years from the date such individual ceases to act on behalf of the Contracator.

Dated: December 4, 1990.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy

[FR Doc. 90–28851 Filed 12–7–90; 8:45am]

BILLING CODE 6820–61–M

Proposed Rules

Federal Register
Vol. 55, No. 237
Monday December 10, 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.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 15, 16 and 19

Changes in Reporting Levels for Large Trader Reports Option Monthend Reporting by Contract Markets Reporting Cash Positions in the Grains (Including Soybeans) and Cotton

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission has completed a review of its reporting requirements forth in parts 15, 16 and 19 of the regulations under the Commodity Exchange Act ("Act"). As a result of this review, the Commission is proposing changes to a number of its rules. These proposed changes affect the following: reporting levels at which FCMs, clearing members, foreign brokers and traders must file large trader reports; option month-end reports filed by contract markets; and cash position reports.

DATES: Comments must be received by February 8, 1991.

ADDRESSES: Comments should be sent to the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, and should make reference to "large trader reports."

FOR FURTHER INFORMATION CONTACT: Lamont L. Reese, Division of Economic Analysis, 2033 K Street NW., Washington, DC 20581, Telephone (202) 254–3310.

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Notice

Public reporting burden for this collection of information has been estimated to average .1496 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Joe F. Mink, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581; and to Office of Management and Budget, Paperwork Reduction Project (3038–0009), Washington, DC 20503.

II. Background

The Commission has completed a review of its reporting requirements set forth in parts 15, 16 and 19 of the regulations under the Commodity Exchange Act ("Act"). As a result of this review, the Commission is proposing changes to a number of its rules. These proposed changes affect the following: reporting levels at which FCMs, clearing members, foreign brokers and traders must file large trader reports; option month-end reports filed by contract markets; and cash position reports.

Reporting Levels

Reporting levels are set in futures to ensure that the Commission receives adequate information to carry out its market surveillance programs. These are designed to detect and prevent market congestion and price manipulation and to enforce speculative position limits. In addition, the information serves as a basis to gauge overall hedging and speculative uses of the futures markets, use of the markets by foreign participants and other matters of public concern.

Generally, parts 17 and 18 of the regulations require reports from members of contracts markets, FCMs or foreign brokers and traders, respectively, when a trader holds a "reportable position," *i.e.*, any open position held or controlled by a trader at the close of business in any one future of a commodity traded on any one contract market that is equal to or in excess of the quantities fixed by the Commission in § 15.03 of the regulations.

Members of contract markets, FCMs and foreign brokers who carry accounts in which traders hold "reportable positions" are required to identify such accounts on a Form 102 and report on the series '01 forms any reportable positions in the account, the delivery notices issued or stopped by the account and any exchanges of futures for physicals. Traders who own or control reportable positions are required to file annually a CFTC Form 40 giving certain background information concerning their trading in commodity futures and, on call by the Commission, must submit a form 103 showing positions and transactions in the contract market specified in the call.

The Commission periodically reviews information concerning trading volume, open interest and the number and position sizes of individual traders relative to the reporting levels for each market to determine if coverage is adequate for effective market surveillance In cases where market conditions have changed, so that coverage appears to have become more than that required, the Commission may propose to raise reporting levels as part of its ongoing effort to reduce the reporting burden. In other cases, where the current reporting level appears too high for adequate coverage, the Commission may propose to lower the reporting level.

The Commission's most recent review of reporting levels indicates that the size of trading volume, open interest and positions of individual traders in futures traded on coffee, long-term U.S. Treasury notes, medium-term U.S. Treasury notes and Eurodollars enable the Commission to raise reporting levels for those commodities as follows. In coffee from 25 contracts to 50 contracts; in long-term U.S. Treasury notes from 300 contracts to 400 contracts, in medium-term U.S. Treasury notes from 25 contracts to 300 contracts; and in Eurodollars from 400 contracts to 500 contracts.

Option Monthend Reporting

The Commission has been petitioned by several exchanges under rule 13.2, 17 CFR 13.2 (1990), to repeal Commission rule 16.04, 17 CFR 16.04 (1990). That rule requires each designated contract market to submit to the Commission separate monthly reports for options on futures contracts and options on physicals detailing all open option positions held at month-end by category of commercial and noncommercial trader. The petitioners, the Coffee, Sugar and Coca Exchange, Inc., and Comex, Inc., assert in their petition that, in light of the permanent status of the Commission's rules permitting exchange-traded commodity options, it is no longer necessary to collect the information required by those reports.

The petition for repeal of rule 16.04 was supported by correspondence from the Chicago Board of Trade and the Chicago Mercantile Exchange. Additionally, the petitioners, as well as those supporting the petition, cited the cost to the exchanges to compile, edit and transmit those data to the Commission on a continuing basis as a reason for repeal of the rule.

A major tenet of the philosophy regarding the creation of the program for exchange-traded options has been to lodge with the exchanges "significantly greater self-regulatory duties and responsibilities on boards of trade than is presently the case for futures trading, particularly with respect to the protection of the public from sales practice abuses * * *." 46 FR 54500, 54502 (November 3, 1981). In keeping with this philosophy, the Commission provided under rule 16.04 that the exchanges compile monthly data on option trading that is similar to that produced by the Commission with regard to futures trading. These reports provide for the tabulation of positions, long and short, by commercial and noncommercial trader. They are made available to the public by the Commission, along with the futures-related "Commitments of Traders Reports," which are generated by the Commission. Moreover, such reports are used by the Commission from time to time to illustrate uses made of the futures and options markets to Congress and others.

The Commission initially adopted rule 16.04 as part of a broader array of reporting requirements under the pilot option program. In particular, the exchanges were also required to provide option large-trader data for surveillance and to conduct periodic market-wide surveys to ascertain the commercial usage of these markets. 17 CFR 16.02, 16.03, and 16.05 (1982). The Commission deleted the requirement to conduct surveys when it terminated the pilot option program, explaining that it had "not found it effective to * * * rely upon exchanges to conduct market-wide surveys." 51 FR 17471. However, the Commission did not amend the requirement under Commission rule 16.04 that exchanges compile month-end data relating to option positions. Rather, the Commission continued to require that the exchanges shoulder the responsibility for compiling those data. Early in the life of the option program, option large trader data could not be used as a reliable guide to indicate commercial usage of the markets since, initially, open interest in options was relatively small and relatively few traders held positions of a reportable size.[1] Moreover, the Commission, in maintaining this requirement, assumed, in part, that such option data would be similarly useful to the public as are the futures-related data and, therefore, should continue to be available.

The Commission provides the information concerning options and futures to the public on a subscription, as well as an ad hoc, basis. A review of the Commission's subscription list indicates that public demand for the option data has dwindled in recent years. Currently, the Commission has no subscribers for the options publication and relatively few requests each year for those data on specific dates or for specific markets. In terms of its own use, open interest in options has grown to the point that reliable estimates of commercial usage figures can be made using option large-trader data. In view of this and the costs to the exchanges to provide month-end data, the Commission is proposing to repeal rule 16.04. It should be noted that, as a consequence of repealing rule 16.04, data will no longer be publicly available since the Commission does not itself intend to tabulate these data. Accordingly, during the comment period, the Commission specifically invites interested parties to comment on the importance of these data, and whether these or alternative data concerning option large trader positions should continue to be available through other reports.[2]

Cash Position Reports

The Commission requires that persons owning or controlling futures positions in commodities for which the Commission has established speculative limits file reports concerning their long and short cash positions, *i.e.*, stocks of the commodities owned and the quantity of their fixed-price purchase and sale commitments, 17 CFR part 19 (1990). These commodities include the grains, the soybean complex and cotton. 17 CFR part 150 (1990). The primary purpose for these reports is to determine if the futures positions of traders that exceed the Commission's speculative limits qualify as hedging as defined in section 1.3(z) of the Commission's regulations.[3] Additionally, merchants, processors and dealers in cotton must provide information on the quantity of their "call purchases and sales." Call purchases and sales are unfixed price purchase and sales commitments transacted as a basis price referenced to a particular cotton futures delivery month.[4] Information concerning call purchases and sales is used as a basis for the Commission's weekly "Cotton on Call" report.

With the exception of merchants, dealers and processors in cotton, reporting levels for cash position reports (CFTC Forms 204 and 304) are set at the speculative limit levels defined in rule 150.2, 17 CFR 150.2 (1990). Merchants, dealers and processors in cotton must file reports at the lower levels specified in rule 15.03. This lower level for cotton is to ensure adequate coverage of call sales and purchases on the "Cotton on Call" report. At this time, the Commission is proposing amendments to part 19 which would increase the timeliness of the report, reduce the reporting burden on cotton processors and require the reporting of "equity cotton."

Commission rule 19.10 allows Forms 204 and 304 to be mailed and postmarked by midnight of the second business day and the first business day, respectively, following the week of the report. Reports that are mailed, particularly from traders in foreign locations, are not timely either for enforcing speculative position limits or for inclusion in the "Cotton on Call" report which is released on Thursdays. The development and widespread use of facsimile machines and other information transmission media would appear to offer a means to eliminate these delays.

Recently, Commission staff have encouraged firms filing Forms 204 and 304 to file via facsimile. Most firms have cooperated with this request, although a few continue to mail their reports. It does not appear that it would be

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[1] Commission rule 15.00(b)(2)(i) defines a reportable position in options as any one open contract position on any one contract market in the put option or separately in the call option of a specified option expiration date * * * which, at the close of the market on any business day equals or exceeds 25 options on futures contracts or 25 options on physicals, except as otherwise approved by the Commission. 17 CFR 15.00 (1990).

[2] Commission rule 1.37 requires that FCMs and members of contract markets record the occupation of each commodity option account and indicate whether the option customer is a commercial or noncommercial for each commodity option. The Commission is not proposing that this requirement be deleted since the Commission intends to use such codes when it is necessary to issue special calls under part 21 of its regulations.

[3] Among other things, the Commission enumerates as bona fide hedges those short futures positions that do not exceed the quantities of the commodity owned and the quantities of fixed-price purchases of the commodity and those long futures positions that do not exceed the quantities of fixed-priced sales of the commodity.

[4] For example, an unfixed price purchase may be transacted at so many cents per pound above or below the December 1990 cotton future traded on the New Your Cotton Exchange.

burdensome for such firms to either use facsimile to transmit their forms or alternatively report the information by telephone to the Commission prior to mailing the forms. In view of this, the Commission is proposing to amend rule 19.10 to require that Forms 204 and 304 be received in the appropriate Commission office on the second business day following the week of the report with the proviso that such reports may be telefaxed or the information reported by telephone to the Commission and the report mailed.[5] The Commission is specifically interested in comments on any additional burdens this may impose on traders.[6]

As noted previously, cotton merchants, dealers and processors must file CFTC Form 304 at a lower reporting level than other traders in cotton to afford adequate coverage of call purchases and sales for the Commission's weekly "Cotton On Call" report. The Commission has noted that cotton processors provide little or no information on call sales on the CFTC Form 304. Moreover, processors' call purchases are not used by the Commission in its weekly report since call purchases may duplicate information provided by merchants and dealers. Since the "Cotton on Call" report is the primary purpose for the lower reporting level for merchants, processors and dealers, the Commission is proposing to amend rules 15.01(d) and 19.00(a)(2), and the title to part 19 to require cotton processors to file reports pursuant to part 19 only if their futures position exceeds the higher levels specified in rule 150.3 rather than those specified in rule 15.02.[7]

The Commission's last proposal is to amend its rules concerning cotton cash reports to provide for the reporting of the quantity of equity in cotton held by the Commodity Credit Corporation under the provision of the Upland Cotton Program of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture (equity cotton).

This program is intended both to support the income of cotton growers and to make U.S. cotton prices competitive abroad. Cotton producers who wish to receive the program's benefits must deposit graded cotton in a licensed warehouse. A producer with cotton in the loan program may redeem the cotton, forefeit the cotton to the government, or at any time sell the equity in such cotton. Merchants who buy equity cotton commit to repaying the loan and redeeming the cotton unless the equity cotton is resold. Equity cotton is redeemed from the loan program within the duration of the loan period at the lower of the adjusted world price (AWP) or the sum of the loan rate and up to ten months' carrying charges.

So long as the AWP is higher than the loan rate plus carrying charges, a purchase of equities is in effect a fixed-price purchase because the total cost of the cotton is expected to be the loan rate plus carrying charges plus the price paid for the equities. A merchant who purchases such equities may hedge them for the same reason it is desirable to hedge any cotton purchases; if cotton prices go down, a loss will result.

The Commission notes that there has been some confusion within the cotton industry on how (or whether) holdings of equity cotton should be reported on CFTC Form 304 reports. Commission staff interviewed 47 domestic cotton merchants filing cash position reports in cotton. Thirty-two of the 47 hold or have recently held cotton equities. Of these 32, 11 reported cotton equities with their fixed-price purchases, 4 reported them with their call purchases, 3 reported them with stocks, and 15 did not report their cotton equities at all. The Commission believes that it is important that traders report their holding of equity cotton on CFTC Form 304 reports since, as noted above, equity cotton may represent a part of their hedgeable cash position. Since the hedging characteristics of a cash position in equity cotton may differ from other cash cotton positions, the information on equity cotton should be reported separately from other cash cotton positions. The Commission, therefore, is proposing to amend rule 19.02 to require the reporting of cotton equities and to revise its form 304 to allow the separate reporting of such information.[8]

III. Related Matters

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires that agencies, in proposing rules, consider the impact of those rules on small businesses. These amendments affect large traders and futures commission merchants and other similar entities such as foreign brokers and foreign traders. The Commission had defined "small entities" as used by the Commission in evaluating the impact of its rule in accordance with the RFA. 47 FR 18618–18621 (April 30, 1982).

In that statement, the Commission concluded that large traders and futures commission merchants are not considered to be small entities for purposes of the RFA. In this regard, the proposed amendments to reporting requirements fall mainly upon futures commission merchants. Similarly, foreign brokers and foreign traders report only if carrying or holding reportable, *i.e.*, large positions. Thus pursuant to section 3(a) of the RFA (5 U.S.C. 605(b)), the Chairman, on behalf of the Commission, certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities. The Commission nonetheless invites comments from any firm which believes that these rules would have a significant economic impact upon its operations.

B. Paperwwork Reduction Act

The Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. In compliance with the PRA, the Commission has submitted these proposed rules and their associated information collection requirements to the Office of Management and Budget.The burden associated with this entire collection, including this proposed rule, is as follows:

Average Burden Hours Per Response	.1496
Number of Respondents	4,088
Frequency of Response	22.46

Persons wishing to comment on the information which would be required by these proposed rules should contact Gary Waxman, Office of Management and Budget, Room 3228, NEOB, Washington, DC 20503, (202) 395–7304.

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[5] The Commission, in proposing to amend this regulation, recognizes that certain firms may require more than one business day to prepare the information. This may be particularly true for firms that must collect the information from subsidiaries.

[6] The Commission is also proposing to amend the introductory language to § 19.10 to clarify that this section does not apply to reports filed in response to special calls made under § 19.00(a)(3). Rule 19.00(a)(3) specifies that reports must be filed within one business day of receipt of the special call.

[7] The Commission is also proposing to amend rule 15.01(d) by using two paragraphs to set forth the current requirements. Proposed § 15.01(d)(1) describes persons reportable under part 19 at the levels set forth in § 150.2, and § 15.01(d)(2), those persons reportable at the levels set forth in § 15.03. The Commission is also correcting rule 15.01(d) by deleting reference to § 15.03(b). Deletion of this reference was inadvertently omitted when § 15.03(b) was previously deleted from the regulations (52 FR 38923, October 20, 1987).

[8] The Commission is also proposing corrections and clarifying amendments to rule 19.02. The corrections delete reference to §§ 19.01 through 19.04 and the sentence immediately following this reference. The above material was inadvertently retained when §§ 19.03 and 19.04 were deleted (52 FR 38923, October 20, 1987). The current proposal also changes the introductory text to § 19.02(a) to clarify the information required.

Copies of the information collection submission to OMB are available from Joe F. Mink, CFTC Clearance Officer, 2033 K Street NW., Washington, DC 20581, (202) 254–3310.

List of Subjects

17 CFR Part 15

Brokers, Reporting and recordkeeping requirements.

17 CFR Part 16

Commodity futures, Reporting and recordkeeping requirements.

17 CFR Part 19

Brokers, Commodity futures, Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Act and, in particular, sections 4g, 4i, 5 and 8a of the Act, 7 U.S.C. 6g, 6i, 7 and 12a (1990), the Commission hereby proposes to amend chapter I of title 17 of the Code of Federal Regulations as follows:

PART 15—REPORTS—GENERAL PROVISIONS

1. The authority citation for part 15 continues to read as follows:

Authority: 7 U.S.C. 2, 4, 5, 6a, 6c(a)–(d), 6f, 6g, 6i, 6k, 6m, 6n, 7, 9, 12a, 19 and 21; 5 U.S.C. 552 and 552(b).

2. Section 15.01 is proposed to be amended by revising the introductory text of paragraph (d) and adding paragraphs (d) (1) and (2) as follows:

§ 15.01 Persons required to report.

Pursuant to the provisions of the Act, the following persons shall file reports with the Commission with respect to such commodities, on such forms, at such time, and in accordance with such directions as are hereinafter set forth:

* * * * *

(d) Persons, as specified in part 19, either:

(1) Who hold or control positions for future delivery that exceed the amounts set forth in § 150.2 for the commodities enumerated in that section, any part of which constitutes bona fide hedging positions (as defined in § 1.3(z)); or

(2) Who are merchants or dealers of cotton holding or controlling positions for future delivery in cotton that equal or exceed the amount set forth in § 15.03.

3. Section 15.03 is proposed to be revised to read as follows:

§ 15.03 Quantities fixed for reporting.

The quantities for the purpose of reports filed under parts 17 and 18 of this chapter are as follows:

Commodity	Quantity
Wheat (bushels)	500,000
Corn (bushels)	500,000
Soybeans (bushels)	500,000
Oats (bushels)	300,000
Cotton (bales)	5,000
Soybean oil (contracts)	150
Soybean meal (contracts)	150
Live cattle (contracts)	100
Feeder cattle (contracts)	50
Hogs (contracts)	50
Sugar No. 11 (contracts)	200
Sugar No. 14 (contracts)	100
Cocoa (contracts)	50
Coffee (contracts)	50
Copper (contracts)	100
Gold (contracts)	200
Silver bullion (contracts)	150
Platinum (contracts)	50
No. 2 heating oil (contracts)	150
Crude oil (contracts)	250
Unleaded gasoline (contracts)	100
Long-term U.S. Treasury bonds (contracts	500
GNMA (contracts)	100
Three-month (13 week) U.S. Treasury bills (contracts)	100
Long-term U.S. Treasury notes (contracts)	400
Medium-term U.S. Treasury notes (contracts)	300
Three-month Eurodollar time deposit rates (contracts)	500
Foreign currencies (contracts)	200
Standard and Poor's 500 stock price index (contracts)	300
New York Stock Exchange composite index (contracts)	50
Amex major market index-maxi (contracts)	50
Municipal bonds (contracts)	50
Value line average index (contracts)	50
All other commodities (contracts)	25

PART 16—REPORTS BY CONTRACT MARKETS

4. The authority citation for part 16 continues to read as follows:

Authority: 7 U.S.C. 6a, 6c, 6g, 6i, 7 and 12A.

§ 16.04 [Removed and reserved]

5. Section 16.04 is proposed to be removed and reserved.

PART 19—REPORTS BY PERSONS HOLDING BONA FIDE HEDGE POSITIONS PURSUANT TO § 1.3(z) OF THIS CHAPTER AND BY MERCHANTS AND DEALERS IN COTTON

6. The authority citation for part 19 continues to read as follows:

Authority: 7 U.S.C. 6g(i) and 12a(5).

7. The heading for part 19 is proposed to be revised as set forth above.

8. Section 19.00 is proposed to be amended by revising paragraph (a)(2) and the introductory text of paragraph (b) as follows:

§ 19.00 General provisions.

(a) * * *

(2) Merchants and dealers of cotton holding or controlling positions for futures delivery in cotton that are reportable pursuant to § 15.00(b)(1)(i) of this chapter; or

* * * * *

(b) *Information required.* Persons required to file series '04 reports shall show the information specified in § 19.01 of this part if the reportable futures position is in wheat, corn, oats, soybeans, soybean meal or soybean oil; and § 19.02 of this part if the reportable futures position is in cotton. The manner of reporting the information required in §§ 19.01 and 19.02 of this part is subject to the following:

* * * * *

9. Section 19.02 is proposed to be revised as follows:

§ 19.02 Cash reports pertaining to futures positions in cotton.

Persons required to file '04 reports under § 19.00(a) of this part shall file CFTC Form 304 reports containing the following information:

(a) The quantity of equity in cotton held by the Commodity Credit Corporation under the provisions of the Upland Cotton Program of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture.

(b) The quantity of certificated cotton owned.

(c) For all cotton, cotton products and each commodity cross hedged in cotton futures—the quantity of open fixed-price spot positions (long and short) including:

(1) Unfilled open fixed-price purchase commitments;

(2) Stocks on hand (owned and at fixed prices), and the quantity of the commodity in process of manufacture, and finished products; and

(3) Unfilled fixed-price-sale commitments of the commodity and of finished products.

(d) The quantity of call cotton bought or sold on which the price has not been fixed, together with the respective futures on which based. As used herein, call cotton refers to spot cotton bought or sold, or contracted for purchase or sale, at a price to be fixed later based upon a specified future.

10. Section 19.10 is proposed to be amended by revising the introductory paragraph as follows:

§ 19.10 Time and place of filing reports.

Except for reports filed in response to special calls made under § 19.00(a)(3), each report shall be filed at the appropriate Commission office specified in paragraph (a) or (b) of this section not later than the second business day

following the date of the report. Reports may be transmitted by facsimile or, alternatively, information on the form may be reported to the appropriate Commission office by telephone and the report mailed to the same office, post marked not later than midnight of its due date.

* * * * *

Issued in Washington, DC, this third day of December 1990, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 90-28746 Filed 12-7-90; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[IL-868-89]

RIN 1545-A009

Information With Respect to Certain Foreign-Owned Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed Income Tax Regulations relating to information which must be reported and records which must be maintained by certain foreign-owned corporations under sections 6038A and 6038C of the Internal Revenue Code. These regulations will provide appropriate guidance for affected reporting corporations and related parties. The regulations will affected any reporting corporation, that is, certain domestic corporations or foreign competitors, as well as certain related parties of the reporting corporation.

DATES: Written comments, requests to appear, and outlines of oral comments to be presented at a public hearing scheduled for Friday, February 22, 1991, at 10 a.m., must be received by Friday, February 8, 1991. See notice of hearing published elsewhere in this issue of the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Concerning the hearing on the proposed rulemaking, Felicia Daniels, Regulations Unit, 202-566-3935 (not a toll-free call); concerning a particular regulation section, Carol P. Tello or Grace Perez-Navarro of the Office of Associate Chief Counsel (International), within the Office of the Chief Counsel (202-377-9493) (Ms. Tello), 202-287-4851) (Ms. Perez-Navarro), not toll-free calls).

SUPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Washington, DC 20224. The collection of information in this regulation is in §§ 1.6038A-2 and 1.6038A-3. This information is required by the Internal Revenue Service to determine the correct tax treatment of transactions between 25-percent foreign-owned corporations engaged in U.S. trade or business and related parties. The likely respondents for Form 5472 are corporations.

These estimates are an approximation of the average time expected to be necessary for record maintenance and collection of information. They are based upon such information as is available to the Internal Revenue Service. Individual respondents and recordkeepers may require greater or lesser time, depending on their particular circumstances.

Estimated total annual reporting and recordkeeping burden: 1,539,000 hours.

The estimated average annual reporting burden per respondent is 14 hours and 26 minutes.

The estimated average annual recordkeeping burden per recordkeeper is 10 hours.

Estimated number of respondents/recordkeepers: 63,000.

Estimated annual frequency of responses: 1.

Background

This document contains proposed Income Tax Regulations (26 CFR part 1) under sections 6038A and 6038C of the Internal Revenue Code of 1986. These regulations are generally proposed to be effective for taxable years beginning after July 10, 1989. However, special effective date rules are proposed to provide that certain provisions sections will be effective as of December 10, 1990, except as follows:

§ 1.6038A-1(c)	July 10, 1989
§ 1.6038A-2	July 10, 1989
§ 1.6038A-3	March 20, 1990
§ 1.6038A-4	July 10, 1989
§ 1.6038A-6	November 5, 1990

Explanation of Provisions

Prior Law

Prior to the enactment of the Revenue Reconciliation Act of 1989, section 6038A required an annual filing of an information return, Form 5472, by a domestic corporation (or a foreign corporation engaged in trade or business within the United States) that is controlled by a foreign person. A person controlled a corporation if that person owned stock possessing more than 50 percent of the total voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock. If a corporation failed to furnish the information required under the statute, a penalty of $1,000 was imposed for each taxable year with respect to which such failure occurred. An additional penalty of $1,000 was imposed for each 30-day period during which such failure continued after the expiration of a 90-day period following the mailing of a notice of failure. The increase in the additional penalty was limited to $24,000.

Statutory Provision

The Revenue Reconciliation Act of 1989 amended section 6038A in several significant ways. First, the threshold of foreign ownership subjecting a corporation to the application of section 6038A was lowered from 50 percent to 25 percent. Second, amended section 6038A requires the maintenance of records as prescribed by regulations.

The penalty for failure either to file timely the annual information return or to maintain (or to cause another to maintain) the prescribed records is $10,000 for each taxable year with respect to which such failure occurs. The former maximum additional penalty of $24,000 has been deleted. If the failure continues for more than 90 days after the day on which notice is given by the Service of such failure, an additional penalty of $10,000 is assessed for each 30-day period or part thereof that the failure continues.

In addition to the above changes, the 1989 Act added a new section, section 6038A(e)(1), requiring a foreign related party that engages in transactions with a reporting corporation to authorize the reporting corporation to act as its agent solely for purposes of sections 7602, 7603, and 7604.

If the related party does not authorize the reporting corporation to act as its agent, the Secretary shall apply the noncompliance penalty with respect to transactions between the related party and the reporting corporation.

If the noncompliance penalty applies, the amount allowed as a deduction for amounts paid or incurred to the related party and for the cost of goods purchased from the related party or sold by the reporting corporation to the related party is determined by the Secretary in his sole discretion based upon such probative information as the Secretary may choose to obtain. See H.R. Conf. Rep. 386, 101st Cong., 1st Sess. 593–595 (1989).

The noncompliance penalty may also be applied to a transaction between the related party and the reporting corporation if the reporting corporation does not substantially comply with a summons for records or testimony relating to such transaction.

The Omnibus Budget Reconciliation Act of 1990 (the 1990 Act) added section 6038C to the Internal Revenue Code. Foreign corporations engaged in U.S. trade or business are subject to the provisions of section 6038C, which are similar to the provisions of section 6038A. Additional regulations under section 6038C will be issued at a later time which will reflect the 1990 Act changes with respect to such corporations.

Comments

Comments are solicited with respect to ways to permit related foreign corporations to file a single agency designation, in a manner similar to the rules contained in paragraph (g) of § 1.6038A–1 regarding the ability of the common parent of an affiliated group to file a consolidated Form 5472 for all related party transactions of the U.S. consolidated return group and to be designated as agent for related parties.

The *de minimis* rule of § 1.6038A–1(h) was developed after consideration of case studies submitted by international examiners. Comments from taxpayers are solicited.

Comments and case studies are also solicited on whether the various tests for determining material profit and loss statements under § 1.6038A–3(c)(3) are appropriate. In particular, comments regarding the existing accounting and business practices for maintaining profit and loss statements are requested. Objections to the profit and loss statement standards set forth in these regulations should be accompanied by proposed alternatives. Comments also are solicited on when a profit margin analysis, rather than a return on assets analysis, might be appropriate for the high profit test under paragraph (c)(6) of § 1.6038A–3.

Explanation of Proposed Regulations

General Requirement and Definitions

Section § 1.6038A–1 provides the general rule that certain foreign-owned U.S. corporations and foreign corporations engaged in trade or business within the United States (reporting corporations) must furnish certain information annually on an information return, Form 5472, and maintain records relating to transactions between the reporting corporation and a foreign related party as described in § 1.6038A–3. Definitions are provided for the terms reporting corporation, 25-percent foreign-owned, 25-percent foreign shareholder, related party, foreign person, and foreign related party. Special rules are provided for U.S. consolidated return groups.

Requirement of Return

Section § 1.6038A–2 describes the information that must be furnished annually on Form 5472. Reporting corporations whose sole trade or business in the United States is a banking, financing, or similar business as defined in § 1.864–4(c)(5)(i) (formerly excepted from filing Form 5472) will be subject to the information filing requirement of § 1.6038A–2.

Record Maintenance

Section § 1.6038A–3 provides the general rule that records to be maintained by a reporting corporation are those records sufficient to establish the correctness of the federal income tax return (including the correct treatment of transactions with related parties) of the reporting corporation. Records prepared, maintained, or possessed by a foreign related party relating to transactions between the reporting corporation and any related parties must be maintained in the United States, except where an election is in effect under paragraph (f) of § 1.6038A–3. A record may be maintained in the United States by a party other than the reporting corporation; however, the reporting corporation remains liable for the proper compilation and maintenance of such records.

The regulations generally are based upon the view that the requirement to "maintain" records does not require their creation. However, basic accounting records and material profit and loss statements must be created if they are not otherwise maintained. In connection with record maintenance and production, labels placed upon documents by the taxpayer shall not control.

Some reporting corporations may be unfamiliar with record maintenance practices generally adopted in the United States under the guidance of section 6001, its regulations, and longstanding administrative practice developed thereunder. In addition, such corporations may not be aware of the specific information that would be relevant to an examination of their related party transactions. In the absence of detailed guidance, such reporting corporations might not retain the information that is required for U.S. tax purposes. Therefore, six general categories of records with respect to related party transactions are provided as a safe harbor. Reporting corporations that maintain records in the categories that apply to the particular industry or business of the reporting corporation, to the extent such records may be relevant to the correct U.S. tax treatment of the transactions between related parties, are deemed to meet the record maintenance requirements of section 6038A.

Reporting corporations may enter into agreements with the District Director or the Assistant Commissioner (International) specifying what records must be maintained to satisfy the maintenance requirements for such reporting corporations under this section. Agreements with respect to retention of machine-sensible records under Rev. Proc. 86–19 may also be executed. An annual election to maintain records outside the United States is provided if the reporting corporation agrees to produce the records as prescribed by the regulations. The District Director or the Assistant Commissioner (International) may invalidate the election to maintain records outside the United States under certain circumstances.

Monetary Penalty

Section 1.6038A–4 provides for the imposition of a monetary penalty of $10,000 for each taxable year in which a reporting corporation fails to timely file Form 5472, fails to maintain or cause another to maintain the records described in § 1.6038A–3, or fails to produce the records within the time prescribed in § 1.6038A–3. A rule permitting a reporting corporation to show reasonable cause as to why the failure occurred is provided. The reasonable cause exception is to be interpreted in accordance with the legislative history. See S. Prt. 101–[ ], 101st Cong., 1st Sess. 117 (1989) and H. Conf. Rep. No. 386, 101st Cong., 1st Sess. 593 (1989). Failure to maintain records is determined upon the basis of the overall compliance with the records maintenance requirement by a reporting

corporation. Finally, rules relating to the increase in the penalty where the failure continues after notification are provided.

Authorization of Agent

Section 1.6038A–5 provides that the noncompliance penalty in § 1.6038A–7 shall apply to any transaction between a related party and a reporting corporation, unless the related party authorizes the reporting corporation to act as its limited agent solely for purposes of sections 7602, 7603, and 7604. When the proposed regulations become final, a related party annually shall authorize the reporting corporation to act as its limited agent on Form 5472 or within 30 days of a request from the Service. Until official Internal Revenue Service forms are available, the authorization as set forth in the regulations should be utilized. A procedure is provided for the retroactive authorization of an agent with respect to inadvertent transactions with related parties when the relationship is attenuated and certain other requirements are met. Additionally, a provision allows for the authorization by a foreign related party to be deemed under certain circumstances. A deemed authorization is effective only for transactions entered into prior to the time when the reporting corporation knew or had reason to know that the related party was in fact related.

Failure to Furnish Information

Section 1.6038A–6 provides that the noncompliance penalty contained in § 1.6038A–7 may be applied under certain circumstances when information requested by the Service is not produced. A special rule permits the District Director or the Assistant Commissioner (International) to choose not to apply the noncompliance penalty when, in the discretion of the District Director or the Assistant Commissioner (International), the failure to furnish information is *de minimis*.

Noncompliance Penalty

Section 1.6038A–7 provides that if a foreign related party does not authorize the reporting corporation to act as its agent as required by § 1.6038A–5 or, if following a failure to furnish information as required by § 1.6038A–6, the District Director or the Assistant Commissioner (International) determines that § 1.6038A–7 should apply, the District Director or the Assistant Commissioner (International) shall determine the amount of deductions allowed for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction and the cost to the reporting corporation of any property acquired in such transaction from the related party or transferred to the related party. The amount of the deduction or cost to the reporting corporation shall be determined in the sole discretion of the District Director or the Assistant Commissioner (International). See H. Conf. Rep. 386, 101st Cong., 1st Sess. 593–95 (1989).

Section 6038C

Corporations subject to section 6038C generally will be subject to the rules contained in §§ 1.6038A–1 through 1.6038A–7.

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 also has 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, these regulations will be submitted to the Administrator of the Small Business Administration for comments on their impact on small business.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. A public hearing will be held on Friday, February 22, 1991.

Drafting Information

The principal authors of these regulations are Carol P. Tello and Grace Perez-Navarro of the Office Associate Chief Counsel (International), within the Office of Chief Counsel, Internal Revenue Service. Other personnel from the Internal Revenue Service and Treasury Department participated in developing these regulations.

List of Subjects in 26 CFR §§ 1.6000–1 Through 1.6109–2

Income taxes, Administration and procedure, Payment of tax.

Adoption of Amendment to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. The authority for part 1 is amended by adding the following citations:

Authority: 26 U.S.C. 7805. * * * Sections 1.6038A–1, 1.6038A–2, 1.6038A–3, 1.6038A–4, 1.6038A–5, 1.6038A–6, and 1.6038A–7 also issued under 26 U.S.C. 6038A. * * *

§ 1.6038A–1 [Removed]

Par. 2. Section 1.6038A–1 is removed.

Par. 3. New §§ 1.6038A–0 through 1.6038A–7 are added to read as follows:

§ 1.6038A–0 Table of contents.

This section lists the captions that appear in the regulations under section 6038A.

§ 1.6038A–1 General requirements and definitions.

(a) Purpose and scope.
(b) In general.
(c) Reporting corporation.
(1) In general.
(2) 25-percent foreign-owned.
(3) 25-percent foreign shareholder.
(i) In general.
(ii) Totalvoting power and value.
(d) Related party.
(e) Attribution rules.
(1) Attribution under section 318.
(2) Attribution of transactions with related parties engaged in by a partnership.
(f) Foreign person.
(g) Foreign related party.
(h) Safe harbor for reporting corporations with *de minimis* value of related party transactions.
(1) In general.
(2) Aggregate value of gross payments made or received.
(i) Consolidated return groups.
(1) Required information.
(2) Authorization of agent and retention of records.
(3) Monetary penalties.
(j) Examples.
(k) Effective dates.
(1) Section 1.6038A–1.
(2) Section 1.6038A–2.
(3) Section 1.6038A–3.
(4) Section 1.6038A–4.
(5) Section 1.6038A–5.
(6) Section 1.6038A–6.
(7) Section 1.6038A–7.

§ 1.6038A–2 Requirement of return.

(a) Form 5472 required.
(1) In general.
(2) Reportable transaction.
(b) Contents of return.
(1) Reporting corporation.
(2) Related party.
(3) Foreign related party transactions for which only monetary consideration is paid or received by the reporting corporation.
(4) Foreign related party transactions involving nonmonetary consideration or no consideration.
(5) Additional information.
(6) Reasonable estimate.

(i) Estimate within 25 percent of actual amount.
(ii) Other estimates.
(7) Small amounts.
(8) Accrued payments and receipts.
(c) Method of reporting.
(d) Time and place for filing returns.
(e) Duplicate filing required.
(f) Exceptions.
(1) No reportable transactions.
(2) Transactions solely with a domestic reporting corporation.
(3) Transactions with a corporation subject to reporting under section 6038.
(g) Filing Form 5472 when transactions with related parties engaged in by a partnership are attributed to a reporting corporation.
(h) Effective dates for certain reporting corporations.

§ 1.6038A–3 Record maintenance.

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§ 1.6038A–1 General requirements and definitions.

(a) *Purpose and scope.* This section and §§ 1.6038A–2 through 1.6038A–7 provide rules for certain foreign-owned U.S. corporations and foreign corporations engaged in trade or business within the United States (reporting corporations) relating to information that must be furnished, records that must be maintained, and the authorization of the reporting corporation to act as agent for related foreign persons for purposes of sections 7602, 7603, and 7604 that must be executed. Section 6038A (a) and this § 1.6038A–1 require that a reporting corporation furnish certain information annually and maintain certain records relating to transactions between the reporting corporation and certain related parties. This § 1.6038A–1 also provides definitions of terms used in section 6038A. Section 1.6038A–2 provides guidance concerning the information to be submitted and the filing of the required return. Section 1.6038A–3 provides guidance concerning the maintenance of records. Section 1.6038A–4 provides guidance concerning the application of the monetary penalty for the failure either to furnish information or to maintain records. Section 1.6038A–5 provides guidance concerning the authorization for an agent for purposes of sections 7602, 7603, and 7604. Section 1.6038A–6 provides guidance concerning the failure to furnish information requested by a summons. Finally, § 1.6038A–7 provides guidance concerning the application of the noncompliance penalty for failure by the related party to authorize an agent or for the reporting corporation to substantially comply with a summons.

(b) *In general.* A reporting corporation must furnish the information described in § 1.6038A–2 by filing an annual information return (Form 5472), and must maintain records as described in § 1.6038A–3.

(c) *Reporting corporation*—(1) *In general.* For purposes of section 6038A, a reporting corporation is either a domestic corporation that is 25-percent foreign-owned as defined in paragraph (c)(2), or a foreign corporation that is 25-percent foreign-owned and engaged in trade or business within the United States. After November 4, 1990, a foreign corporation engaged in a trade or business within the United States at any time during a taxable year is a reporting corporation. See section 6038C.

(2) *25-percent foreign-owned.* A corporation is 25-percent foreign-owned if it has at least one 25-percent foreign shareholder at any time during the taxable year.

(3) *25-percent foreign shareholder*—(i) *In general.* A foreign person is a 25-percent foreign shareholder of a corporation if such person owns at least 25 percent of—

(A) The total voting power of all classes of stock of such corporation entitled to vote, or

(B) The total value of all classes of stock of such corporation.

(ii) *Total voting power and value.* In determining whether one foreign person owns 25 percent of the total voting power of all classes of stock of a corporation entitled to vote or 25 percent total value of all classes of stock of a corporation, consideration will be given to all the facts and circumstances of each case, under principles similar to § 1.957–1(b)(2) (consideration of arrangements to shift formal voting power away from the foreign person).

(d) *Related party.* The term "related party" means—

(1) Any 25-percent foreign shareholder of the reporting corporation,

(2) Any person who is related within the meaning of section 267(b) or 707(b)(1) to the reporting corporation or to a 25-percent foreign shareholder of the reporting corporation, or

(3) Any other person who is related to the reporting corporation within the meaning of section 482 and the regulations thereunder.

However, the term "related party" does not include any corporation filing a consolidated federal income tax return with the reporting corporation.

(e) *Attribution rules*—(1) *Attribution under section 318.* For purposes of determining whether a corporation is 25-percent foreign-owned and whether a person is a related party under section 6038A, the constructive ownership rules of section 318 shall apply. However, "10 percent" shall be substituted for "50 percent" in section 318(a)(2)(C), and subparagraphs (A), (B), and (C) of section 318(a)(3) shall not be applied so as to consider a U.S. person as owning stock that is owned by a person who is not a U.S. person.

(2) *Attribution of transactions with related parties engaged in by a partnership.* The transactions in which a domestic or foreign partnership engages shall be attributed to any reporting corporation whose interest in the capital or profits of the partnership, either directly or indirectly, combined with the interests of all related parties to the reporting corporation partner, equals 25 percent or more of the total partnership interests. Attribution of such transactions shall be made only to the extent of the partnership interest held by that reporting corporation partner. See sections 875 and 702(a) and the regulations thereunder. (Attribution shall not be made, however, of transactions directly between the partnership and a reporting corporation.) Accordingly, a reporting corporation partner that is deemed to engage in transactions with related parties under this rule is subject to the information reporting requirements of § 1.6038A–2, to the record maintenance requirements of § 1.6038A–3, to the monetary penalty under § 1.6038A–4, to the requirement of authorization of agent under § 1.6038A–5, and to the rules of § 1.6038A–6 relating to the requirement to produce records.

(f) *Foreign person.* For purposes of section 6038A, a foreign person is—

(1) Any individual who is not a citizen of resident of the United States, but not including any individual for whom an election under section 6013 (g) or (h) (relating to an election to file a joint return) is in effect;

(2) Any individual who is a citizen of any possession of the United States and who is not otherwise a citizen or resident of the United States;

(3) Any partnership, association, company, or corporation that is not created or organized in the United States or under the law of the United States or any State thereof;

(4) Any foreign trust or foreign estate, as defined in section 7701(a)(31); or

(5) Any foreign government or foreign controlled commercial entity as defined by section 892(a)(2)(B) and the regulations thereunder to the extent that it is engaged directly or indirectly in a U.S. trade or business and receives income that is not exempt under section 892(a) and the regulations thereunder. A foreign government or foreign controlled commercial entity, however, will be treated as a foreign person under section 6038A and this section only for purposes of the return requirement described in § 1.6038A–2. For purposes of section 6038A(a), a possession of the United States shall be considered to be a foreign country.

(g) *Foreign related party.* A foreign related party is a foreign person as defined under paragraph (f) of this § 1.6038A–1 that is also a related party as defined under paragraph (d) of this § 1.6038A–1.

(h) *Safe harbor for reporting corporations with de minimis value of related party transactions*—(1) *In general.* A reporting corporation.

(i) That has an aggregate value of not more than $2,000,000 of gross payments made to (or received from) foreign related parties with respect to related party transactions, including monetary consideration, nonmonetary consideration, and the value of transactions involving no consideration, and

(ii) For which the aggregate value of the gross payments made to (or received from) foreign related parties with respect to related party transactions is less than 10 percent of its U.S. gross income,

is not subject to the requirements of §§ 1.6038A–3 and 1.6038A–5. Such a corporation remains subject to the information reporting requirements of § 1.6038A–2 and the general record maintenance requirements of section 6001. The threshold amounts described in this paragraph are to be applied separately to such amounts paid to or received from foreign related parties, rather than netting such amounts.

(2) *Aggregate value of gross payments made or received.* The aggregate value of gross payments made to (or received from) a foreign related party with respect to foreign related party transactions is determined by totaling the dollar amounts of related party transactions as described in § 1.6038A–2(b) (3) and (4) on all Forms 5472 filed by the reporting corporation. The aggregate value of gross payments made to (or received from) all foreign related parties with respect to transactions engaged in with reporting corporations that are related (under the principles described in paragraphs (d) and (e) of this § 1.6038 A–1) is determined by totaling all dollar amounts of payments made to (or received from) all foreign related parties as described in § 1.6038A–2(b) (3) and (4) on all Forms 5472 filed by all such related reporting corporations.

(i) *Consolidated return groups*—(1) *Required information.* If a U.S. consolidated income tax return is filed, the return requirement described in § 1.6083A–2 may be satisfied for the U.S. consolidated group by the filing of a consolidated Form 5472. In such a case, the common parent, as indicated on Form 851, must attach a schedule to the consolidated Form 5472 stating which members of the U.S. consolidated return group would otherwise be separate reporting corporations under section 6038A. The schedule must provide the name, address, and taxpayer identification number of each member. A member is not required to join in filing a consolidated Form 5472 merely because other members of the group choose to file one or more Forms 5472 on a consolidated basis.

(2) *Authorization of agent and retention of records.* The common parent of a group of reporting corporations filing a consolidated income tax return may be authorized to act as the agent for foreign related persons engaged in transactions with members of the consolidated return group solely for purposes of section 7602, 7603, and 7604 under section 6038A(e)(1) and § 1.6038A–5. The common parent may be authorized to act as an agent by the completion of the authorization of agent on the Form 5472,

or by filing an authorization of agent statement as described in § 1.6038A–5 until amended Form 5472 is available. Each member of the group, however, must maintain the records required under section 6038A(a) and § 1.6038A–3 relating to its related party transactions.

(3) *Monetary penalties.* The common parent and each reporting corporation that join in the filing of a consolidated Form 5472 are liable jointly and severally for penalties for failure to file Form 5472 and for failure to maintain records under section 6038A(d) and § 1.6038A–4(e). See § 1.1502–77 (a) regarding the scope of agency of the common parent corporation.

(j) *Examples.* The following examples illustrate the rules of this section.

Example (1). A U.S. partnership that is engaged in a U.S. trade or business is 75 percent owned by FC1, a foreign corporation that, in turn, is wholly owned by another foreign corporation, FC2. The remaining 25 percent of the U.S. partnership is owned by Corp, a domestic corporation, that is wholly owned by FC3. The U.S. partnership engages in transactions solely with FC2 and FC3. These transactions are attributed to FC1 and Corp. For purposes of section 6038A and this § 1.6038A–1, FC1 and Corp are reporting corporations and must report their respective pro rata shares of the value of the transactions with FC2 and FC3, 25 percent to Corp and 75 percent to FC1.

Example (2). FC2 and FC3 are both foreign corporations that are wholly owned by FC1, also a foreign corporation. FC2 engages in a trade or business in the United States through a branch. The branch engages in related party transactions with FC1. FC2 is a reporting corporation. FC3 is a foreign related party. FC1 is a 25-percent foreign shareholder of both FC2 and FC3. Neither FC1 nor FC3 is a reporting corporation.

Example (3). FC1 owns 25 percent of total voting power in each of FC2 and FC3. FC2 and FC3 each own 20 percent of the total voting power of Corp, a domestic corporation. The remaining stock of Corp is owned by an unrelated domestic corporation. Neither FC2 nor FC3 is engaged in a U.S. trade or business. Under section 318(a)(2)(C) and paragraph (e) of this § 1.6038A–1, FC1 constructively owns its proportionate share of the stock of Corp owned directly by FC2 and FC3. Thus, FC1 is treated as constructively owning five percent of Corp through each of FC2 and FC3 or a total of 10 percent of the Corp stock. Consequently, Corp is not a reporting corporation because no 25 percent shareholder exists.

(k) *Effective dates.*—(1) *Section 1.6038A–1.* Section 1.6038–1(c) (relating to the definition of a reporting corporation) is effective for taxable years beginning after July 10, 1989. The remaining paragraphs of section 1.6038A–1 are effective as of December 10, 1990, without regard to when the taxable year began.

(2) *Section 1.6038A–2.* Section 1.6038A–2 (relating to the requirement to file Form 5427) is generally effective for taxable years beginning after July 10, 1989. However, § 1.6038A–2 as it applies to reporting corporations whose sole trade or business in the United States is a banking, financing, or similar business as defined in § 1.864–4(c)(5)(i) is effective as of December 10, 1990.

(3) *Section 1.6038A–3.* Section 1.6038A–3 (relating to the record maintenance requirement) is generally effective as of December 10, 1990. However, records in existence on or after March 20, 1990, must be maintained, without regard to when the taxable year (to which the records relate) began.

(4) *Section 1.6038A–4.* Section 1.6038A–4 (relating to the monetary penalty) is generally effective for taxable years beginning after July 10, 1989, for the failure to file Form 5472. For the failure to maintain records or the failure to produce documents as agreed under the election to maintain records outside the United States, the effective date is December 10, 1990, without regard to when the taxable year (to which the records relate) began.

(5) *Section 1.6038A–5.* Section 1.6038A–5 (relating to the authorization of agent requirement) is effective as of December 10, 1990, without regard to when the taxable year (to which the records relate) began.

(6) *Section 1.6038A–6.* Section 1.6038A–6 (relating to the failure to furnish information under a summons) is effective after November 5, 1990, without regard to when the taxable year (to which the summons relates) began.

(7) *Section 1.6038A–7.* Section 1.6038A–7 (relating to the noncompliance penalty adjustment) is effective as of December 10, 1990, without regard to when the taxable year began.

§ 1.6038A–2 Requirement of return.

(a) *Form 5427 required*—(1) *In general.* Each reporting corporation as defined in § 1.6038A–1(c) shall make a separate annual information return on Form 5472 with respect to each related party as defined in § 1.6038A–1(d) with which such reporting corporation has had any reportable transaction during the taxable year. The information required by section 6038A and this section must be furnished even though it may not affect the amount of any tax due under the Code.

(2) *Reportable transaction.* A reportable transaction is any transaction of the types listed in paragraph (b) (3) and (4) of this section. However, if neither party to the transaction is a United States person as defined in section 7701(a)(30) and the transaction—

(i) Does not give rise to any deferred payment or recognized income or gain that is from sources within the United States or that is effectively connected, or treated as effectively connected, with the conduct of a trade or business within the United States, and

(ii) Does not give rise to any expense, loss or other deduction that is allocable or apportionable to such income,

the transaction is not a reportable transaction.

(b) *Contents of return*—(1) *Reporting corporation.* Form 5472 must provide the following information in the manner the form prescribes with respect to each reporting corporation.

(i) Name, address (including mailing code) and U.S. taxpayer identification number; each country in which the reporting corporation files an income tax return as a resident under the tax laws of the country or countries; country or countries of organization and incorporation; total assets; where its business is conducted; and principal business activity;

(ii) Name, address, U.S. tax identification number, if applicable, of each 25-percent foreign shareholder; country or countries in which the 25-percent foreign shareholder files an income tax return as a resident under the tax laws of the country or countries; the place where the 25-percent shareholder conducts its business; and country or countries of organization, citizenship, or incorporation of each 25-percent foreign shareholder of the reporting corporation;

(iii) Number of Forms 5427 filed for the taxable year and aggregate value in U.S. dollars of gross payments as defined by paragraph (h)(2) of § 1.6038A–1 made with respect to all foreign related party transactions as reported on all Forms 5472.

(2) *Related party.* The taxpayer must provide information on Form 4572, set forth in the manner the form prescribes, about each related party, whether foreign or domestic, with which the reporting corporation had a transaction of the types described in paragraphs (b) (3) and (4) of this section during its taxable year, including the following information.

(i) The name, U.S. tax identification number, if applicable, and address of the related party;

(ii) The nature of the related party's business and the principal place or places where such business is conducted;

(iii) Each country in which the related party files an income tax return as a resident under the tax laws of the country; and

(iv) The relationship of the reporting corporation to the related party.

(3) *Foreign related party transactions for which only monetary consideration is paid or received by the reporting corporation.* If the related party is a foreign person, the reporting corporation must set forth on Form 5472 the dollar amounts of all reportable transactions for which monetary consideration (including U.S. and foreign currency) was the sole consideration paid or received during the taxable year of the reporting corporation. The total amount of such transactions, as well as the separate amounts for each type of transaction described below, must be reported on Form 5472, in the manner the form prescribes. Where actual amounts are not determinable, a reasonable estimate (as described in paragraph (b)(6) of § 1.6038A–2) is permitted. The types of transactions described in this paragraph are:

(i) Sales and purchases of stock in trade (inventory);

(ii) Sales and purchases of tangible property other than stock in trade;

(iii) Rents and royalties paid and received (other than amounts reported under paragraph (b)(3)(iv) of this paragraph);

(iv) Sales, purchases, and amounts paid and received as consideration for the use of all intangible property, including (but not limited to) copyrights, designs, formulas, inventions, models, patents, processes, trademarks, and other similar intangible property rights;

(v) Consideration paid and received for technical, managerial, engineering, construction, scientific, or similar services;

(vi) Commissions paid and received;

(vii) Amounts loaned and borrowed (except open accounts resulting from sales and purchases reported under other items listed in this paragraph (b)(3) that arise and are collected in full in the ordinary course of business);

(viii) Interest paid and received;

(ix) Premiums paid and received for insurance and reinsurance; and

(x) Other amounts paid or received not specifically identified in this paragraph (b)(3).

Amounts required to be reported under paragraph (b)(3)(vii) of this section shall be reported as monthly averages or outstanding balances at the beginning and end of the taxable year, as the form shall prescribe.

(4) *Foreign related party transactions involving nonmonetary consideration or no consideration.* If the related party is a foreign person, the reporting corporation must provide on Form 5472 a description of any reportable transaction, or group of reportable transactions, listed in paragraph (b)(3) of this section, or which any part of the consideration paid or received was not monetary consideration, or for which no consideration was paid or received. A description required under this paragraph (b)(4) of this section shall include sufficient information from which to determine the nature and approximate monetary value of the transaction or group of transactions, and shall include—

(i) A description of all property (including monetary consideration), rights, or obligations transferred from the reporting corporation to the foreign related party and from the foreign related party to the reporting corporation;

(ii) A description of all services performed by the reporting corporation for the foreign related party and by the foreign related party for the reporting corporation; and

(iii) A reasonable estimate of the fair market value or a description of such property (other than money), rights, obligations, or services.

If, for any transaction, the entire consideration received includes both tangible and intangible property and the consideration paid is solely monetary consideration, the transaction should be reported under paragraph (b)(3) if the intangible property was related and incidental to the transfer of the tangible property (*e.g.*, a right to warranty services.)

(5) *Additional information.* In addition to the information required under paragraphs (b) (3) and (4) of this section, a reporting corporation must provide on Form 5472, in the manner the form prescribes, the following information.

(i) if the reporting corporation imports goods from a foreign related party, whether the costs taken into account in computing the basis or inventory cost of such goods are different from the costs taken into account in computing the valuation of the goods for customs purposes, adjusted pursuant to section 1059A and the regulations thereunder, and if so, the reason or reasons for such difference.

(ii) Whether the documents supporting the reporting corporation's treatment of the items set forth in paragraph (b)(5)(i) of this section are in existence and available in the United States at the time of the filing of Form 5472.

(6) *Reasonable estimate*—(i) *Estimate within 25 percent of actual amount.*— Any amount reported under this section is considered to be a reasonable estimate if it is at least 75 percent and not more than 125 percent of the actual amount.

(ii) *Other estimates.* If any amount reported under this paragraph (b) of this section fails to meet the reasonable estimate test of paragraph (b)(6)(i) of this section, the reporting corporation may, nevertheless, show that such amount is a reasonable estimate by making an affirmative showing of relevant facts and circumstances in a written statement containing a declaration that it is made under the penalties of perjury. The District Director or the Assistant Commissioner (International) shall determine whether the amount reported was a reasonable estimate.

(7) *Small amounts.* If any actual amount required under this section does not exceed $50,000, the amount may be reported as "$50,000 or less."

(8) *Accrued payments and receipts.* For purposes of this section, in the case of an accrual basis taxpayer, the terms "paid" and "received" shall include accrued payments and receipts, respectively.

(c) *Method of reporting.* All statements required on or with the Form 5472 under this section and § 1.6038A–5 shall be in the English language. All amounts required to be reported under paragraph (b) of this section shall be expressed in United States currency, with a statement of exchange rates used to translate into U.S. currency.

(d) *Time and place for filing returns.* A Form 5472 required under this section shall be filed with the reporting corporation's income tax return for the same taxable year, and shall be filed by the date (including extensions) for filing that income tax return. However, if a reporting corporation's income tax return is not timely filed (including extensions), the Form 5472 shall be filed with the Internal Revenue Service Center with which the reporting corporation's income tax return is required to be filed and the Philadelphia Service Center, and shall be filed on or before the due date required by law (including extensions) for filing of that income tax return. In such a case, a copy of the Form 5472 also must be filed with the income tax return when return is filed.

(e) *Duplicate filing required.* The reporting corporation shall file a duplicate copy of each Form 5472 (including any attachments and/or schedules) (at the same time as the original copy is filed) with the Internal Revenue Service Center, Philadelphia, PA 19255.

(f) *Exceptions*—(1) *No reportable transactions.* A reporting corporation is not required to file Form 5472 if it has no transactions of the types listed in paragraphs (b) (3) and (4) of this section during the taxable year with any related party. Such a reporting corporation, however, remains subject to the record maintenance requirements of § 1.6038A–3 and the authorization of agent requirement of § 1.6038A–5.

(2) *Transactions solely with a domestic reporting corporation.* If all of a foreign reporting corporation's reportable transactions are with one or more related domestic reporting corporations, the foreign reporting corporation shall furnish on Form 5472 only the information required under paragraphs (b) (1) and (2) of this section, if the domestic reporting corporations provide the information required under paragraphs (b) (3) through (5) of this section. Such a foreign reporting corporation is, nonetheless, subject to the record maintenance requirements of § 1.6038A–3 and the requirements of §§ 1.6038A–5 and 1.6038A–6. The name or names, address(es), and taxpayer identification number(s) of the domestic reporting corporation that provided such information must be indicated on Form 5472 in the space provided for the information under paragraphs (b) (1) and (2) of this section.

(3) *Transactions with a corporation subject to reporting under section 6038.* A reporting corporation is not required to make a return of information on Form 5472 with respect to a related corporation for a taxable year for which a U.S. person that controls the reporting corporation makes a return of information on Form 5471 that is required under section 6038 and § 1.6038–2, if that return contains information required under § 1.6038–2(f)(11) with respect to the reportable transactions between the reporting corporation and the related corporation for that taxable year.

(g) *Filing Form 5472 when transactions with related parties engaged in by a partnership are attributed to a reporting corporation.* A reporting corporation, to which transactions engaged in by a partnership are attributed under paragraph (e)(2) of § 1.6038A–1, must report on Form 5472 only the value of the transaction or transactions that is represented by its partnership interest. Thus, for example, if a partnership buys $1000 of widgets from the foreign parent of a reporting corporation whose partnership interest in the partnership equals 50 percent of the partnership interests (and the remaining 50 percent is held by unrelated parties), the reporting corporation must report $500 of purchases from a foreign related party on Form 5472.

(h) *Effective dates for certain reporting corporations.* For effective dates for this section, see § 1.6038A–1(k).

§ 1.6038A–3 Record maintenance.

(a) *General maintenance requirements*—(1) *Section 6001 and section 6038A.* A reporting corporation must keep the permanent books of account or records as required by section 6001 that are sufficient to establish the correctness of the federal income tax return of the corporation, including information, documents, or records ("records") to the extent they may be relevant to determine the correct treatment of transactions with related parties. See section 6001 and the regulations thereunder. This requirement applies to records of the reporting corporation itself, as well as to records of any foreign related party that may be relevant to determine the correct treatment of transactions between the reporting corporation and foreign related parties. While records required to establish the correct tax treatment of transactions between the reporting corporation and foreign related parties are within the scope of section 6001, section 6038A and this section provide detailed guidance regarding the required maintenance of records with respect to such transactions and specifies penalties for noncompliance.

(2) *Safe harbor.* A safe harbor for record maintenance is provided under paragraph (c) of this section, which sets forth detailed guidance concerning the types of records to be maintained with respect to related party transactions. A corporation that maintains or causes another person to maintain the records listed in paragraph (c)(2) will be deemed to have met the record maintenance requirements of section 6038A.

(b) *Other maintenance requirements*—(1) *Records that must be maintained in the United States.* Records prepared, maintained, or possessed by a foreign related party relating to transactions between the reporting corporation and any related parties must be maintained in the United States, except where an election is in effect under paragraph (f) of this section.

(2) *Indirectly related records.* This section applies to records that are directly or indirectly related to transactions between the reporting corporation and any foreign related parties. An example of records that are indirectly related to such transactions is records possessed by a foreign subsidiary of a foreign related party that document the raw material or component costs of a product that is manufactured or assembled by the subsidiary and sold as a finished product by the foreign related party to the reporting corporation.

(3) *Foreign related party or third-party maintenance.* If records that are required to be maintained under this section are in the control of a foreign related party, the records may be obtained or complied (if not already in the possession of the foreign related party or already compiled) under the direction of the reporting corporation and then maintained by the reporting corporation, the foreign related party, or a third party. A foreign related party or third party may make arrangements with the District Director or the Assistant Commissioner (International) to directly furnish requested records, rather than through a reporting corporation. If a foreign related party or a third party maintains records in the ordinary course of business that are not in the possession of the reporting corporation, the reporting corporation, nonetheless, is liable for the maintenance of such records. A reporting corporation shall be subject to the monetary penalty for the failure of a foreign related party or third party to maintain required records.

(4) *Translation of records.* When records are provided to the Service under a request for production, any portion of such records must be translated into the English language within 30 days of a request for translation of that portion by the District Director or the Assistant Commissioner (International). An extension of this time period may be requested under the rules of paragraph (f)(3) of this section.

(5) *Exception for foreign governments.* A foreign government or a controlled commercial entity as defined by section 892(2)(B) is not subject to the obligation to maintain records under this section.

(c) *Specific records to be maintained for safe harbor*—(1) *In general.* A reporting corporation that maintains or causes another person to maintain the records specified in this paragraph (c) will be deemed to have met the record maintenance requirements of this section. This paragraph provides general descriptions of the categories of records

to be maintained; the particular title or label applied by a reporting corporation or related party does not control. Functional equivalents of the specified documents are acceptable. Record maintenance in accordance with this safe harbor, however, requires only the maintenance of types of documents described in paragraph (c)(2) of this section that are directly or indirectly related to transactions between the reporting corporation and any foreign related party. Additionally, to the extent the reporting corporation establishes that records in a particular category are not applicable to the industry or business of the reporting corporation and any foreign related party, maintenance of such records is not required under this paragraph. Record maintenance in accordance with this paragraph (c) generally does not require the original creation of records that are ordinarily not created by the reporting corporation or its related parties. If, however, a document that is actually created is described in this paragraph (c), it is to be maintained even if the document is not of the type ordinarily created by the reporting corporation or its related parties.) There are two exceptions to the rule. First, basic accounting records, if they do not otherwise exist, must be created and retained that are sufficient to document the U.S. tax effects of transactions between related parties. Second, records sufficient to produce material profit and loss statements as described in paragraphs (c)(2)(ii) and (c)(3) of this section must be created if such records are not ordinarily maintained. All internal records storage and retrieval systems used for each taxable year must be retained.

(2) *Descriptions of categories of documents to be maintained.* The following records must be maintained in order to satisfy this paragraph (c) to the extent they may be relevant to determine the correct treatment of transactions between the reporting corporation and any foreign related party.

(i) *Original entry books and transaction records.* This category includes books and records of original entry or their functional equivalents, however designated or labeled, that are relevant to transactions between any foreign related party and the reporting corporation. Examples include, but are not limited to, general ledgers, sales journals, purchase order books, cash receipts books, cash disbursement books, canceled checks and bank statements, workpapers, sales contracts, and purchase invoices.

(ii) *Profit and loss statements.* This category includes records from which the reporting corporation can compile and supply, within a reasonable time, material profit and loss statements of the reporting corporation and all related parties as defined under § 1.6038A–1(d) (the "related party group") which reflect profit or loss of the related party group attributable to U.S.-connected products or services. The determination of whether a profit and loss statement is material is made under the rules provided in paragraph (c)(3) of this section. For purposes of this paragraph (c), the term "U.S.-connected products or services" means products or services that are imported to or exported from the United States by transfers between the reporting corporation and any of its foreign related parties. The material profit and loss statements described in this paragraph (c)(2)(ii) must reflect revenue and expenses of all members of the related party group. Thus, records in this category include the documentation of the cost of raw materials used by a related party to manufacture finished goods that are then sold by another related party to the reporting corporation. The records should be kept under U.S. generally accepted accounting principles if they are ordinarily maintained in such manner. If such records are not ordinarily maintained under such accounting principles, an explanation of the material differences between the accounting principles used and U.S. generally accepted accounting principles must be made available. An explanation of methods used to allocate specific items to a particular profit and loss statement also must be made available.

(iii) *Pricing documents.* This category includes all documents relevant to establishing the appropriate price or rate for transactions between the reporting corporation and any foreign related party. Examples include, but are not limited to, documents related to transactions involving the same or similar products or services entered into by the reporting corporation or a foreign related party with related and unrelated parties; shipping and export documents; commission agreements; documents relating to production or assembly facilities; third-party and intercompany purchase invoices; manuals, specifications, and similar documents relating to or describing the performance of functions conducted at a location; intercompany correspondence discussing any instructions or assistance relating to such transactions provided to the reporting corporations by the related foreign person (or vice versa); intercompany and intracompany correspondence concerning the price or the negotiation of the price used in such transactions; documents regarding the value of intangibles used or developed by the reporting corporation or the foreign related party; documents regarding the direct and indirect costs of materials, labor, cost of goods sold, and other expenses; and documents relating to direct and indirect selling, general and administrative expenses (*e.g.*, relating to advertising, sales promotions, or warranties).

(iv) *Foreign country and third party filings.* This category includes financial and other documents filed with or prepared for any foreign government entity, any independent commission, or any financial institution relating to transactions between the reporting corporation and any foreign related party.

(v) *Ownership and capital structure records.* This category includes records or charts showing the relationship between the reporting corporation and the related foreign party; the location, ownership, and status (for example, joint venture, partnership, branch, or division) of all entities and offices directly or indirectly involved in the transactions between the reporting corporation and any foreign related party; a worldwide organization chart; records showing the management structure of all foreign affiliates; and loan documents, agreements, and other documents relating to any transfer of the stock of the reporting corporation that results in the change of the status of a foreign person as a foreign related party.

(vi) *Records of loans, services, and other non-sales transactions.* This category includes documents relating to loans (including all third-party loans that are related to a transaction between a reporting corporation and a foreign related party); guarantees of a related foreign party of debts of the reporting corporation and vice versa; hedging arrangements involving the reporting corporation and any foreign related party; security agreements between the reporting corporation and any foreign related party; research and development expense allocations between any foreign related party and the reporting corporation; service transactions between any foreign related party and the reporting corporation, including, for example, a description of the allocation of charges for management services, time or travel records, or allocation studies; import and export transactions; the registration of patents and copyrights with respect to transactions between the reporting

corporation and any foreign related party; and documents regarding lawsuits in foreign countries that relate to such transactions (for example, product liability suits for U.S. products).

(3) *Material profit and loss statements.* For purposes of paragraph (c)(2)(ii), the determination of whether a profit and loss statement is material will be made according to the following rules. An agreement between the reporting corporation and the District Director or the Assistant Commissioner (International) as described in paragraph (d) of this section may identify all material profit and loss statements of the related party group and describe the items to be included in any profit and loss statements for which records are to be maintained to satisfy the requirements of paragraph (c)(2)(ii) of this section. In the absence of such an agreement, a profit and loss statement will be material if it meets any of the following tests: the existing records test described in paragraph (c)(4) of this section, the significant industry segment test described in paragraph (c)(5) of this section, or the high profit test described in paragraph (c)(6) of this section.

(4) *Existing records test.* A profit and loss statement is material under the existing records test described in this paragraph (c)(4) if any member of the related party group creates or compiles such statement in the course of its business operations. For example, a profit and loss statement is described in this paragraph if it was produced for internal accounting or management purposes, or for disclosure to shareholders, financial institutions, government agencies, or any other persons. Accordingly, such existing statements and the records from which they were compiled are subject to the record maintenance requirements described in paragraph (c)(2)(ii) of this section to the extent they reflect the profit or loss of the related party group attributable to U.S.-connected products or services.

(5) *Significant industry segment test*—(i) *In general.* A profit and loss statement is material under the significant industry segment test described in this paragraph (c)(5) if—

(A) The statement reflects the profit or loss of the related party group attributable to a single industry segment;

(B) The gross revenue from U.S.—connected products or services attributable to such industry segment meets the gross revenue test described in paragraph (c)(5)(ii) of this section; and

(C) One of the percentage tests described in paragraph (c)(5)(iii) of this section is satisfied with respect to the products and services attributable to such industry segment.

An industry segment is a segment of the related party group's combined operations which is engaged in providing a product or service or a group of related products or services (as defined in paragraph (c)(5)(iv)(E)) primarily to customers that are not members of the related party group. Paragraph (c)(5)(v) provides rules for determining the level of specificity required in grouping related products and services. Profit and loss statements compiled for each significant industry segment must reflect revenues and expenses attributable to the operations in such segment by all members of the related party group.

(ii) *Gross revenue test.* An industry segment meets the gross revenue test described in this paragraph (c)(5)(ii) if the amount of gross revenue earned within such segment by the provision of U.S.-connected products or services by the related party group to customers outside of such group is $25 million or more in the taxable year. Where the U.S.-connected products or services consist of components which are incorporated into other products or services before sale to customers, the portion of the total gross revenue derived from sales of such finished products or services attributable to the components may be determined on the basis of relative costs of production. Thus, where relevant for determining whether the $25 million threshold has been met, the amount of gross revenue derived by the related party group from the provision of such finished products or services may be reduced by multiplying such gross revenue by a fraction, the numerator of which is the costs of production of the related party group attributable to the component products or services that constitute U.S.-connected products or services and the denominator of which is the costs of production of the related party group attributable to the finished products in which such components are incorporated.

(iii) *Percentage tests.* An industry segment meets one of the percentage tests described in this paragraph (c)(5)(iii) if—

(A) Its gross revenue is 10 percent or more of the combined gross revenue of all of the group's industry segments;

(B) Its identifiable assets are 10 percent or more of the combined identifiable assets of all industry segments; or

(C) The absolute amount of its operating profit or operating loss is 10 percent or more of the greater, in absolute amount, of the combined operating profit of all industry segments that did not incur an operating loss or the combined operating loss of all industry segments that did incur an operating loss.

(iv) *Definitions.* The following definitions apply for purposes of this paragraph (c)(5).

(A) *Gross revenue.* Gross revenue includes receipts (prior to reduction for cost of goods sold) both from sales to customers outside of the related party group and from intersegment sales or transfers within the related party group. Interest from sources outside the related party group and interest earned on intersegment trade receivables is included in gross revenue if the asset on which the interest is earned is included among the industry segment's identifiable assets, but interest earned on advances or loans to other industry segments is not included. Accounting for intersegment sales or transfers must be made on a reasonable basis and a description of such basis must be provided.

(B) *Identifiable assets.* The identifiable assets of an industry segment are those tangible and intangible assets of the related party group that are used by the industry segment, including assets that are used exclusively by that industry segment and an allocated portion of assets used jointly by two or more industry segments. Any allocation of assets among industry segments must be made on a reasonable basis and a description of such basis must be provided. Assets of an industry segment that transfers products or services to another industry segment shall not be allocated to the receiving segment. Assets that represent part of the related party group's investment in an industry segment, such as goodwill, shall be included in the industry segment's identifiable assets. Assets maintained for general corporate purposes (*i.e.*, those not used in the operations of any industry segment) shall not be allocated to industry segments.

(C) *Operating profit or loss.* The operating profit or loss of an industry segment is its gross revenue (as defined in paragraph (c)(5)(iv)(A) of this section) minus all operating expenses. None of the following shall be added or deducted in computing the operating profit or loss of an industry segment: revenue earned at the corporate level and not derived from the operations of any industry segment; general corporate expenses; interest expense (except where the industry segment's operations are principally of a financial nature.

such as banking, insurance, leasing or financing); domestic and foreign income taxes; and extraordinary items not reflecting the ongoing business operations of the industry segment.

(D) *Product.* The term "product" generally means an item of property (or combination of component parts) which is the result of a production process, is primarily sold to unrelated parties (or incorporated by the related party group into other products sold to unrelated parties), and performs a specific function.

(E) *Related products or services.* The term "related products or services" refers to groupings of products and types of services that reflect reasonable accounting, marketing, or other business practices within the industries in which the related party group operates. For this purpose, products are segregated into narrow classifications of models and also aggregated into broad classifications of product lines. Similar principles shall be applied in grouping types of services into reasonable levels of narrow and broad classifications.

(F) *Model.* The term "model" generally means a classification of products that incorporate particular components, options, styles, and any other unique features resulting in product differentiation. Examples of models would include electronic products that are sold or accounted for under a single model number and automobiles sold under a single model name.

(G) *Product line.* The term "product line" generally means a group of products that are aggregated into a single classification for accounting, marketing, or other business purposes. Examples of product lines would include groups of products that perform similar functions; products that are marketed under the same trade names, brand names or trademarks; and products that are related economically (*i.e.*, having similar rates of profitability, similar degrees of risk, and similar opportunities for growth).

(v) *Level of specificity required.* In applying the significant industry segment test of this paragraph (c)(5), groups of related products and services must be chosen to provide a reasonable level of specificity that results in the greatest number of separate significant industry segments in comparison to other possible classifications. This determination must be made on the basis of the particular facts presented by the operations of the related party group. The following rules, however, provide general guidelines for making such classifications. First, the related party group's operations that involve the provision of U.S.-connected products should be grouped into product lines. The rules of this paragraph (c)(5) should then be applied to determine if any such product line would, standing alone, constitute a significant industry segment when compared to the operations of the related party group as a whole. Any significant industry segment determined at the level of product lines should be further segregated, and tested for significant industry segments, at the level of separate products. Finally, any significant industry segments determined at the level of separate products should be segregated, and tested for significant industry segments, at the level of separate models. Similar principles should be applied in classifying and testing types of services. A profit and loss statement reflecting the related party group's provision of any product or service (or group of products or services as classified under these rules) that constitutes a significant industry segment will be considered material for purposes of this paragraph (c)(5).

(vi) *Examples.* The rules for determining reasonable levels of specificity for significant industry segments may be illustrated by the following examples.

Example (1). A related party group is engaged in the manufacture and worldwide sales of automobiles and aftermarket parts. The group's operations within the categories of "automobiles" and "aftermarket parts" are each sufficient to constitute significant industry segments for the group under the rules of paragraph (c)(5) of this section. No narrower classification of aftermarket parts results in any significant industry segments. Automobiles produced by the group are generally classified for marketing purposes by trade names; aggregating groups of automobiles by these trade names results in three significant industry segments, those for trade names A, B, and C. Finally, two car models sold under the trade name A ("A1" and "A2") and one care model sold under the trade name B ("B3"), produce sufficient revenue to constitute significant industry segments. Such classifications into trade names and car models are generally used in the related party group's industry; moreover, different types of classifications would produce fewer significant industry segments. Accordingly, a reasonable level of specificity for this related party group's industry segments would be eight categories of products consisting of "automobiles", "aftermarket parts", "A", "B", "C", "A1", "A2", and "B3".

Example (2). A related party group is engaged in manufacturing electronic goods that are distributed at retail in the United States by the reporting corporation. The group sells three types of products in the United States: televisions, radios, and video cassette recorders (VCRs). Each of these three broad product areas constitutes a significant industry segment for the group as a whole. VCRs can be further segregated by price into high-end and low-end models, and the provision of each constitutes a significant industry segment for the group. Revenues from only one VCR model, model number VCRX-10, are sufficiently large to make the provision of that model a significant industry segment. With respect to televisions, the group normally accounts for these products by size. Using this classification, portable televisions, medium-sized televisions, and consoles each constitute significant industry segments. Narrower classifications by television model numbers result in no additional significant industry segments. Finally, sales of a single radio product line, those sold under the trade name R, results in a significant industry segment, but no other radio models or product groups are large enough to constitute a significant industry segment. In each case, these classifications conform to normal business practices in the industry and result in the greatest possible number of significant industry segments for this related party group. Accordingly, a reasonable level of specificity for this related party group's industry segment would include the ten categories consisting of "VCRs", "high-end VCRs", "low-end VCRs", "model number VCRX-10", "televisions", "portable televisions", "medium-sized televisions", "console televisions", "radios", and "radio trade name R".

(6) *High profit test*—(i) *In general.* A profit and loss statement is material under the high profit test described in this paragraph (c)(6) if—

(A) The statement reflects the profit or loss of the related party group attributable to a single industry segment;

(B) The gross revenues from U.S.-connected products or services attributable to such segment meet the gross revenue test described in paragraph (c)(5)(ii) of this section (except that the $25 million threshold for this purpose is raised to $75 million); and

(C) The return on assets test described in paragraph (c)(6)(ii) of this section is satisfied with respect to the products and services attributable to such segment.

Accordingly, a significant industry segment (as determined under paragraph (c)(5) of this section) must be divided into any narrower industry segments that meet the high profit test of this paragraph (c)(6), even if such narrower segments would not, standing alone, meet the significant industry segment test of paragraph (c)(5) of this section.

(ii) *Return on assets test.* An industry segment meets the return on assets test if the rate of return on assets earned by the related party group within this industry segment exceeds 10 percent, and is at least 200 percent or more of the

rate of return on assets earned by any significant industry segment (determined under the rules of paragraph (c)(5) of this section) which incorporates the business operations of the first industry segment. One industry segment will be considered to incorporate the business operations of a narrower industry segment only if all of the gross revenue attributable to the narrower segment is also attributable to the broader segment. For purposes of this paragraph, the rate of return on assets earned by an industry segment is determined by dividing that segment's operating profit (as defined in paragraph (c)(5)(iv)(C) of this section) by its identifiable assets (as defined in paragraph (c)(5)(iv)(B) of this section).

(d) *Liability for certain partnership record maintenance.* A reporting corporation, to which transactions engaged in by a partnership are attributed under paragraph (e)(2) of § 1.6038A–1, is subject to the record maintenance requirements of this § 1.6038A–3 to the extent of the transactions so attributed.

(e) *Agreements with the District Director or the Assistant Commissioner (International).* The District Director or the Assistant Commissioner (International), in the discretion of either, may negotiate and enter into an agreement with a reporting corporation that establishes what records the reporting corporation must maintain or cause another to maintain, how such records must be maintained, and by whom such records must be maintained in order to satisfy the reporting corporation's obligations under this section.

(f) *Exception to U.S. maintenance*—(1) *Annual election.* A reporting corporation may elect to maintain outside the United States records not ordinarily maintained in the United States but required to be maintained in the United States under this section. To make the election, the reporting corporation must agree to the production of records by either:

(i) Delivering to the Service duplicates of the original documents requested within 60 days of the request by the Service for such records and providing translations of such documents within 30 days of a request for translations of specific documents; or

(ii) Moving duplicates of the original documents requested to the United States within 60 days of the request of the Service for such records; providing the Service with an index to the requested records, the name and address of a custodian located within the United States having control over the records, and the address where the records are located within 60 days of the Service's request for such records; and continuing to maintain such records within the United States throughout the period of retention described in paragraph (g) of this section. For summons procedures with respect to such records that have been moved to the United States, see sections 6038A(e), 7602, 7603, and 7604.

For material profit and loss statements described in paragraphs (c)(5) and (c)(6) of this section, "120 days" shall be substituted for "60 days" in paragraphs (f)(1)(i) and (f)(1)(ii) of this section, and labels and text with respect to such statements must be in the English language. The agreement described in this paragraph must be signed by an officer of the reporting corporation. An annual agreement may be made on Form 5472. Until revised Forms 5472 are available, the agreement shall be made on an attachment to the Form 5472 which contains the following heading and statement.

Election to Maintain Records Outside the U.S.

"[Name of reporting corporation] hereby elects to maintain outside the United States the records described in paragraph (b) of § 1.6038A–3, relating to transactions between [name of reporting corporation] and [name of foreign related party] for its taxable year ending on [date]. [Name of reporting corporation] agrees to produce upon request of the Internal Revenue Service any [name of reporting corporation] or [name of foreign related party] records covered by this election (and translations of specified records) within the time and in the manner prescribed by the regulations.

_____

Signature for [name of reporting corporation]

(To be signed by a corporate officer, on behalf of the reporting corporation: I certify that I have the authority to execute this agreement on behalf of [name of reporting corporation].)

_____

(Signature)

_____

(Title)

_____

(Date)

Please print or type your name below.

_____

(2) *Retroactive elections.* An election pertaining to documents that were in existence on or after March 20, 1990, with respect to taxable years for which the Form 5472 was required to be filed prior to the date on which the final regulations under section 6038A are published may be made on the first timely filing of Form 5472 after that date. Such election should bear the caption "Retroactive election for taxable years prior to final section 6038A regulations."

(3) *Scheduled production for high volume or other reasons.* Upon a written request, for good cause shown, the District Director or the Assistant Commissioner (International), in the discretion of either, may grant an extension of the time for the production or translation of the requested documents. Such requests should be made within 30 days of the request for records by the Internal Revenue Service. If an extension is needed because of the volume of records requested, the District Director or the Assistant Commissioner (International) may allow production to be scheduled over a period of time so that not all records must be produced at the same time.

(4) *Invalidation of non-U.S. maintenance election.* The District Director (with the concurrence of the Assistant Commissioner (Examination)), or the Assistant Commissioner (International), may invalidate, for cause, an election to maintain outside the United States the records specified in paragraph (b) of this section. An election may be invalidated only if there exists a clear pattern of failure to maintain or timely produce the required records. The assessment of a monetary penalty under section 6038A (d) and § 1.6038A–4 for failure to maintain records is not necessarily sufficient in and of itself to cause invalidation of the election to maintain records outside the United States.

(g) *Period of retention.* Records required to be maintained by section 6038A (a) and this section shall be kept as long as they may be relevant to determining the correct tax treatment of any transaction between the reporting corporation and a related party, but in one case less than the applicable statute of limitations on assessment and collection with respect to the taxable year in which the transaction or item to which the records relate affects the U.S. tax liability of the reporting corporation. See section 6001 and the regulations thereunder.

(h) *Effective dates.* For effective dates for this section, see § 1.6038A–1 (k).

§ 1.6038A–4 Monetary penalty.

(a) *Imposition of monetary penalty*—(1) *In general.* If a reporting corporation fails to furnish the information described in § 1.6038A–2 within the time and manner prescribed in paragraphs (d) and (e) of § 1.6038A–2 (relating to the filing of Form 5472), fails to maintain or cause another to maintain records as required by § 1.6038A–3, or fails to produce records maintained outside the

United States within the time prescribed in paragraph (f) of § 1.6038A–3 (relating to the production of maintained records), a penalty of $10,000 shall be assessed for each taxable year with respect to which such failure occurs. Such a penalty may be imposed by the District Director, the Assistant Commissioner (International), or the Director of the Internal Revenue Service Center where the income tax return is filed. The filing of a substantially incomplete Form 5472 constitutes a failure to file Form 5472. Where, however, the information described in paragraph (b) (3) through (5) of § 1.6038A–2 is not required to be reported, a Form 5472 filed without such information is not a substantially incomplete Form 5472.

(2) *Liability for certain partnership transactions.* A reporting corporation, to which transactions engaged in by a partnership are attributed under paragraph (e)(2) of § 1.6038A–1, is subject to the rules of this section to the extent failures occur with respect to the partnership transactions so attributed to the reporting corporation.

(3) *Calculation of monetary penalty.* If a reporting corporation fails to maintain records as required by § 1.6038A–3 of transactions with multiple related parties, the monetary penalty may be assessed for each failure to maintain records with respect to each related party. The monetary penalty, however, shall be imposed on a reporting corporation only once for a taxable year with respect to each related party for a failure to furnish the information required on Form 5472, for a failure to maintain or cause another to maintain records, or for a failure to timely produce records under an election to maintain records outside the United States. An additional penalty for a another failure may be imposed, however, under the rules of paragraph (d)(2) of this section. Thus, unless such failures continue after notification as described in paragraph (d) of this section, the maximum penalty under this paragraph with respect to each related party for all such failures in a taxable year is $10,000. The members of a group of corporations filing a consolidated return are jointly and severally liable for any monetary penalty under this section that may be imposed.

(b) *Reasonable cause*—(1) *In general.* If an affirmative showing is made that there is reasonable cause for a failure that results in the assessment of the monetary penalty, the period during which reasonable cause exists shall be treated as beginning on the day reasonable cause is established and ending not earlier than the last day on which reasonable cause existed for any such failure. Failures which may be excused for reasonable cause include not timely filing Form 5472, not maintaining or causing another to maintain records as required by § 1.6038A–3, and not producing records maintained outside the United States within the time prescribed in paragraph (f) of § 1.6038A–3. Additionally, the beginning of the 90-day period after mailing of a notice by the District Director, the Assistant Commissioner (International), or the Director of an Internal Revenue Service Center of a failure described in paragraph (d) of this § 1.6038A–4, shall be treated as not earlier than the last day on which reasonable cause existed.

(2) *Affirmative showing required*—(i) *In general.* To show that reasonable cause exists for purposes of paragraph (b)(1), the reporting corporation must make an affirmative showing of all the facts alleged as reasonable cause for such failure in a written statement containing a declaration that it is made under penalties of perjury. The statement must be filed with the District Director or the Assistant Commissioner (International) (in the case of failure to maintain or furnish requested information permitted to be maintained outside the United States under the election or a failure to file), or the Director of the Internal Revenue Service Center where the Form 5472 is required to be filed (in the case of failure to file Form 5472). The District Director, the Assistant Commissioner (International), or the Director of the Internal Revenue Service Center where the income tax return is filed, as appropriate, shall determine whether the applicable failure was due to reasonable cause, and if so, the period of time for which such reasonable cause existed. If a return has been filed as required by § 1.6038A–2 or records have been maintained and produced as required by § 1.6038A–3, except for an omission of, or error with respect to, some of the information required or a record to be maintained, the omission or error shall not constitute a failure for purposes of section 6038A (d) if the reporting corporation who filed the return establishes to the satisfaction of the District Director, the Assistant Commissioner (International), or the Director of the Internal Revenue Service Center that the person has substantially complied with the filing of Form 5472 or the requirement to maintain or produce records.

(ii) *Small corporations.* The District Director or the Assistant Commissioner (International) shall apply the reasonable cause exception liberally in the case of a small corporation that

(A) had no knowledge of the requirements imposed by section 6038A;

(B) has limited presence in and contact with the United States; and

(C) promptly and fully complies with all requests by the District Director or the Assistant Commissioner (International) to file Form 5472, and to furnish books, records, or other materials relevant to the reportable transaction.

(c) *Failure to maintain records or to cause another to maintain records.* A failure to maintain records or to cause another to maintain records is determined by the District Director or the Assistant Commissioner (International) upon the basis of the overall compliance (including compliance with an agreement to produce records under the election to maintain records outside the United States) with the maintenance of records requirement by a reporting corporation. It is not an item-by-item determination. Thus, for example, a failure to maintain a single or small number of items may not constitute a failure for purposes of section 6038A (d), unless such item or items are essential to the correct determination of the tax liability of the reporting corporation. Upon such a determination, the District Director or the Assistant Commissioner (International) shall notify the reporting corporation of the failure in writing.

(d) *Increase in penalty where failure continues after notification*—(1) *In general.* If any failure described in this section continues for more than 90 days after the day on which the District Director, the Assistant Commissioner (International), or the Director of the Internal Revenue Service Center where the return is required to be filed (regarding a failure to file Form 5472), mails notice of the failure to the reporting corporation, the reporting corporation shall pay a penalty (in addition to the penalty described in paragraph (a) of this section) of $10,000 with respect to each related party for which a failure occurs for each 30-day period during which the failure continues after the expiration of the 90-day period. Any uncompleted fraction of a 30-day period shall count as a 30-day period for purposes of this paragraph (d) of this section.

(2) *Additional penalty for another failure.* An additional penalty for a taxable year may be imposed, however, if at a subsequent time from the time of the imposition of the monetary penalty described in paragraph (a) of this section, a second failure is determined

and such second failure continues after notification under paragraph (d)(1) of this section. Thus, if a taxpayer fails to file Form 5472 and is assessed a monetary penalty and later, upon audit, is determined to have failed to maintain records, an additional penalty for the failure to maintain records may be assessed under the rules of this paragraph if the failure to maintain records continues after notification under this paragraph.

(3) *Cessation of accrual.* The monetary penalty will cease to accrue if the reporting corporation either files Form 5472 (in the case of a failure to file Form 5472), furnishes information to substantially complete Form 5472, or demonstrates compliance with respect to the maintenance of records (in the case of a failure to maintain) records for the taxable year in which the examination occurs and subsequent years to the satisfaction of the District Director or the Assistant Commissioner (International). The monetary penalty also will cease to accrue if requested information, documents, or records, kept outside the United States under and the election contained in § 1.6038A–3 (f) and not produced within the time specified, are produced.

(4) *Continued failures.* If a failure under this section relating to a taxable year beginning before July 11, 1990 occurs, and if the failure continues following 90 days after the notice of failure under this paragraph is sent, the amount of the additional penalty to be assessed under this paragraph is $10,000 for each 30-day period (or fraction thereof) beginning after November 5, 1990, during which the failure continues.

There is no limitation on the amount of the monetary penalty that may be assessed after November 5, 1990.

(e) *Other penalties.* For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203 and 7206 of the Code.

(f) *Examples.* The following examples illustrate the rules of this section.

Example (1)—Failure to file Form 5472. Corp X, a U.S. reporting corporation, engages in related party transactions with FC. Corp X does not file timely a Form 5472 or maintain records relating to the transactions with FC for Year 1 or subsequent years. The Service Center with which Corp X files its income tax return imposes a $10,000 penalty for each of Years 1, 2, and 3 under section 6038A (d) and this § 1.6038A–4 for failure to provide information as required on Form 5472 and mails a notice of failure to provide information. Corp X does not file Form 5472. Ninety days following the mailing of the notice of failure to Corp X an additional penalty of $10,000 is imposed. On the 135th day following the mailing of the notice of failure, Corp X files Form 5472 for Years 1, 2, and 3. The total penalty owed by Corp X for Year 1 is $30,000. ($10,000 for not timely filing Form 5472, $10,000 for the first 30-day period following the expiration of the 90-day period, and $10,000 for the fraction of the second 30-day period). The penalty for Years 2 and 3 for the failure to file Form 5472 is also $30,000 for each year, calculated in the same manner as for Year 1. The total penalty for failure to file Form 5472 for Years 1, 2, and 3 is $90,000.

Example (2)—Failure to maintain records. Assume the same facts as in *Example (1).* In Year 5, Corp X is audited for Years 1 through 3. Corp X has not been maintaining records relating to the transactions with FC. The District Director issues a notice of failure to maintain records. Corp X has already been subject to the monetary penalty of $10,000 for each of Years 1, 2, and 3 for failure to file Form 5472 and, therefore, a monetary penalty under paragraph (a) of this section for failure to maintain records is not assessed. However, an additional penalty is assessed after the 90th day following the mailing of the notice of failure to maintain records. Corp X develops a record maintenance system as required by section 6038A and § 1.6038A–3. On the 180th day following the mailing of the notice of failure to maintain records, Corp X demonstrates to the satisfaction of the District Director that the newly developed record maintenance system will comply with the requirements of § 1.6038A–3 and the increase in the monetary penalty after notification ceases to accrue. The additional penalty for failure to maintain records is $30,000. An additional penalty of $30,000 per year is assessed for each of years 2 and 3 for the failure to maintain records for a total of $90,000.

(g) *Effective dates.* For effective dates for this section, see § 1.6038A–1 (k).

§ 1.6038A–5 Authorization of agent.

(a) *Failure to authorize.* The rules of § 1.6038A–7 shall apply to any transaction between a foreign related party and a reporting corporation (including any transaction engaged in by a partnership that is attributed to the reporting corporation under paragraph (e)(2) of § 1.6038A–1), unless the foreign related party authorizes the reporting corporation to act as its limited agent solely for purposes of sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to such a transaction or with respect to any summons by the Secretary for such records or testimony. The fact that a reporting corporation is authorized to act as an agent for a foreign related party is not sufficient without other activities to establish for the foreign related party either a trade or business in the United States for purposes of the Code or a permanent establishment or fixed base for purposes of an income tax treaty.

(b) *Annual authorization by related party*—(1) *In general.* A foreign related party annually shall authorize as its agent (solely for purposes of sections 7602, 7603, and 7604) the reporting corporation with which it engages in transactions by providing a statement on Form 5472, signed by the foreign related party or an officer of the foreign related party possessing the authority to authorize an agent for purposes of Rule 4(d)(3) of the Federal Rules of Civil Procedure. The reporting corporation will accept this appointment by providing such a statement, signed by an officer of the reporting corporation possessing the authority to accept such an appointment. The agency shall be effective at all times. Until official Internal Revenue Service forms are available, the authorization and acceptance must be attached to the Form 5472 and must contain a heading and statement as set forth below. A foreign government or a controlled commercial entity as defined by section 892(2)(B) is not subject to the authorization of agent requirement.

Authorization of Agent

"[Name of foreign related party] hereby expressly authorizes [name of reporting corporation] to act as its agent solely for purposes of sections 7602, 7603, and 7604 of the Internal Revenue Code with respect to any request to examine records or produce testimony related to any transaction between [name of the above-named foreign related party] and [name of reporting corporation] or with respect to any summons for such records or testimony.

Signature of or for [name of foreign related party]

(Title)

(Date)

(If signed by a corporate officer, partner, or fiduciary on behalf of foreign related party): I certify that I have the authority to execute this authorization of agent to act on behalf of [name of foreign related party]).

Type or print your name below if signing for a foreign related party that is not an individual.

[Name of reporting corporation] accepts this appointment to act as agent for [name of foreign related party] for the above purpose."

Signature for [Name of Reporting Corporation

(Title)

(Date)

I certify that I have the authority to accept this appointment to act as agent on behalf of [name of foreign related party] and agree to accept service of process for the above purposes.

Type or print your name below.

and such second failure continues after notification under paragraph (d)(1) of this section. Thus, if a taxpayer fails to file Form 5472 and is assessed a monetary penalty and later, upon audit, is determined to have failed to maintain records, an additional penalty for the failure to maintain records may be assessed under the rules of this paragraph if the failure to maintain records continues after notification under this paragraph.

(3) *Cessation of accrual.* The monetary penalty will cease to accrue if the reporting corporation either files Form 5472 (in the case of a failure to file Form 5472), furnishes information to substantially complete Form 5472, or demonstrates compliance with respect to the maintenance of records (in the case of a failure to maintain) records for the taxable year in which the examination occurs and subsequent years to the satisfaction of the District Director or the Assistant Commissioner (International). The monetary penalty also will cease to accrue if requested information, documents, or records, kept outside the United States under and the election contained in § 1.6038A–3 (f) and not produced within the time specified, are produced.

(4) *Continued failures.* If a failure under this section relating to a taxable year beginning before July 11, 1990 occurs, and if the failure continues following 90 days after the notice of failure under this paragraph is sent, the amount of the additional penalty to be assessed under this paragraph is $10,000 for each 30-day period (or fraction thereof) beginning after November 5, 1990, during which the failure continues.

There is no limitation on the amount of the monetary penalty that may be assessed after November 5, 1990.

(e) *Other penalties.* For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203 and 7206 of the Code.

(f) *Examples.* The following examples illustrate the rules of this section.

Example (1)—Failure to file Form 5472. Corp X, a U.S. reporting corporation, engages in related party transactions with FC. Corp X does not file timely a Form 5472 or maintain records relating to the transactions with FC for Year 1 or subsequent years. The Service Center with which Corp X files its income tax return imposes a $10,000 penalty for each of Years 1, 2, and 3 under section 6038A (d) and this § 1.6038A–4 for failure to provide information as required on Form 5472 and mails a notice of failure to provide information. Corp X does not file Form 5472. Ninety days following the mailing of the notice of failure to Corp X an additional penalty of $10,000 is imposed. On the 135th day following the mailing of the notice of failure, Corp X files Form 5472 for Years 1, 2, and 3. The total penalty owed by Corp X for Year 1 is $30,000. ($10,000 for not timely filing Form 5472, $10,000 for the first 30-day period following the expiration of the 90-day period, and $10,000 for the fraction of the second 30-day period). The penalty for Years 2 and 3 for the failure to file Form 5472 is also $30,000 for each year, calculated in the same manner as for Year 1. The total penalty for failure to file Form 5472 for Years 1, 2, and 3 is $90,000.

Example (2)—Failure to maintain records. Assume the same facts as in *Example (1).* In Year 5, Corp X is audited for Years 1 through 3. Corp X has not been maintaining records relating to the transactions with FC. The District Director issues a notice of failure to maintain records. Corp X has already been subject to the monetary penalty of $10,000 for each of Years 1, 2, and 3 for failure to file Form 5472 and, therefore, a monetary penalty under paragraph (a) of this section for failure to maintain records is not assessed. However, an additional penalty is assessed after the 90th day following the mailing of the notice of failure to maintain records. Corp X develops a record maintenance system as required by section 6038A and § 1.6038A–3. On the 180th day following the mailing of the notice of failure to maintain records, Corp X demonstrates to the satisfaction of the District Director that the newly developed record maintenance system will comply with the requirements of § 1.6038A–3 and the increase in the monetary penalty after notification ceases to accrue. The additional penalty for failure to maintain records is $30,000. An additional penalty of $30,000 per year is assessed for each of years 2 and 3 for the failure to maintain records for a total of $90,000.

(g) *Effective dates.* For effective dates for this section, see § 1.6038A–1 (k).

§ 1.6038A–5 Authorization of agent.

(a) *Failure to authorize.* The rules of § 1.6038A–7 shall apply to any transaction between a foreign related party and a reporting corporation (including any transaction engaged in by a partnership that is attributed to the reporting corporation under paragraph (e)(2) of § 1.6038A–1), unless the foreign related party authorizes the reporting corporation to act as its limited agent solely for purposes of sections 7602, 7603, and 7604 with respect to any request by the Secretary to examine records or produce testimony related to such a transaction or with respect to any summons by the Secretary for such records or testimony. The fact that a reporting corporation is authorized to act as an agent for a foreign related party is not sufficient without other activities to establish for the foreign related party either a trade or business in the United States for purposes of the Code or a permanent establishment or fixed base for purposes of an income tax treaty.

(b) *Annual authorization by related party*—(1) *In general.* A foreign related party annually shall authorize as its agent (solely for purposes of sections 7602, 7603, and 7604) the reporting corporation with which it engages in transactions by providing a statement on Form 5472, signed by the foreign related party or an officer of the foreign related party possessing the authority to authorize an agent for purposes of Rule 4(d)(3) of the Federal Rules of Civil Procedure. The reporting corporation will accept this appointment by providing such a statement, signed by an officer of the reporting corporation possessing the authority to accept such an appointment. The agency shall be effective at all times. Until official Internal Revenue Service forms are available, the authorization and acceptance must be attached to the Form 5472 and must contain a heading and statement as set forth below. A foreign government or a controlled commercial entity as defined by section 892(2)(B) is not subject to the authorization of agent requirement.

Authorization of Agent

"[Name of foreign related party] hereby expressly authorizes [name of reporting corporation] to act as its agent solely for purposes of sections 7602, 7603, and 7604 of the Internal Revenue Code with respect to any request to examine records or produce testimony related to any transaction between [name of the above-named foreign related party] and [name of reporting corporation] or with respect to any summons for such records or testimony.

Signature of or for [name of foreign related party]

(Title)

(Date)

(If signed by a corporate officer, partner, or fiduciary on behalf of foreign related party): I certify that I have the authority to execute this authorization of agent to act on behalf of [name of foreign related party]).

Type or print your name below if signing for a foreign related party that is not an individual.

[Name of reporting corporation] accepts this appointment to act as agent for [name of foreign related party] for the above purpose."

Signature for [Name of Reporting Corporation

(Title)

(Date)

I certify that I have the authority to accept this appointment to act as agent on behalf of [name of foreign related party] and agree to accept service of process for the above purposes.

Type or print your name below.

such deemed compliance is applicable only for that particular transaction and other reportable transactions entered into prior to the time when the reporting corporation knew or had reason to know that the related party, in fact, was related. The noncompliance rule of § 1.6038A–7 shall apply to any transaction subsequent to that time with the same related party, unless the related party actually authorizes the reporting corporation to act as its agent under paragraph (a) of this section. A new authorization must be executed for all subsequent transactions. In addition, the record maintenance requirements of § 1.6038A–3 will apply to all subsequent transactions and, with respect to prior transactions, will apply to relevant records in existence at the time the relationship was discovered.

(f) *Effective dates.* For effective dates for this section, see § 1.6038A–1 (k).

§ 1.6038A–6 Failure to furnish information.

(a) *In general.* The rules of § 1.6038A–7 may be applied with respect to a transaction between a foreign related party and the reporting corporation (including any transaction engaged in by a partnership that is attributed to the reporting corporation under paragraph (e)(2) of § 1.6038A–1) if a summons is issued to the reporting corporation to produce any records or testimony, either directly or as agent for such related party, to determine the correct treatment under Title 1 of the Code of such a transaction between the reporting corporation and the related party; and if—

(1)(i) The summons is not quashed in a proceeding, if any, begun under section 6038A(e)(4) and is not determined to be invalid in a proceeding, if any, begun under section 7604 to enforce such summons; and

(ii) The reporting corporation does not substantially and timely comply with the summons, and the District Director or the Assistant Commissioner (International) has sent by certified or registered mail a notice under section 6038A(3)(2)(C) to the reporting corporation that it has not so complied; or

(2) The reporting corporation fails to maintain or to cause another to maintain records as required by § 1.6038A–3, and by reason of that failure, the summons is quashed in a proceeding under section 6038A(e)(4) or in a proceeding begun under section 7604 to enforce the summons, or the reporting corporation is not able to provide the records requested in the summons.

(b) *Enforcement proceeding not required.* The District Director or the Assistant Commissioner (International) is not required to begin an enforcement proceeding to enforce the summons in order to apply the rules of § 1.6038A–7.

(c) *De minimis failure.* Where a reporting corporation's failure to comply with the requirement to furnish information under this section is *de minimis*, the District Director or the Assistant Commissioner (International), in the discretion of the District Director or the Assistant Commissioner (International), may choose not to apply the noncompliance penalty. Thus, for example, in cases where a particular document or group of documents is not furnished upon request or summons, the District Director or the Assistant Commissioner (International), in their sole discretion, may choose not to apply the noncompliance penalty if the District Director or the Assistant Commissioner (International) deems the document or documents not to have significant or sufficient value in the determination of the correctness of the tax treatment of the related party transaction.

(d) *Effective dates.* For effective dates for this section, see § 1.6038A–1(k).

§ 1.6038A–7 Noncompliance.

(a) *In general.* In the case of any failure described in § 1.6038A–5 or § 1.6038A–6, the rules of this § 1.6038A–7 apply to the reporting corporation. In such a case—

(1) The amount of the deduction allowed under subtitle A for any amount paid or incurred by the reporting corporation to the related party in connection with such transaction, and

(2) The cost to the reporting corporation of any property acquired in such transaction from the related party or transferred by such corporation in such transaction to the related party, may be determined by the District Director or the Assistant Commissioner (International).

(b) *Determination of the amount.* The amount of the deduction or the cost to the reporting corporation shall be the amount determined by the District Director or the Assistant Commissioner (International) in the sole discretion of the District Director or the Assistant Commissioner (International) from the District Director's or Assistant Commissioner (International)'s own knowledge or from such information as the District Director or Assistant Commissioner (International) may choose to obtain through testimony or otherwise. The District Director or Assistant Commissioner (International) may disregard any information, documents, or records submitted by the reporting corporation or the related party if, in the sole discretion of the District Director or the Assistant Commissioner (International), the District Director or the Assistant Commissioner (International) deems that they do not have significant or sufficient value in the determination of the correctness of the tax treatment of the related party transaction.

(c) *Separate application.* If the noncompliance penalty of this section applies with respect to transactions with a related party of the reporting corporation, it will not be applied with respect to any other related parties of the reporting corporation solely upon the basis of that failure. Thus, for example, if a reporting corporation engages in transactions with related party A and related party B, and the reporting corporation does not respond to a summons for records related to the transactions between the reporting corporation and related party A, the noncompliance penalty imposed as a result of such failure will not apply to the transactions between the reporting corporation and related party B. If a separate summons is issued for records relating to the transactions between the reporting corporation and related party B and the reporting corporation does not produce such records, the noncompliance penalty may be applied to those transactions.

(d) *Effective dates.* For effective dates for this section, see § 1.6038A–1 (k).

Par. 4. The authority for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.6038C–1 also issued under 26 U.S.C. 6038C.

Par. 5. New § 1.6038C–1 is added to read as follows:

§ 1.6038C–1 General rule.

The rules of §§ 1.6038A–1 through 1.6038A–7 generally will apply for purposes of section 6038C.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved: November 29, 1990.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 90–28773 Filed 12–4–90; 2:30 pm]

BILLING CODE 4830–01–M

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26 CFR Part 1

[IL–868–89]

RIN 1545–A009

Information With Respect to Certain Foreign-Owned Corporations; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing relating to information with respect to certain foreign-owned corporations.

DATES: The public hearing will be held on February 22, 1991, beginning at 10 a.m. Outlines of oral comments must be received by February 8, 1991.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (IL–868–89), room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Felicia A. Daniels of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–566–3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 6038A and 6038C of the Internal Revenue Code of 1986. The proposed regulations appear in the proposed rules section of this issue of the **Federal Register.**

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than February 8, 1991, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90–28774 Filed 12–4–90; 2:30 pm]

BILLING CODE 4380–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1917

[Docket H–117]

RIN 1218–AA22

Grain Handling Facilities

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for information.

SUMMARY: In this notice OSHA is asking a series of questions designed to explore the scope and current relevancy of the grain handling facilities rulemaking record, closed in 1985, on matters such as dust-containment methods and costs. Based on the comments received, OSHA will determine whether the existing record is sufficiently complete and current to support a conclusion on alternatives to applying the 1/8 inch action level housekeeping provision only to priority areas, including the alternative of expanding the action level to the entire grain elevator facility.

DATES: Information submitted in response to this request must be postmarked by March 11, 1991.

ADDRESSES: Information submitted in response to this request must be submitted in quadruplicate to the Docket Officer, Docket H–117, U. S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Office of Public Affairs, Occupational Safety and Health Administration, Room N3649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (202)523–8151.

SUPPLEMENTARY INFORMATION:

I. Background

On December 31, 1987, OSHA promulgated a final standard on grain handling facilities (52 FR 49592, 29 CFR part 1910.272). Paragraph (i)(2) of that standard required grain elevators to initiate appropriate cleaning measures whenever grain dust accumulations reached a depth of 1/8 inch in "priority housekeeping areas." These areas included floor areas which are within 35 feet of inside bucket elevators; floors of enclosed areas containing grinding equipment; and floors of enclosed areas containing grain dryers located inside the facility. This provision of the standard was challenged in the U.S. Court of Appeals for the Fifth Circuit by the National Grain and Feed Association, and in the D.C. Circuit by the Food and Allied Service Trades Department, AFL-CIO. The cases were consolidated in the Fifth Circuit.

In a decision issued October 27, 1988 and amended January 24, 1989, the Court remanded the standard to the Agency for consideration of two issues. First, the Court directed OSHA to further consider whether the "priority area" 1/8 inch action level provision was economically feasible. The Court directed OSHA to reconsider this issue based upon the Court's perception that there was "a significant factual gap in the record" on the costs of sweeping up grain dust in priority areas and the appropriate sweeping rate that should be assumed in calculating these costs. Second, the Court directed OSHA to consider alternatives to applying the action level only to priority areas, including the alternative of expanding the action level requirement to the entire facility. *See National Grain and Feed Association* v. *OSHA*, 866 F.2d 717 (5th Cir. 1989).

OSHA's reconsideration of the first issue was completed on December 4, 1989. On that date, OSHA published a Supplemental Statement of Reasons (54 FR 49971) concluding that the Final Rule's "priority area" 1/8 inch action level was economically feasible. By order dated April 25, 1990, the Court upheld OSHA's reasons for concluding that the priority area housekeeping requirement was economically feasible, and lifted its stay of the provision, effective August 1, 1990. The Court also affirmed OSHA's decision to use the existing record in making the determination that the priority area provision was feasible. *See National Grain and Feed Association* v. *OSHA*, 903 F.2d 308 (5th Cir. 1990).

OSHA deferred its consideration of the second issue which the Court had remanded, whether the action level requirement should be expanded beyond priority areas, because OSHA's conclusions regarding the first issue could have determined its conclusions regarding the second issue. If, for example, OSHA had concluded that the action level was economically infeasible when applied only to priority areas within the facility, extending the action level beyond the priority areas would

clearly also have been economically infeasible; thus further consideration of the second issue would have become unnecessary. Because the action level as applied to priority areas has been found to be economically feasible, however, further consideration is now required to determine whether extension beyond those areas is feasible and necessary.

On June 14, 1990, the Secretary reported to the Court on the status of the Agency's review of the question whether to extend the action level beyond the priority areas. In the report, OSHA concluded: (1) That a substantial question exists as to whether the existing record, which closed in 1985, is sufficiently complete and current to support a conclusion on the remaining issue, and (2) that public comment about the contents of the record can assist the agency in evaluating its adequacy. OSHA decided to develop a series of questions designed to explore the record's scope and current relevancy on matters such as dust-containment methods and costs. OSHA expects the comments to be useful in evaluating the capacity of the existing record to support conclusions about the feasibility and efficacy of expanding the action level housekeeping provision.

Accordingly, OSHA invites interested persons and organizations to provide written comments regarding whether the existing record is adequate to support conclusions on alternatives to applying the 1/8 inch action level only to priority areas, including the alternative of applying the action level to the entire grain elevator facility. Interested persons are invited more particularly to respond to the following questions.

II. Information Requested

1. Is the current record adequate to answer all questions regarding the benefits, costs and feasibility of expanding the housekeeping action level requirement? If not, describe those areas of the record which are deficient and what information is needed.

2. Have the fundamental financial conditions (sales, profits, etc.) of grain elevators changed significantly since 1984? If so, how? What impact has the housekeeping action level provision in priority areas had on the structure and financial status of the industry?

3. Is there any new information available regarding the cleaning rate for elevator floors? Have there been any new studies performed to estimate the cleaning rate for grain elevator floors or other similar surfaces? If so, describe the results of the studies. Have there been any changes in technology that would affect the speed at which workers can clean elevator floors?

4. Has the structure of the industry changed significantly with regard to the number, size and type of grain elevators currently operating? If so, how?

5. Have grain elevators changed significantly with regard to technology and construction in ways that would affect the rate of grain dust accumulation? Has the grain handling standard had an effect in this regard? If so, how?

6. Have the amount and frequency of cleaning occurring in grain elevators changed since 1984? If so, how and why? Are non- priority areas cleaned differently now? If so, how has this affected accumulations of dust on ledges and equipment in these areas?

7. Have there been any significant changes in the labor market that would affect the cost of hiring workers to manually clean grain dust from grain elevator floors? If so, what are they?

8. Is there new information regarding worker fatalities and injuries that would be prevented by expanding the action level housekeeping provision to additional areas in the grain elevator or to the entire grain elevator? If so, please provide the information and describe the equipment or activity contained in these areas.

9. What dust control engineering methods (such as oil additives) are currently being used and are they effective? Do they affect dust levels in non-priority areas? If so, how? What has been their cost of installation and annual maintenance?

10. Would the dust-reduction methods (vacuuming, sweeping, or other methods) that are currently used in priority areas be practical for use in larger areas? Why or why not?

11. Would it be feasible and beneficial to adopt the action level concept for non-priority areas but impose a less-stringent action level in these non-priority areas? If so, describe the alternate action level and its costs and benefits.

III. Public Participation

Interested persons are invited to submit written data, views, and arguments with respect to this notice. These submissions must be postmarked by March 11, 1991, and submitted in quadruplicate to the OSHA Docket Officer, Docket H–117, U.S. Department of Labor, Occupational Safety and Health Administration, Room N2625, 200 Constitution Avenue, NW., Washington, DC 20210. The telephone number of the Docket Office is (202)523–7894, and its hours of operation are 8:15 a.m. to 4:45 p.m., Monday through Friday. Submissions limited to 10 pages or less may also be transmitted by facsimile to (202)523–5046, provided that the original and four copies of the submission are sent to the Docket Officer immediately thereafter.

The data, views and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions will be considered during this information gathering process.

IV. Authority

This document was prepared under the direction of Gerard F. Scannell, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210, in response to the order of the U.S. Court of Appeals for the Fifth Circuit in *National Grain and Feed Association* v. *OSHA*, 866 F.2d 717 (5th Cir. 1989). *See also National Grain and Feed Association* v. *OSHA*, 903 F.2d 308 (5th Cir. 1990). It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)); section 41 of the Longshore and Harbor Worker's Compensation Act (33 U.S.C. 941); Secretary of Labor's Order No. 1–90 (55 FR 9033); and 29 CFR part 1911.

Signed at Washington, DC, this 3rd day of December, 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 90–28806 Filed 12–7–90; 8:45 am]

BILLING CODE 4510–26–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8–90–10]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, TX

AGENCY: U.S. Coast Guard, DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This is an amended proposal that has been agreed upon by the Laguana Madre Yacht Club and the Long Island Owner's Association, in lieu of the proposed regulations published in the **Federal Register**, Vol. 55, No. 132, page 28233, dated July 10, 1990.

At the request of the Long Island Owner's Association, Inc., the Coast Guard is considering a change to the regulation governing the operation of the pontoon bridge across the Gulf Intracoastal Waterway, mile 666.0, at Port Isabel, Texas to limit the bridge openings for pleasure craft on weekdays, except holidays, between 5

a.m. and 8 p.m. to every hour on the hour. The bridge would open on demand for all vessels at all other times, and the bridge would continue to open on demand for commercial vessels at all times. This action will relieve vehicular traffic congestion, while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before January 24, 1991.

ADDRESSES: Comments should be mailed to Commander (ob), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396. The comments and other materials referenced in this notice will be available for inspection and copying in room 1115 at this address. Normal office hours are between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: John Wachter, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. This proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are John Wachter, project officer, and LT J.A. Wilson, project attorney.

Discussion of Proposed Regulation

Vertical clearance of the bridge in the closed position is zero. Navigation through the bridge consists of commercial vessels, including fishing/shrimp boats and tour boats, and various types of recreational craft. Data submitted by the bridge owner show that about 340 vehicles cross the bridge on a daily basis, while approximately nine commercial vessels and seven pleasure boats pass through the bridge site during the same period. The recreational craft, the only vessels affected by the proposed regulation, can easily adjust their arrival time at the bridge to insure a minimum delay while transiting the waterway. Pleasure vessels will also be passed when the draw is opened for commercial vessels during the restricted weekday periods. At the same time, motorists can anticipate the possibility of the bridge openings and arrange to arrive at the bridge at a time to avoid a possible bridge opening.

On July 10, 1990, the Commander, Eighth Coast Guard District published a notice of proposed rulemaking (55 FR 28233) soliciting comments on a proposal to limit the number of openings for pleasure craft through the Port Isabel pontoon bridge. From 5 a.m. to 8 p.m. the bridge would open only on the hour. Sixty-one letters in support of the proposal were received. Twenty-nine letters of objection to the proposal were received, primarily from individual pleasure boat owners. All of the objections were typified by that expressed by the Laguna Madre Yacht Club, the primary pleasure craft user of the bridge. This yacht club stated that pleasure craft awaiting a bridge opening, especially during the peak boating periods of weekends and holidays, could be endangered by large commercial vessels, such as barge tows, which will continue to be passed through the bridge at any time. The yacht club withdrew its objection when the applicant agreed to open the bridge for pleasure craft at all times on weekends and holidays. This action will provide for the reasonable needs of navigation as well as relieve vehicular traffic congestion. In addition, the shallow draft channel through the old causeway bridge is currently being redredged to provide an alternate route for pleasure boats to bypass the pontoon bridge.

This supplemental notice of proposed rulemaking is being published because the amended proposal represents a significant change to the original proposal.

Federalism

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

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that during the proposed limited opening period there will be very little inconvenience for the pleasure vessels using the waterway. In addition, mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrival at the bridge at the appointed time during the proposed regulated period should involve little or no additional expense to them. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.5 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking document.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.968 is revised to read as follows:

§ 117.968 Gulf Intracoastal waterway.

The draw of the Port Isabel bridge, mile 666.0, shall open on signal; except that, from 5 a.m. to 8 p.m. on weekdays only, excluding holidays, the draw need open only on the hour for pleasure craft. The draw shall open on signal at any time for commercial vessels, for a vessel in distress, or for an emergency aboard a vessel. When the draw is open for a commercial vessel, waiting pleasure craft shall be passed.

Dated: November 14, 1990.

J.M. Loy,

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

[FR Doc. 90–28900 Filed 12–7–90; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

41 CFR Part 50–201

RIN 1215–AA33

General Regulations Under the Walsh-Healey Public Contracts Act

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Reopening of comment period on proposed rule.

SUMMARY: The Department of Labor (DOL or Department) is reopening the comment period on a proposal published in the **Federal Register** on June 22, 1989, at 54 FR 26212, which proposed to amend the Walsh-Healey Public Contracts Act (PCA) regulations to provide an alternative regular dealer definition for "information systems integrators," firms that contract to provide fully operational information processing ("ADP") systems to the Federal Government.

DATES: Comments must be received on or before February 8, 1991.

FOR FURTHER INFORMATION CONTACT: John R. Fraser, Deputy 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: The Walsh-Healey Public Contracts Act (PCA) provides labor standards for employees working on Federal contracts over $10,000 for the manufacturing or furnishing of materials, supplies, articles, or equipment. Section 1(a) of PCA provides that contracts subject to the Act may only be awarded to a manufacturer of, or a regular dealer in, the materials, supplies, articles, or equipment to be furnished under the contract. "Regular dealer" is defined in 41 CFR 50–201.101(a)(2) as "a person who owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles, or equipment of the general character described by the contract are bought, kept in stock, and sold to the public in the usual course of business." As provided in 41 CFR 50–206.53(b)(2), the stock maintained by a regular dealer must be "a true inventory from which sales are made."

Situations arise under which the standard definitions are found not to accommodate the Government's needs and a particular industry's practices, and the statute and regulations allow for exceptions to be made when the Government's operations would be seriously impaired if the normal definitions were to be followed. In addition to a number of full and partial administrative exemptions from the eligibility requirements which have been granted for certain types of contracts (see 41 CFR 50–201.603 and .604), special alternate definitions have been granted over the years for regular dealers in eleven particular products (including one for the procurement of used automatic data processing equipment), in order to recognize commercial practices in those industries (see 41 CFR 50–201.101(a)(2) (i) through (xi)). Common to all of these alternative definitions is the absence of a requirement that the dealer physically maintain a stock from which sales are made.

On June 22, 1989, DOL published in the **Federal Register** (54 FR 26212) a proposed alternative regular dealer definition for "information systems integrators," intended to amend the PCA regulations by adding a new subparagraph (a)(2)(xii) to 41 CFR 50–201.101 that would contain the new definition. The proposal resulted from information furnished by representatives of contracting agencies and the industry indicating that information systems integrators play a crucial role in the economic and efficient acquisition of information processing resources by Federal agencies, and that uncertainty as to their eligibility under PCA could endanger agencies' operational capabilities that are heavily dependent upon the performance of advanced technology computer systems.

Only two comments were received on the proposal. In addition, in November 1989, the Subcommittee on Legislation and National Security of the Committee on Government Operations, U.S. House of Representatives, began a series of hearings on the Federal Government's purchase of ADP equipment which included a review of procurements awarded to systems integrators. Based on these Congressional hearings and the fact that only two comments were received, it was decided to reopen the comment period on the Department's proposal to ensure that interested parties have sufficient opportunity to submit comments, and to ensure that the Department has sufficient information in deciding what further rulemaking activity is appropriate.

Accordingly, the Department is inviting additional comments for sixty days on the proposed alternative regular dealer definition for "information systems integrators," as published in the **Federal Register** on June 22, 1989 (54 FR 26212), to allow such firms to bid on contracts to furnish the Federal Government fully operational information processing systems. In addition to establishing alternative qualifications for eligibility the special definition would relieve potential contractors in this industry from having to physically maintain a stock of inventory from which sales are made, a custom that appears to be inconsistent with this industry's practices.

Comments submitted in response to the original Notice of Proposed Rulemaking published on June 22, 1989, are already included in the Department's rulemaking record and will be fully considered in developing the final rule in this matter, as will the information relevant to these proceedings from the Congressional Committee hearings initiated in November 1989. However, commenters responding to this Notice are particularly invited to focus their attention in the comments, in addition to commenting on the substance of the proposed definition itself, on the following two areas: (1) The extent to which the existing, standard PCA definitions for "manufacturer" and "regular dealer" present problems to the Federal Government in its ability to efficiently and effectively procure needed information processing systems and related ADP equipment; and, (2) whether the criteria specified in the proposed special definition are sufficient to prevent "bid brokering," or whether additional limitations or refinements are needed in the rule to ensure that pure "bid brokering" does not occur under the guise of systems integration.

For the convenience of the reader, the proposed special definition published June 22, 1989, is being repeated here for informational purposes:

Section 50–201.101 Manufacturer or Regular Dealer

(a) *Definitions.* * * *

(2) * * *

(xii)(A) An "information systems integrator" is a person or firm that owns, operates or maintains an established business which is engaged in contracting to provide fully operational information

processing systems, comprised of "information processing resources" as defined in 41 CFR 201–2.001, that meet the buyer's designated information processing functional ADP system specifications, as defined in 41 CFR 201–2.001. An "information systems integrator" may qualify as a regular dealer under contracts where, pursuant to contract requirements: (*1*) The government agency solicits to acquire a fully operational information processing system which meets functional ADP system specifications and mission objectives delineated by the solicitation and/or the contract, as opposed to a solicitation and/or contract describing only the specific make and model of the equipment required; (*2*) the contractor assumes the risks for designing, delivering, implementing, and testing (and, where required by the contract, maintaining) a fully operational information processing system that meets the buyer's designated functional specifications; and (*3*) the contractor is responsible to the buyer for correcting any system deficiencies or component failures regardless of the manufacturer of the component or components involved.

(B) An "information systems integrator" will, in accordance with the contract, perform substantially all of the following functions:

(*1*) Analyze the buyer's requirements and needs;

(*2*) Assess currently-available technological offerings and identify/evaluate alternative system designs;

(*3*) Determine the composition of the system;

(*4*) Select and deliver the information processing resources;

(*5*) Customize, modify, or configure components (hardware, software, and supporting equipment) if necessary to satisfy inter-connectibility/compatibility requirements and the buyer's specialized information processing needs;

(*6*) Assemble, install, test, implement, and render operational the final information processing system.

* * * * *

(54 FR 26213, June 22, 1989)

In the Department's Notice of Proposed Rulemaking published on June 22, 1989, the Department advised that the proposed definition of "information systems integrator" is based in part on terms then codified in the Federal Information Resources Management Regulations (FIRMR) issued by the General Services Administration (GSA). The Department further advised that GSA had proposed to revise FIRMR part 201–2 (41 CFR part 201–2) to establish a definition for ADP entitled "Federal information processing resources," and that the Department would give full consideration to the final revisions in the FIRMR in the Department's rulemaking. GSA has issued a final rule amending FIRMR part 201–2, which was published in the **Federal Register** on July 27, 1990, at 55 FR 30705.

Executive Order 12291

This 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 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 certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect in connection with the proposed rule published June 22, 1989. Accordingly, no regulatory flexibility analysis is required. However, the new definition would relieve potential contractors in this industry, both large and small, from having to maintain stock in a manner that is inconsistent with industry practices.

Paperwork Reduction Act

This 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.

This document was prepared under the direction and control of John R. Fraser, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 41 CFR Part 50–201

Administrative practice and procedures, Child labor, Government contracts, Government procurement, Minimum wages, Penalties, Reporting and recordkeeping requirements, Wages.

Signed at Washington, DC, this 30th day of November, 1990.

Roderick A. DeArment,

Acting Secretary of Labor.

William E. Andersen,

Deputy Assistant Secretary for Employment Standards.

John R. Fraser,

Deputy Administrator, Wage and Hour Division.

[FR Doc. 90–28875 Filed 12–7–90; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 662

Northern Anchovy Fishery

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

ACTION: Notice of availability of a fishery management plan amendment and request for comments. .

SUMMARY: NOAA issues this notice that the Pacific Fishery Management Council (Council) has submitted Amendment 6 to the Northern Anchovy Fishery Management Plan (FMP) for Secretarial review, and is requesting comments from the public. Copies of Amendment 6 may be obtained from the Council at the address below.

DATES: Comments on the amendment should be submitted on or before January 25, 1991.

ADDRESSES: Comments on the amendment should be sent to E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the amendment may be obtained from Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2000 SW., First Avenue (Metro Center), Suite 420, Portland, Oregon 97201.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, Southwest Region, (213) 514–6660.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any amendment to a fishery management plan it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or

partial disapproval. The Magnuson Act also requires that the amendment be available for public review and comment. The Secretary will consider all public comments in determining whether to approve the amendment.

The Magnuson Act also established seven national standards that fishery management plans must meet to be approvable, and requires the Secretary to publish guidelines for the Councils to use in applying these national standards. The guidelines (50 CFR part 602) were revised July 24, 1989 (54 FR 30826 *et seq.*) to require that the Councils amend their fishery management plans to include definitions of overfishing for their respective fisheries. Amendment 6 to the FMP is intended to address the requirements of the Secretary's guidelines for compliance with national standards 1 and 2 of the Magnuson Act.

Implementation of Amendment 6 would require that all fishing under U.S. jurisdiction cease when the spawning biomass of northern anchovy is below 50,000 mt for two succeeding years. No fishing would be permitted until the spawning biomass again reaches or exceeds 50,000 mt. On those anticipated rare occasions when the biomass is below 50,000 mt, the absence of an allocation would present a small economic loss to small harvesters and entail some monitoring costs.

Section 303(a)(6) of the Magnuson Act requires that all fishery management plans consider and provide for adjustments regarding access to the fishery for vessels otherwise prevented from harvesting because of bad weather or other ocean conditions affecting safety. Amendment 6 discusses this subject and concludes that the geographical area and opportune time of harvesting in the anchovy fishery contribute to the safety of fishing vessels. There are no management practices that contribute to poor safety conditions.

Section 303(a)(7) of the Magnuson Act requires that all plans include readily available information on the significance of the habitat to the fishery and to assess the effects changes to that habitat might have on the fishery. Amendment 6 discusses this subject in conjunction with sections 4.1.1 and 4.2.8 of the previous amendment, Amendment 5, which provided a thorough description of the habitat of northern anchovy and the effects that changes in the habitat have on the fishery.

Regulations proposed by the Council to implement this amendment are scheduled to be published by December 11, 1990.

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

Dated: December 4, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–28862 Filed 12–5–90; 12:17 pm]

BILLING CODE 3510–22–M

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50 CFR Parts 672 and 675

Groundfish of the Gulf of Alaska, Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of availability of amendments to fishery management plans and request for comments.

SUMMARY: NOAA issues this notice that the North Pacific Fishery Management Council (Council) has resubmitted a portion of Amendment 16 to the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish (BSAI FMP) and Amendment 21 to the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (GOA FMP) for Secretarial review and is requesting comments from the public. Copies of the amendments may be obtained from the address below.

DATES: Comments on the revised amendments should be submitted on or before January 9, 1991.

ADDRESSES: All comments should be sent to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802. Copies of the revised Amendments 16 and 21 and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Hal Weeks, North Pacific Fishery Management Council, (907) 271–2809.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon reviewing the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comment in determining whether to approve the plan or amendment.

If approved, rules implementing the revised Amendments 16 and 21 would hold operators of individual trawl vessels accountable for their bycatch of halibut and red king crab while participating in specified groundfish fisheries.

Regulations proposed by the Council to implement these amendments are scheduled to be published within 15 days.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Fishing vessels, Reporting and recordkeeping requirements.

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

Dated: December 4, 1990.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90–28861 Filed 12–5–90; 12:17 pm]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 55, No. 237
Monday, December 10, 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 COMMERCE

Bureau of Export Administration

Automated Manufacturing Equipment Technical Advisory Committee; Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held January 8, 1991, 9:30 a.m. in the Herbert C. Hoover Building, room 1629, 14th Street & Pennsylvania Avenue NW., Washington, DC. The meeting is called on short notice due to the unanticipated results of recent negotiations of COCOM (Coordinating Committee for Multilateral Export Controls). The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to automated manufacturing equipment and related technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on January 5, 1990, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees 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 20230. For further information, contact Lee Ann Carpenter on (202) 377–2583.

Dated: December 4, 1990.

Betty A. Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 90–28888 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DT–M

Foreign-Trade Zones Board

[Docket 47–90]

Foreign-Trade Zone 90—Onondaga County, NY Request to Expand Scope of Manufacturing Authority—Data Processing Equipment Subzone 90A, Smith Corona Plant, Cortland, NY

A request has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the County of Onondaga, New York, grantee of Foreign-Trade Zone 90, on behalf of Smith Corona Corporation, for authority to expand the scope of manufacturing conducted under zone procedures at the company's typewriter manufacturing plant in Cortland, New York (Subzone 90A).

The Board approved FTZ Subzone 90A in April 1985 (Board Order 300, 50 FR 15469, 4/18/85). The pending request was made because Smith Corona is beginning to manufacture a wider range of data processing products at the Cortland plant, including word processors, personal computer systems/components, and data transmission/communication equipment, as well as certain parts and subassemblies for these items such as keyboards, display units, power supplies, circuit boards, and data storage/memory units. Future plans call for production of duplicating machines. Foreign-sourced components for these products include cathode ray tubes, disc drives, motors, printed circuit boards, typewriter parts and accessories, keyboard, brackets, plate assemblies, batteries, capacitors, power cords, and other parts and accessories for data processing equipment.

As with the ongoing activiity, the use of zone procedures on the new products would exempt Smith Corona from Customs duty payments on parts and materials used to produce items for export. On its domestic sales, the company would be able to choose the lower duty rate applicable to finished products (0.0–2.2%). The duty rates for components range from zero to 10 percent. The request indicates that the use of zone procedures for the expanded range of products will help Smith Corona maintain and improve the plant's international competitiveness.

Comments on the request are invited from interested parties. They should be addressed to: Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce (room 4213), 14th & Pennsylvania Avenue, NW., Washington, DC 20230, and postmarked on or before January 22, 1991.

Dated: December 3, 1990.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90–28896 Filed 12–7–90; 8:45 a.m.]

BILLING CODE 3510–DS–M

International Trade Administration

[A–357–805]

Initiation of Antidumping Duty Investigation: Steel Wire Rope From Argentina

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Argentina are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the United States is being materially retarded, by reason of imports from Argentina of steel wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make a preliminary determination on or before April 15, 1991.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Joel Fischl or Bradford Ward, Office of

Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitutttion Avenue, NW., Washington, DC 20230; telephone (202) 377–1778 or 377–5288, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition filed in proper form by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee). In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioners allege that imports of steel wire rope are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Argentina of steel wire rope.

Petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(E) of the Act, and because they have filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petition presented two methodologies which it used to estimate United States price: (1) Petitioner provided an actual price quote for steel wire rope that was quoted in mid-October 1990 and adjusted for U.S. inland freight, distributor mark-up, broker fees and U.S. duty, supported by an affidavit from an industry expert. (2) Alternatively, petitioner based its estimates of United States price on the average Customs value of imports of bright steel wire rope from Argentina (which accounts for 98 percent of all wire rope imports from Argentina) classified under Harmonized Tariff Schedule (HTS) item number 7312.10.9090. For purposes of initiation, we are calculating United States price based on the actual price quote noted above.

Petitioner's estimate of foreign market value is based on a price list (included in a sales contract between an Argentinian producer and its customer) for steel wire rope. The petitioner adjusted the listed price for physical differences in merchandise.

Based on a comparison of U.S. price and foreign market value, petitioner alleges a dumping margin of 199.99 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petition supporting the allegations.

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigations to determine whether imports of steel wire rope from Argentina are being, or are likely to be, sole in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 15, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire.

The appropriate HTS subheadings under which the subject merchandise is classifiable are 7312.10.60, 7312.10.9030, 7312.10.9060 and 7312.10.9090. HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business property information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order within the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Argentina of steel wire rope. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89–28416 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–337–801]

Initiation of Antidumping Duty Investigation: Steel Wire Rope From Chile

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Chile are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the United States is being materially retarded, by reason of imports from Chile of steel wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make a preliminary determination on or before April 15, 1991.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Karmi Leiman or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–8498 or 377–5288, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition filed in proper form by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee). In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioners allege that imports of steel wire rope are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Chile of steel wire rope.

Petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(E) of the Act, and because they have filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioner presented two different methodologies which it used to estimate United States price: (1) Petitioner based its estimates of United States price on actual F.O.B. Chilean port prices for several steel wire rope products obtained by a consultant, to which no adjustments were made; and (2) alternatively, petitioner based United States price on the unadjusted average monthly customs value of imports of the subject merchandise (both bright and galvanized). For purposes of initiation, we are calculating United States price based on the actual prices noted above.

Petitioner's estimate of FMV is based on constructed value (CV). CV was calculated using the average costs for producing carbon steel wire rope (both galvanized and bright) experienced by members of the Committee, adjusted for known differences between Chilean and U.S. products.

Based on a comparison of U.S. price and foreign market value, petitioner alleges dumping margins ranging from 19.3 to 61.5 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioner supporting the allegations.

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Chile are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 15, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire.

The appropriate Harmonized Tariff Schedule (HTS) subheadings under which the subject merchandise is classifiable are 7312.10.60, 7312.10.9030, 7312.10.9060 and 7312.10.9090. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Chile of steel wire rope. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28417 Filed 12–7–90; 8:45 am]

BILLING CODE 3510-DS-M

[A–570–809]

Initiation of Antidumping Duty Investigation: Steel Wire Rope From The People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from The People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from The People's Republic of China of steel wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make a preliminary

determination on or before April 15, 1991.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Edward Easton or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 377–1777 or 377–1769, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition filed in proper form by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee). In compliance with the filing requirements of the Department's regulations (19 CFR 353-12), petitioners allege that imports of steel wire ropes are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports from The People's Republic of China of steel wire rope.

Petitioner stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(E) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioner alleges that the PRC is a nonmarket economy country within the meaning of section 773(c) of the Act. Accordingly, petitioner based foreign market value on constructed value using factors of production valued in a market economy.

Petitioner based its estimates of United States price on actual prices offered to a U.S. firm for several steel wire rope products. The prices were obtained by a domestic producer of steel wire rope that has contact with personnel associated with the sales of the subject merchandise in the United States. Petitioner adjusted the CIF prices for overseas shipping and handling and selling commissions.

Petitioner's estimate of foreign market value is based on constructed value, using the factors of production for steel wire rope. In valuing the factors of production, petitioner used India, a third country whose economy is market-driven and which petitioner contends is comparable to the PRC.

Based on a comparison of U.S. price and foreign market value, petitioners allege dumping margins ranging from 99.5 to 136.4 percent. We have accepted this comparison.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioner supporting the allegations.

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from The People's Republic of China are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 15, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire.

The appropriate Harmonized Tariff Schedule (HTS) subheadings under which the subject merchandise is classifiable are 7312.1060, 7312.10.9030, 7312.10.9060 and 7312.10.9090. HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from The People's Republic of China of steel wire rope. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28418 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–533–801]

Initiation of Antidumping Duty Investigation: Steel Wire Rope From India

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from India are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the United States is being materially retarded, by reason of imports from

India of steel wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make a preliminary determination on or before April 15, 1991.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: V. Irene Darzenta or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 377–0186 or 377–1769, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition filed in proper form by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee). In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioner alleges that imports of steel wire rope are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from India of steel wire rope.

Petitioner has stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(E) of the Act, and because they have filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioner presented two methodologies which it used to estimate United States price: (1) Actual net delivered prices quoted to a U.S. distributor for several Indian steel wire rope products; and (2) average monthly Customs value of imports of the subject merchandise. For purposes of initiation, we are calculating United States price based on actual price quotations. Petitioner obtained these prices from a domestic producer of steel wire rope that has contact with personnel associated with sales of the subject merchandise in the United States. Petitioner adjusted these prices for overseas shipping and handling, Customs user fees, and U.S. inland freight.

Petitioner's estimate of foreign market value is based on actual ex-godown prices derived from a price list obtained by a consultant from an Indian producer of the subject merchandise. Petitioner adjusted these prices for discounts and foreign inland freight.

Based on a comparison of United States price and foreign market value, petitioner alleges dumping margins ranging from 62.5 to 65.6 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioner supporting the allegations.

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from India are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 15, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire.

The appropriate Harmonized Tariff Schedule (HTS) subheadings under which the subject merchandise is classifiable are 7312.10.60, 7312.10.9030, 7312.10.9060 and 7312.10.9090. HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India of steel wire rope. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 26, 1990

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28419 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–05–M

[A–201–803]

Initiation of Antidumping Duty Investigation: Steel Wire Rope From Mexico

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Mexico are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is being materially injured, or is

threatened with material injury, or the establishment of an industry in the United States is being materially retarded, by reason of imports from Mexico of steel wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make a preliminary determination on or before April 15, 1991.

EFFECTIVE DATES: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–5288.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition filed in proper form by the Committee of Domestic Steel Wire Rope and Speciality Cable Manufacturers (the Committee). In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioner alleges that imports of steel wire rope are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Mexico of steel wire rope.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(E) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioner based its estimates of United States price on actual prices offered to U.S. distributors for several steel wire rope products. The prices were obtained by domestic producers of steel wire rope which have contact with personnel associated with sales of the subject merchandise in the United States. Petitioner adjusted the price for overseas shipping, customs user fees, Mexican value added tax (VAT), and where appropriate, U.S. inland freight.

Petitioner's estimate of foreign market value is based on actual prices derived from price lists obtained by a consultant to petitioner. Petitioner adjusted these prices for discounts, foreign inland freight, and VAT. Petitioner incorrectly calculated the VAT adjustment and, in some cases, improperly compared home market prices effective during one time period to U.S. prices effective during another. We recalculated petitioner's estimate of foreign market value to correct these items.

Based on a comparison of U.S. price and foreign market value, petitioner alleges dumping margins ranging from 59.5 to 111.5 percent. Based on our recalculation, these margins range from 43.2 to 85.4 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioner supporting the allegations.

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Mexico are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 15, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire.

The appropriate Harmonized Tariff Schedule (HTS) subheadings under which the subject merchandise is classifiable are 7312.10.60, 732.10.9030, 7312.10.9060 and 7312.10.9090. HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Mexico of steel wire rope. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28420 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–583–811]

Initiation of Antidumping Duty Investigation: Steel Wire Rope From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Taiwan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may

determine whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the United States is being materially retarded, by reason of imports from Taiwan of steel wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make a preliminary determination on or before April 15, 1991.

EFFECTIVE DATES: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Erik Warga or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 377–8922 or 377–1769, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition filed in proper form by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee). In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioner alleges that imports of steel wire rope are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Taiwan of steel wire rope.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(E) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioner based its estimates of United States price on actual prices offered to U.S. distributors for several steel wire rope products. The prices were obtained by a domestic producer of steel wire rope that has contact with personnel associated with the sales of the subject merchandise in the United States. Petitioner adjusted the C.I.F. New York or Norfolk prices for international freight and insurance.

Petitioner's estimate of foreign market value is based on actual prices offered in Taiwan for several steel wire rope products. The terms of the Taiwan prices were F.O.B. factory.

Based on a comparison of U.S. price and foreign market value, petitioner alleges dumping margins ranging from 1.5 to 31.0 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioner supporting the allegations.

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Taiwan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 15, 1991.

Scope of Investigation

The product covered in this investigation is steel wire rope. Steel wire rope encompasses ropes, cables and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire.

The appropriate Harmonized Tariff Schedule (HTS) subheadings under which the subject merchandise is classifiable are 7312.10.60, 7312.10.9030, 7312.10.9060 and 7312.10.9090. HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of steel wire rope. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28421 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–549–805]

Initiation of Antidumping Duty Investigation: Steel Wire Rope From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Thailand are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, or the establishment of an industry in the United States is being materially retarded, by reason of imports from

Thailand of steel wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make a preliminary determination on or before April 15, 1991.

EFFECTIVE DATES: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Louis Apple or Carolina Olivieri, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–1769 or 377–2778, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition filed in proper form by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee). In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioner alleges that imports of steel wire ropes are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Thailand of steel wire rope.

Petitioner has stated that it has standing to file the petition because it is an interested party, as defined under section 771(9)(E) of the Act, and because it has filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioner based its estimates of United States price on the average monthly Customs value for imports of the subject merchandise from Thailand.

Petitioner's estimate of foreign market value is based on actual prices derived from a comprehensive price list obtained from a Thai producer of the subject merchandise. The prices derived from this list are stated in ex-factory terms.

Based on a comparison of U.S. price and foreign market value, petitioner alleges dumping margins ranging from 28.4 to 34.4 percent.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioner supporting the allegations.

We have examined the petition and found that it complies with the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of steel wire rope from Thailand are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 15, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire.

The appropriate Harmonized Tariff Schedule (HTS) subheadings under which the subject merchandise is classifiable are 7312.10.60, 7312.10.9030, 7312.10.9060 and 7312.10.9090. HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

ITC Notification

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Thailand of steel wire rope. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28422 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

[C–533–802]

Initiation of Countervailing Duty Investigation: Steel Wire Rope From India

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

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in India of steel wire rope (wire rope), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India of wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make our preliminary determination on or before January 29, 1991.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Margot Paijmans or Stephanie Hager, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–1442 and (202) 377–5055, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition in proper form filed by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee), on behalf of the U.S. industry producing wire rope. In compliance with the filing requirements of § 355.12 of the Department's regulations (19 CFR 355.12), petitioner alleges that manufacturers, producers, and exporters of wire rope in India receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since India is a "country under the Agreement" within the meaning of section 701(b) of the Act, title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, the U.S. industry.

Petitioner has stated that it has standing to file the petition because it is an interested party as defined under section 771(9)(E) of the Act and because it has filed the petition on behalf of the U.S. industry manufacturing the product which is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this section, please file written notification with the Assistant Secretary for Import Administration.

Initiation of Investigation

Under section 702(c) of the Act, we must determine whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that: (1) Alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on wire rope from India and have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Indian manufacturers, producers, or exporters of wire rope receive subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before January 29, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than standard wire, not fitted with fittings or made up into articles, and not made of brass plated wire. Steel wire rope is currently provided for in subheadings 7312.10.60, 7312.10.9030, 7312.10.9060 and 7312.10.9090 of the Harmonized Tariff Schedule (HTS). The HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

Allegations of Subsidies

As stated in the "Initiation of Investigation" section of this notice, we have determined that the petition meets the two criteria of section 702(b) of the Act. All programs alleged by the petitioner are export subsidy programs. When the Department applies the two criteria set out in section 702(b) of the Act to export subsidy allegations, the allegations must identify (1) receipt of benefits contingent upon export performance and (2) provision of a countervailable benefit.

Petitioner lists a number of practices by the Government of India which allegedly confer subsidies on manufacturers, producers, or exporters of wire rope in India. Petitioner has met the criteria listed above. Accordingly, we are initiating an investigation of the following programs:

1. Rebates Under the International Price Reimbursement Scheme (IPRS)
2. Preferential Export Financing Through Export Packing Credits
3. Rebates under the Cash Compensatory Support Program (CCS)
4. Income Tax Deductions for Exporters (Section 80HHC)
5. Preferential Post-Shipment Financing
6. Grants Under the Market Development Assistance Program (MDA)
7. Import Permits/Replenishment Licenses

ITC Notification

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-privileged and non-proprietary information. We will also allow the ITC access to all privileged and business proprietary information in the Department's files, provided the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by the ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that imports of wire rope from India materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will be terminated; otherwise, this investigation will continue according to statutory and regulatory time limits.

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

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28423 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

[C–508–804]

Initiation of Countervailing Duty Investigation: Steel Wire Rope From Israel

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

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Israel of steel wire rope (wire rope), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reasons of imports from Israel of wire rope. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 20, 1990. If that determination is affirmative, we will make our

preliminary determination on or before January 29, 1991.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Graham or Julie Anne Osgood, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377–4105 and (202) 377–0167, respectively.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition in proper form filed by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee), on behalf of the U.S. industry producing wire rope. In compliance with the filing requirements of § 355.12 of the Department's regulations (19 CFR 355.12), petitioner alleges that manufacturers, producers, and exporters of wire rope in Israel receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Israel is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Israel materially injure, or threaten material injury to, the U.S. industry.

Petitioner has stated that it has standing to file the petition because it is an interested party as defined under section 771(9)(E) of the Act and because it has filed the petition on behalf of the U.S. industry manufacturing the product which is subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, please file written notification with the Assistance Secretary for Import Administration.

Initiation of Investigation

Under section 702(c) of the Act, we must determine whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that: (1) Alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on wire rope from Israel and have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Israeli manufacturers, producers, or exporters of wire rope receive subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before January 29, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made of brass plated wire. Steel wire rope is currently provided for in subheadings 7312.10.60, 7312.10.9030, 7312.10.9060 and 7312.10.9090 of the Harmonized Tariff Schedule (HTS). The HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive.

Allegations of Subsidies

As stated in the "Initiation of Investigation" section of this notice, we have determined that the petition meets the two criteria of section 702(b) of the Act. When the Department applies these two criteria to domestic subsidy allegations, the allegations must identify (1) specificity (i.e., the program is limited to a specific enterprise or industry or group of enterprises or industries); and (2) provision of a countervailable benefit. When the Department applies these two criteria to export subsidy allegations, the allegations must identify (1) receipt of benefits contingent upon export performance; and (2) provision of a countervailable benefit.

Petitioner lists a number of practices by the Government of Israel which allegedly confer subsidies on manufacturers, producers, or exporters of wire rope in Israel. Petitioner has met the criteria listed above. Accordingly, we are initiating an investigation of the following programs:

1. Encouragement of Capital Investment Law Grants, Long-Term Industrial Development Loans, Tax Exemptions, Accelerated Depreciation, Reduced Income Tax and Interest Subsidy Grants
2. Exchange Rate Risk Insurance Scheme
3. Encouragement of Research and Development Law Grants

ITC Notification

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all non-privileged and non-proprietary information. We will also allow the ITC access to all privileged and business proprietary information in the Department's files, provide the ITC confirms in writing that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by the ITC

The ITC will determine by December 20, 1990, whether there is a reasonable indication that imports of wire rope from Israel materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will be terminated; otherwise, this investigation will continue according to statutory and regulatory time limits.

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

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28424 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

[C–549–806]

Initiation of Countervailing Duty Investigation: Steel Wire Rope From Thailand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Thailand of steel wire rope (wire rope), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If this investigation proceeds normally, we will make our preliminary determination on or before January 29, 1991.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Ross Cotjanle, Office of Countervailing Investigations, Import Administration, International Trade

Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–2815 and (202) 377–3534.

SUPPLEMENTARY INFORMATION:

The Petition

On November 5, 1990, we received a petition in proper form filed by the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (the Committee), on behalf of the U.S. industry producing wire rope. In compliance with the filing requirements of § 355.12 of the Department's regulations (19 CFR 355.12), the petition alleges that manufacturers, producers, and exporters of wire rope in Thailand receive certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Thailand is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, section 303 of the Act applies to this investigation. Accordingly, petitioner is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product from Thailand materially injure, or threaten material injury to, a U.S. industry.

Petitioner has alleged that it has standing to file the petition because it is an interested party as defined under section 771(9)(E) of the Act and because it has filed the petition on behalf of the U.S. industry manufacturing the product which is subject to this investigation. If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support for, or opposition to, this petition, please file written notification with the Assistant Secretary for Import Administration.

Initiation of Investigation

Under section 702(c) of the Act, the Department is required to determine whether to initiate a countervailing duty proceeding within 20 days after a petition is filed. Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition on behalf of an industry that: (1) Alleges the elements necessary for the imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to the petitioner supporting the allegations. We have examined the petition on wire rope from Thailand and have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether Thai manufacturers, producers, or exporters of wire rope, as described in the "Scope of the Investigation" section of this notice, receive bounties or grants. If our investigation proceeds normally, we will make our preliminary determination on or before January 29, 1991.

Scope of Investigation

The product covered by this investigation is steel wire rope. Steel wire rope encompasses ropes, cables, and cordage of iron or steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass plated wire. Steel wire rope is currently provided for in subheadings 7312.10.60, 7312.10.9030, 7312.10.9060, and 7312.10.9090 of the Harmonized Tariff Schedule (HTS). The HTS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

Allegations of Bounties or Grants

As stated in the "Initiation of Investigations" section of this notice, we have determined that the petition meets the two criteria of section 702(b) of the Act. When the Department applies these two criteria to domestic subsidy allegations, the allegations must identify (1) specificity (i.e., the program is limited to a specific enterprise or industry or group of enterprises or industries); and (2) provision of a countervailable benefit. When the Department applies these two criteria to export subsidy allegations, the allegations must identify: (1) Receipt of benefits contingent upon export performance; and (2) provision of a countervailable benefit.

Petitioner lists a number of practices by the Government of Thailand which allegedly confer bounties or grants on manufacturers, producers, or exporters of wire rope in Thailand. Petitioner has met the criteria listed above. Accordingly, we are initiating an investigation of the following programs:

1. Export Packing Credits
2. Tax Certificates for Exporters
3. Electricity Discount for Exporters
4. Rediscount of Industrial Bills
5. Export Processing Zones
6. International Trade Promotion Fund
7. Investment Promotion Act

- Section 28: Import Duty and Tax Exemption for Machinery
- Section 31: Income Tax Exemption
- Section 33: Goodwill and Royalties Tax Exemption
- Section 34: Tax Deduction for Dividends
- Section 36(1): Import Duty and Tax Exemption on Raw and Essential Materials
- Section 36(2): Import Duty and Tax Exemption on Imports for Re-export
- Section 36(3): Export Duty and Tax Exemption on Products for Export
- Section 36(4): Tax Deduction on Income Resulting from Increased Exports

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

Dated: November 26, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28425 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

Sanctions for Violations of Administrative Protective Orders

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of status of investigation into charges of violation of administrative protective orders in antidumping and countervailing duty proceedings.

SUMMARY: This is a notice of the status of investigations into charges of violation of administrative protective orders in antidumping and countevailing duty proceedings.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Chief Counsel for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377–8916.

SUPPLEMENTARY INFORMATION: The International Trade Administration, U.S. Department of Commerce (ITA), wishes to remind those members of the bar who appear before it in antidumping and countervailing duty proceedings of the extreme importance of protecting the confidentiality of business proprietary information obtained pursuant to an administrative protective order (APO) during the course of those proceedings. In order that the gravity with which ITA views violations of its APO's might be better appreciated, ITA is publishing the following report on a recent allegation that the provisions of an APO have been violated.

Certain individuals violated their APO by including in a public submission business proprietary information from the respondent's business proprietary version of its response to the Department's questionnaire. By including APO-covered information in a public

submission, the individuals violated their application for access to business proprietary information which was incorporated by reference into the APO.

In this case, the individuals involved were (1) Issued private reprimands which warned that future violations by them or others associated with the law firm would be treated more severely; (2) required to send a letter to counsel for the affected company which explains and apologizes for the circumstances surrounding the violation; (3) required to attend a training session on procedures for protecting proprietary data; and (4) required to submit to the ITA a written office plan describing how business proprietary information received under APO would be protected and accounted for in order to ensure that all such materials will not be disclosed to parties or persons not specified in the APO.

We consider these sanctions appropriate for the following reasons: (1) The violation appears to have been inadvertent; (2) there appears to be little, if any, harm caused by the inclusion of the APO-covered information in the public document as the alleged violation was discovered shortly after submission of the public comment and all of the public documents containing the business proprietary information were retrieved immediately thereafter; (3) the individuals cooperated fully with the ITA's preliminary investigation.

Serious harm can result from the inclusion in a public document of business proprietary information received under APO. ITA will continue to investigate vigorously allegations that the provisions of APO's have been breached, and is prepared to impose sanctions commensurate with the nature of the violations, including letters of reprimand, denial of access to proprietary information, and debarment from practice before the ITA.

Dated: November 30, 1990.

Roger W. Wallace,

Deputy Under Secretary for International Trade.

[FR Doc. 90-28889 Filed 12-7-90; 8:45 am]

BILLING CODE 3510-DS-M

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulation, we are initiating those administrative reviews.

EFFECTIVE DATE: December 10, 1990.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with § 353.22(a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than October 31, 1991.

Antidumping duty proceedings and firms	Periods to be reviewed
Italy:	
Pressure Sensitive Plastic Tape A-475-059	
N.A.R.	10/1/89-9/30/90
Japan:	
Tapered Roller Bearings, Over 4 Inches A-588-054	
Koyo Seiko, Nippon Seiko, Nachi Fujikoshi, NTN Toyo Bearing.	10/1/89-9/30/90
Peoples Republic of China:	
Cotton Shop Towels A-570-003	
Chinatex, CNART, Tianjin Arts and Crafts.	10/1/89-9/30/90
Countervailing Duty Proceedings	
Brazil:	
Agricultural Tillage Tools C-351-406.	1/1/89-12/31/89
India:	
Certain Iron-Metal Castings C-533-063.	1/1/89-12/31/89
Sweden:	
Certain Carbon Steel Products C-401-401.	1/1/89-12/31/89
Thailand:	
Certain Steel Wire Nails C-549-701.	1/1/89-12/31/89

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) (1989) and § 355.22(c) (1988).

Dated: November 8, 1990.

Bernard T. Carreau,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 90-28892 Filed 12-7-90; 8:45 am]

BILLING CODE 3510-35-M

[A-122-506]

Final Results of Antidumping Duty Administrative Reviews Oil Country Tubular Goods From Canada

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative reviews.

SUMMARY: On July 23, 1990, the Department of Commerce ("the Department") published in the **Federal Register** (55 FR 29874) the preliminary results of its administrative reviews of the antidumping duty order on oil country tubular goods ("OCTG") from Canada (51 FR 21782, June 16, 1986). The reviews cover Christianson Pipe Ltd., an exporter of this merchandise to the United States, and the periods January 1, 1986 through May 31, 1987 and June 1, 1987 through May 31, 1988. We preliminarily found dumping margins.

We gave interested parties an opportunity to comment on the preliminary results. Based on the analysis of the comments received, we have changed the margins from that presented in our preliminary results.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph B. Kaesshaefer, Jr. or Linda L. Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On July 23, 1990, the Department published in the **Federal Register** (55 FR 29874, July 23, 1990) the preliminary results of its administrative reviews of the antidumping duty order on OCTG from Canada (51 FR 21782, June 16, 1986). The Department has now completed the administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of Review

Imports covered by these reviews are shipments of OCTG from Canada. This

includes API-specification OCTG and all other pipe with the following characteristics used in OCTG applications: length of at least 16 feet; outside diameter of standard sizes published in the API or proprietary specifications for OCTG with tolerances of plus ⅛ inch for diameters less than or equal to 8⅝ inches and plus ¼ inch for diameters greater than 8⅝ inches, minimum wall thickness as identified for a given outer diameter as published in the API or proprietary specifications for OCTG; a minimum of 40,000 PSI yield strength and a minimum 60,000 PSI tensile strength; and if with seams, must be electric resistance welded. Furthermore, imports covered by this review include OCTG with non-standard size wall thickness greater than the minimum identified for a given outer diameter as published in the API or proprietary specifications for OCTG, with surface scabs or silvers, irregularly cut ends, ID or OD weld flash, or open seams; OCTG may be bent, flattened or oval, and may lack certification because the pipe has not been mechanically tested or has failed those tests. During the periods of review, these shipments were provided for in Tariff Schedules of the United States Annotated (TSUSA) items 610.3216, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3245, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3295, 610.3935, 610.4025, 610.4035, 610.4210, 610.4220, 610.4225, 610.4230, 610.4235, 610.4240, 610.4310, 610.4320, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. The corresponding Harmonized Tariff Schedule (HTS) numbers are 7304.20, 7305.20, and 7306.20. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The reviews cover one exporter of OCTG from Canada, Christianson Pipe Ltd., and the periods January 1, 1986 through May 31, 1987 and June 1, 1987 through May 31, 1988.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioners, Lone Star Steel Company and CF&I Steel Corporation, we held a public hearing on September 18, 1990. We received comments and rebuttal comments from the petitioners and respondent.

Analysis of Petitioners' Comments

Comment 1: Petitioners claim that the Department erred in using information submitted by Christianson in its preliminary analyses because the data contained in Christianson's responses were unverifiable. Petitioners argue that the Department should therefore disregard Christianson's response completely, and rely instead on best information available. Petitioners recommend for use as best information available the "all other" rate established by the Department during its fair value investigation.

Department's position: We disagree. The data received were substantially correct. Christianson brought certain calculation or programming errors to the Department's attention, and when the Department found other discrepancies and errors, Christianson corrected them and the Department verified the amended data.

Comment 2: Petitioners contend that the Department erred in not calculating U.S. price on the basis of Prudential's (Christianson's supplier) sales prices to Christianson because Prudential knew or should have known that some of its merchandise was destined for the United States. Petitioners maintain that Christianson is at best a broker for Prudential and that Prudential was involved in Christianson's resale process. Petitioners claim that this is further supported by the fact that Christianson never inventories the pipe. For these reasons, petitioners believe Prudential's prices to Christianson should have been used as the price to the United States.

Christianson argues that Prudential had no knowledge at the time of sale that the commercial grade pipe would be exported to the United States and that the relationship between Christianson and Prudential is strictly arms-length. Therefore, the Department was correct in comparing Christianson's home market sales with Christianson sales to the United States.

Department's position: We agree with Christianson. Christianson negotiates annually to purchase all commercial grade pipe generated by Prudential. The company sells this pipe to the United States as well as in Canada. Prudential, however, does not know the ultimate disposition of the merchandise it sells to Christianson at the time of its sales agreement with Christianson. Furthermore, Christianson's invoicing, shipping, and payment records indicate that the pipe is marketed solely by Christianson. The Department verified that Christianson takes title to the goods while they are on Prudential's premises and that Prudential is not involved in establishing Christianson's selling prices. Under these circumstances, the Department therefore believes it appropriate to base United States price on Christianson's sales to its unrelated U.S. customers.

Comment 3: Petitioners contend that the Department erred in calculating FMV based on home market sales instead of constructed value because the merchandise sold by Christianson in the home market is not such or similar to the merchandise sold to the United States. Petitioners argue that because there is a wide range of defects in commerical grade pipe, the Department should use a difference in merchandise adjustment through constructed value to account for the variety of defects. Further, petitioners state that the pipe sold by Christianson in the home market is not OCTG because it cannot be used for drilling in Canadian wells. Petitioners argue that the Department recognized that commercial grade pipe could be used in other than OCTG applications so it expressly limited the scope of the order by eliminating pipe which was not used in OCTG applications in the United States as determined by the Department's end use certification procedure.

Respondent contends that the merchandise it sells in Canada is commercially identical to the merchandise it sells in the United States, and that the Department correctly based its comparison on merchandise sold by Christianson in the home market.

Department's position: We disagree with petitioners. The Department believes that the commercial grade pipe sold by Christianson in the home market is such or similar to the commercial grade pipe it sells in the United States within the statutory definition of "such or similar" merchandise found at section 771(16) of the Act. The merchandise Christianson sells in both markets consists of pipe possessing the same range of defects which causes all of that pipe to be classified as commercial grade pipe. Christianson sells its commercial grade pipe in both Canada and the United States without regard to the individual differences in defects between different pipe; Christianson merely sorts the pipe by size and sells it on an "as is," non-warranted basis to distributors and end users in both markets. The purchaser in both markets purchases a variety of defective pipe of the same size.

Petitioners argue that the commercial grade pipe sold by Christianson in the United States is not "such or similar" to that sold in Canada because Canadian

regulations prohibit using defective pipe as OCTG without first sufficiently upgrading that pipe similarly defected. At the time Christianson sells the commercial pipe in both markets, however, that pipe can be applied to the same variety of uses in both markets. According to section 773(a)(1) of the Act, the foreign market value of the imported merchandise depends upon the price charged for that merchandise "at the time such merchandise is first sold within the United States." Thus, if use is a factor in determining whether merchandise is "such or similar" for foreign market value purposes, the relevant uses the Department must consider is the use of the merchandise at the time of that first sale in the United States. As noted above, at the time of that first sale of commercial pipe in the United States, that pipe can be used in the United States for the same variety of purposes as in Canada. For merchandise such as commerical grade pipe, which at the time of importation can be used in a variety of ways, the ultimate use of that merchandise cannot drive the initial determination of whether that merchandise is "such or similar" for foreign market value purposes, particularly when ultimate use may be decided far in the future by a subsequent purchaser.

The Department's end use certification procedure merely provided domestic parties the opportunity to certify that certain pipe was not used in OCTG applications and, therefore, was not subject ultimately to the antidumping duty order. This procedure did not change the fact that when Christianson sold commercial grade pipe in both markets, the variety of possible uses for that pipe was the same.

Additionally, petitioners assert that the range of defects in commercial grade pipe should lead the Department of adjust for differences in merchandise. According to § 353.57 of the Department's regulations, however, the Department will adjust for differences in physical characteristics only when the Department is satisfied that "the amount of any price differential is wholly or partly due to such differences." Because Christianson did not sort or sell the various types of commercial grade pipe according to defects, the Department concluded that no price differentials existed between the various types of commercial grade pipe. Therefore, the Department did not make adjustments for physical differences.

Comment 4: Petitioners argue that the Department's decision to reject petitioners' sales below cost allegations as untimely filed is unreasonable. Petitioners assert that at the time it filed its allegations, there was no regulatory deadline for submission of such allegations. Further, petitioners state that there was an established practice of permitting sales below cost allegations to be filed prior to the Department's publication of its preliminary results of review. Petitioner claims that prior to the effective date of its new regulations the Department applied a "flexible" approach to below cost allegation deadlines. Petitioner cites Tapered Roller Bearings from Japan, 55 FR 22369 (June 1, 1990) and Stainless Steel Wire Rod from France, 48 FR 2808 (January 21, 1983) for the proposition that the Department only rejected cost allegations which failed to provide the Department with sufficient time to undertake cost investigations.

Petitioner cites Certain Internal-Combustion Forklift Trucks from Japan, 52 FR 45003 (November 24, 1987), Stainless Steel Hollow Products from Sweden, 52 FR 37810 (October 9, 1987), Certain Stainless Steel Cooking Ware from Korea, 51 FR 42873 (November 26, 1986), and Certain Stainless Steel Cooking Ware from Taiwan, 51 FR 42882 (November 26, 1986) to support its contention that allegations submitted at any time prior to a preliminary determination were presumed to be timely.

Christianson argues that the Department properly rejected petitioners' untimely allegation. Christianson cites an article written in 1985 by two Department officials which states that below cost allegations will not be considered later than 120 days after the publication of the notice of initiation of the review.

Department's Position: The Department agrees with Christianson that the below cost allegations should be rejected as untimely. Section 353.31(c)(ii) of the Department's regulations, though not in effect officially until after the cost allegations in these reviews were filed, was published in proposed form on August 13, 1986, and codified Departmental practice in effect at the time of filing. That practice, based upon reasonableness, was that "petitioner is *obligated* to make sales below cost allegations at the *earliest possible time* during the course of a review in order to avoid unduly delaying the review" (emphasis added). Circular Welded Pipes and Tubes from Korea 52 FR 33460 (September 3, 1987); Portable Electric Typewriters from Japan, 53 FR 40926 (October 19, 1988).

As stated in Circular Welded Pipes and Tubes from Korea, consistent with the then-proposed regulations, "cost allegations should be received within 120 days after the date of publication of the notice of initiation of the review. Normally, this should be within thirty to forty-five days from receipt of the questionnaire responses." Thus, though the regulations were not yet in effect officially, the Department clearly had given notice of what it considered to be a reasonable time frame to file below cost allegations.

Petitioner filed its cost allegation for the first and second administrative reviews on March 22, 1989, twenty months after initiation of the first review (July 17, 1987) and eighteen months after petitioner received Christianson's first review questionnaire response. Petitioners argue that it did not file a cost allegation before that date because: (1) The review was "on hold" from September 8, 1987 to April 1988; and (2) a Department official no longer at the Department agreed that petitioner should wait to file cost allegations pending a decision on petitioners' June 27, 1988 request concerning constructed value. Nothing in the administrative record supports either of these allegations.

The Department initiated the second review on July 28, 1988. Christianson submitted its questionnaire response in the second review on October 13, 1988; petitioners state that it received the proprietary version "nearly three months later". However, sufficient information was available in the public response that would have allowed petitioners to decide whether or not to file a cost allegation. Not until March 22, 1989, did petitioners file any cost allegation whatsoever, eight months after initiation and five months after receiving the public response.

Petitioners cite several determinations to argue that the Department regularly accepts cost allegations as long as they are filed before a preliminary determination. However, petitioners fail to address the reasonableness of the Department's acceptance of those allegations under the facts of those determinations. The facts of the reviews currently before the Department clearly demonstrate that while filed before the preliminary determinations, petitioners did not submit their cost allegations within a reasonable period of time.

Comment 5: Petitioners argue that Christianson's home market sales were made at prices below the cost of production, and that the Department must not use Christianson's acquisition price in any cost analysis because the

acquisition price does not reasonably reflect the actual cost of production of the merchandise. Further, petitioners believe the Department should not use Christianson's selling, general, and administrative expenses and profit figures because they were inaccurately reported.

Department's position: The Department did not conduct a cost of production test for these reviews because petitioners' allegations were untimely filed. (*See* the Department's response to Petitioners' Comment 4.)

Comment 6: Petitioners contend that the Department erred in basing Christianson's imputed U.S. credit expense adjustment on purchase price transactions on the cost of U.S. dollars that Christianson would have incurred had it borrowed U.S. funds. Petitioners state that because Christianson never borrowed U.S. funds, the average Canadian interest rate for the respective review periods should be used in both the home market and U.S. credit expense calculations.

Christianson argues that the Department correctly used U.S. imputed credit costs using U.S. dollar interest rates in the preliminary results of these administrative reviews.

Department's position: After further review and consideration of this matter, we agree with petitioners. The Department generally uses a home market interest rate in its imputed credit expense calculations for purchase price transactions when a company has not actually borrowed any funds since short term financing is generally made in the funds of the country where the company is located. We calculated over the annual review period a simple average of the home market interest rates offered by Christianson's Canadian bank to approximate the rate Christianson would have paid had it borrowed money. We then multiplied this average interest rate by the number of days from the date of the sale to the payment date to determine an amount for credit expense in both the United States and home market transactions.

Comment 7: Petitioners argue that the Department's adjustments for federal taxes on home market sales are incorrect. Petitioners contend that the Department erred in its assumption that all export sales would have been subject to the tax and should not make upward adjustments to United States price on all sales. Petitioners believe that the Department should make no upward adjustment to United States price for the federal taxes, but if Commerce insists on doing so, the adjustment should be based on Christianson's acquisition cost.

Department's position: We agree in part. The Department verified that in Canada all pipe produced and sold ultimately has a federal tax imposed upon it and paid by some party in Canada. This tax is based on Christianson's acquisition price.

In the preliminary results of these reviews, we added to the United States price the amount of federal sales taxes that would have been collected on the export sales had those sales been subject to the tax. On the home market side, we deducted the tax where it was paid by Christianson before computing weighted average foreign market values ("FMV"). We then made a circumstance of sales adjustment to FMV in the amount of the difference in the tax between the two markets, resulting in a tax-neutral margin. This adjustment is needed to avoid artificially inflating or deflating margins that can result from the fact that tax amounts attributable to foreign products differ from those associated with U.S. products.

The Department erred in its calculations, using the wrong tax rate in the second review. This has been corrected in the final determination.

Comment 8: Petitioners argue that the amount of provincial tax deducted from FMV, which amounts to over three percent of the invoice price, was incorrect and, therefore, no adjustment should be made. Petitioners recommend that if the Department allows the adjustment, it should be limited to a maximum three percent of invoice value.

Christianson argues that the provincial tax should be added to United States price because it is functionally equivalent to Canadian federal taxes.

Petitioners respond that the provincial tax was not forgiven by reason of the exportation to the United States, and that Christianson failed to establish that its claimed amount was reasonable.

Department's position: Petitioners misunderstood the treatment of the provincial sales tax. A rate of 6 percent, not 3 percent, applies only to sales made to customers in British Columbia. Christianson was rebated 3 percent of the tax paid, if the tax charged was paid in full and on time to the provincial government. The adjusted amount of the provincial tax was subtracted from FMV and was not added to the United States price. We agree with petitioners that the provincial tax is not functionally equivalent to the federal tax because it was not forgiven by reason of exportation to the United States.

Comment 9: Petitioners argue that the Department should have adjusted United States price by subtracting estimated antidumping duties paid to its brokers by Christianson on certain sales during the first review period to achieve the price equilibrium intended under the U.S. antidumping law.

Department's position: We do not consider estimated antidumping duties to be expenses related to the sales under consideration. Given the tenuous nature of these estimated rates and the possibility that they could be zero, we do not consider them to be expenses within the meaning of section 772(d)(2)(A) of the Tariff Act for the purposes of determining United States price. Thus, the Department does not deduct from United States price any estimated duties paid on behalf of, or reimbursed to, an importer. (See, e.g., Color Television Receivers from Korea, FR 26225 (1990); Anhydrous Sodium Metasilicate from France, 49 FR 43733 (1984)).

Comment 10: Petitioners argue that the preliminary dumping margin and cash deposit rates established for Christianson and new exporters are unreasonable and undermine proper enforcement of the antidumping order. Petitioners request that the Department establish a deposit rate for the manufacturer/exporter combination of Prudential Steel Ltd./Christianson so that the manufacturer cannot take advantage of the lower rate and export directly to the United States.

Christianson argues that the Department has established such manufacturer/exporter deposit rates only when the manufacturer had knowledge of the destination of the merchandise at the time it was sold to the reseller. Respondent notes that the Department calculates margins for each company reviewed, and since Prudential was not reviewed, the new deposit rate applies solely to Christianson without reference to the producer.

Department's Position: The Department has determined that Prudential does not know the ultimate disposition of commercial grade pipe at the time of its sales to Christianson. Since there is not relationship between Christianson and Prudential and Christianson's pricing practices are the ones reflected in our fair value finding, we believe it inappropriate to report the result of these reviews as a Prudential/Christianson rate.

Comment 11: Petitioners argue that the cash deposit rate for new exporters is unreasonable because the rate does not reflect the selling practices of Canadian OCTG producers and that the all other rate from the less than fair value investigation should apply to new exporters. Petitioners contend that if the new rate applies to all new exporters,

OCTG producers with higher dumping margins will export their product through new unrelated exporters to take advantage of the lower cash deposit rate.

Department's Position: It is Departmental practice to assign the new cash deposit rate to new exporters. If petitioners believe or have evidence that exporters with a low cash deposit rate are acting as a conduit for producers with a higher rate, petitioners can request an administrative review of those exporters.

Analysis of Respondent's Comments

Comment 1: Christianson argues that the Department erred in comparing Christianson's Canadian distributor sales solely with its U.S. distributor sales and Christianson's Canadian end user sales solely with its U.S. end user sales. Christianson believes that its Canadian prices do not differentiate between distributor and end user customers.

Petitioners argue that the Department consistently makes sales comparisons at the same commercial level of trade when they exist in the U.S. and foreign market and that the Department correctly made such a comparison in Christianson's case.

Department's Position: We agree with petitioners. According to § 353.58 of the Department's regulations, we "normally will calculate foreign market value and United States prices based on sales of the same commercial level of trade." Despite Christianson's argument, prices do not determine the level of trade.

Comment 2: Christianson argues that the Department should have compared similar U.S. and Canadian truck load quantities because Christianson generally makes large quantity sales (*i.e.*, truckload quantities) at a lower price per ton than the price it charges for smaller quantities (*i.e.*, less-than-truckload quantities).

Petitioners argue that Christianson does not grant quantity discounts on its home market sales. Further, petitioners argue that in many instances Christianson reported higher average prices for sales of truckload quantities than for less-than-truckload quantities.

Department's Position: Section 353.55 of the Department's regulations establishes that "[i]n comparing the United States price with foreign market value, the [Department] *normally* will use sales of comparable quantities of merchandise" (emphais added). This practice is based on the assumption that normally comparable quantities of merchandise will be sold at comparable prices. The Department determined that Christianson applied no consistent pricing policy to sales of truckload quantities versus less-than-truckload quantities. In our analysis, we found that some prices for truckload quantities were actually higher than the prices of less-than-truckload quantities. Because the Department found no logical price relationship between comparable quantities, we did not apply this provision to Christianson's sales in these reviews.

Comment 3: Christianson claims that the Department should adjust two U.S. credit costs by the average U.S. payment period instead of the actual, verified payment period. Christianson asserts that the payment period on these two sales abnormally exceeded its average U.S. payment experience.

Petitioners argue that if a company's actual experience is not favorable for certain sales, the Department should not disregard the unfavorable experience. Further, petitioners state that while Christianson favors making allowances for longer than average credit period on certain sales, Christianson does not advocate making allowances for shorter than average credit periods on other sales.

Department's Position: We agree with petitioners. We calculated the average rate for the respective periods, and, following Departmental practice, we used the U.S. payment experience for each sale to measure the credit cost.

Final Results of the Review

As a result of the comments received, we determine the margin for Christianson to be:

Period of review	Margin
1/1/86–5/31/87	1.86
6/1/87–5/31/88	3.24

The Department will instruct the Customs Service to assess antidumping duties at these rates on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a)(1) of the Act, the cash deposit rate of estimated antidumping duties based on the above margins shall be required on entries of this merchandise from Christianson. For any entries of this merchandise from a new exporter whose first shipments occurred after May 31, 1988, and who is unrelated to the reviewed firm or any previously reviewed firm, a cash deposit of 3.24 percent shall be required. These deposit requirements are effective for all shipments of oil country tubular goods from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 353.22(c)(8) of the Department's regulations.

Dated: November 30, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28890 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–702]

Stainless Steel Butt-Weld Pipe and Tube Fittings From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

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

SUMMARY: In response to requests from the petitioner and the respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on stainless steel butt-weld pipe and tube fittings ("SSPFs") from Japan. The review covers one manufacturer, Nippon Benkan Kogyo, K.K. ("Benkan"), an exporter of this merchandise to the United States for the period from September 16, 1987, through February 28, 1989. The exporter sold two types of SSPFs, conventional and superclean fittings, during the review period to the United States. As a result of the review, the Department has preliminarily determined that 0.52 percent margins exist.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Bruce Harsh or Linda Pasden, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–3793.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1988, the Department of Commerce ("the Department") published in the **Federal Register** (53 FR 9787) the antidumping duty order on stainless steel butt-weld pipe fittings

from Japan. On March 23, 1989, Benkan, the respondent, requested an administrative review of the antidumping order. We published a notice of initiation of the antidumping administrative review on April 28, 1989 (54 FR 18320). The Department has now conducted this review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule ("HTS"), as provided in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by the review are shipments of stainless steel butt-weld pipe and tube fittings from Japan. These fittings are used in piping systems for chemical plants, pharmaceutical plants, food processing facilities, waste treatment facilities, semiconductor equipment applications, nuclear power plants, and other applications.

During the review period and until December 31, 1988, such merchandise was classifiable under item 610.8948 of the Tariff Schedules of the United States Annotated ("TSUSA"). Since January 1, 1989, the merchandise is classifiable under HTS item number 7307.230000. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one exporter of stainless steel pipe and tube fittings from Japan to the United States during the review period beginning on September 16, 1987, and ending on February 28, 1989. Verification was conducted at Benkan, in Tokyo and Gumma, Japan, the week of November 27, 1989.

United States Price

In calculating the United States price, the Department used purchase price as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on the delivered price to unrelated purchasers in the United States. For purchase price sales, we made deductions for foreign inland freight, U.S. inland freight, U.S. customs duty, U.S. brokerage fees, ocean freight, marine insurance, foreign brokerage fees, and, where applicable, cash discounts. No other adjustments were claimed or allowed. We determined that the date of sale is the date of shipment for the merchandise sold to the United States.

Foreign Market Value

In calculating foreign market value, the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a reasonable basis for comparison. Home market price was based on a packed, delivered price to purchasers in the home market. The Department excluded from its analysis all sales to one related customer because we determined that these sales were not arm's length transactions. The Department made deductions for inland freight, and adjustments, where applicable, for differences in packing costs, cash discounts, and credit. For U.S. sales where we had no home market sales of identical merchandise, the Department used home market sales of similar merchandise. The Department allowed an adjustment for physical differences in wall thickness and nominal size.

We made currency conversions in accordance with § 353.60 of our regulations. We made all currency conversions using the daily exchange rates certified by the Federal Reserve Bank of New York.

We verified all information used in reaching the preliminary determination in this review. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by the respondent.

Preliminary Results of Review

As a result of our comparison of the United States price to foreign market value, we preliminarily determine that a margin of 0.52 percent exists for Benkan for the period of review.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter.

Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

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

Further, as provided for in section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margin shall be required. For any future entries of this merchandise from a new exporter, not covered in this administrative review, whose first shipments occurred after February 28, 1989, and who is unrelated to the reviewed firm, a cash deposit of 0.52 percent will be required.

These deposit requirements are effective for all shipments of stainless steel butt-weld pipe and tube fittings from Japan, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53(a) (1985) of the Commerce Department's regulations (note that this review was issued after the effective date of the new antidumping regulations except as to the new §§ 353.22 (a) and (c)).

Dated: November 30, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-28891 Filed 12-7-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-003]

Ceramic Tile From Mexico; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On June 20, 1990, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico. We have now completed that review and

determine the total bounty or grant to be zero or *de minimis* for 47 firms and 1.29 percent *ad valorem* for all other firms during the period January 1, 1987 through December 31, 1987.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Laurie Goldman or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 20, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 25149) the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20013; May 10, 1982). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Mexican ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile. During the review period, such merchandise was classifiable under item numbers 532.2400 and 532.2700 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under item numbers 6907.10.0000, 6907.90.0000, 6908.10.5000 and 6908.90.0000 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1987 through December 31, 1987 and thirteen programs: (1) FOMEX; (2) Article 15 of the General Law of Credit Institutions and Auxiliary Organizations; (3) CEPROFI; (4) FONEI; (5) FOGAIN; (6) state tax incentives; (7) National Industrial Development Fund (FOMIN); (8) NDP preferential discounts; (9) Trust Fund for the Study and Development of Industrial Parks (FIDEIN); (10) Bancomext loans; (11) delay of payments on loans; (12) delay of payments to PEMEX of fuel charges; and (13) import duty reductions and exemptions.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from two respondents: Ceramica Regiomontana, S.A., and Industrias Intercontinental, S.A. (the respondents).

Comment 1: The respondents contend that the Department does not have the legal authority to impose countervailing duties on ceramic tile from Mexico and must revoke the countervailing duty order. Effective April 23, 1985, the date of the "Understanding Between the United States and Mexico Regarding Subsidies and Countervailing Duties" (the Understanding), the United States Trade Representative designated Mexico a "country under the Agreement" as defined in section 701 of the Tariff Act. Since Mexico is now a "country under the Agreement," section 303 of the Tariff Act is no longer applicable to any merchandise from Mexico. The United States Trade Representative did not exclude existing countervailing duty orders from the application of "country under the Agreement" status. Therefore, section 701 entitles Mexico to a determination by the International Trade Commission (ITC) that imports of the subject merchandise are materially injuring or threatening material injury to a United States industry producing a like product. Pursuant to section 701, the Department cannot impose countervailing duties on any merchandise from Mexico without an affirmative ITC injury determination. Since there has been no affirmative injury determination with respect to ceramic tile from Mexico, the Department cannot impose countervailing duties and should revoke the order effective April 23, 1985.

Respondents further contend that the Department's failure to revoke this order is inconsistent with past practice. In two previous countervailing duty administrative reviews, Certain Fasteners from India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order (Indian Fasteners) (47 FR 44129; October 6, 1982) and Carbon Steel Wire Rod from Trinidad and Tobago; Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Countervailing Duty Order (Trinidad and Tobago Wire Rod) (50 FR 19561; May 9, 1985), where an outstanding countervailing duty order was issued pursuant to section 303(a)(1) without benefit of an ITC injury determination, the Department determined that it did not have the authority to impose countervailing duties when events subsequent to the issuance of the order required an affirmative ITC injury determination prior to imposition of countervailing duties.

Merchandise subject to an outstanding countervailing duty order, issued pursuant to section 303(a)(1) without benefit of an ITC injury determination, is entitled to an injury test when there is a change in the status of the merchandise or the country. Since the ITC has indicated that it does not have the legal authority to conduct an injury investigation concerning merchandise already subject to a countervailing duty order, the Department has in the past concluded that it could not impose countervailing duties and revoked, or preliminarily determined to revoke, the order effective the date the affirmative injury determination became a requirement.

Department's position: We disagree. The U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit (CAFC) have sustained the Department's legal position that Mexican imports subject to an outstanding countervailing duty order already in effect when Mexico entered into the Understanding are not entitled to an injury test pursuant to section 701 of the Tariff Act and paragraph 5 of the Understanding (*Cementos Anahuac del Golfo, S.A.* v. *U.S.*, 689 F. Supp. 1192, 1210–1211 (CIT 1988), *aff'd Cementos Guadalajara, S.A.* v. *U.S.* 879 F.2d 847 (Fed. Cir. 1989), *cert. denied,* 110 S. Ct. 1318 (1990)). Because the Department published the countervailing duty order on ceramic tile from Mexico before Mexico entered into the Understanding, imports of the subject merchandise are not entitled to an injury test pursuant to section 701 of the Tariff Act.

Furthermore, respondents' reliance upon Indian Fasteners and Trinidad and Tobago Wire Rod is misplaced. In those cases, the United States had an international obligation pursuant to section 303(a)(2) of the Tariff Act and Article VI of the General Agreement on Tariffs and Trade (GATT) to provide an injury test. The exporting countries in question were signatories to the GATT and the merchandise was duty-free. The two cases cited by respondents are not analogous to this proceeding because ceramic tile from Mexico is not duty-free and, therefore, is not subject to section 303(a)(2). Contrary to respondents' argument concerning the relevance of Indian Fasteners, the Department did not provide an injury test for this order after India became a "country under the Agreement." The Department partially revoked the order only when some of the merchandise covered by the order attained duty-free status under the Generalized System of Preferences and, thus, was entitled to an injury test under section 303(a)(2). The only Mexican cases where the Department revoked a countervailing duty order as a result of

determine the total bounty or grant to be zero or *de minimis* for 47 firms and 1.29 percent *ad valorem* for all other firms during the period January 1, 1987 through December 31, 1987.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Laurie Goldman or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On June 20, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 25149) the preliminary results of its administrative review of the countervailing duty order on ceramic tile from Mexico (47 FR 20013; May 10, 1982). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of Mexican ceramic tile, including non-mosaic, glazed, and unglazed ceramic floor and wall tile. During the review period, such merchandise was classifiable under item numbers 532.2400 and 532.2700 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under item numbers 6907.10.0000, 6907.90.0000, 6908.10.5000 and 6908.90.0000 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1987 through December 31, 1987 and thirteen programs: (1) FOMEX; (2) Article 15 of the General Law of Credit Institutions and Auxiliary Organizations; (3) CEPROFI; (4) FONEI; (5) FOGAIN; (6) state tax incentives; (7) National Industrial Development Fund (FOMIN); (8) NDP preferential discounts; (9) Trust Fund for the Study and Development of Industrial Parks (FIDEIN); (10) Bancomext loans; (11) delay of payments on loans; (12) delay of payments to PEMEX of fuel charges; and (13) import duty reductions and exemptions.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from two respondents: Ceramica Regiomontana, S.A., and Industrias Intercontinental, S.A. (the respondents).

Comment 1: The respondents contend that the Department does not have the legal authority to impose countervailing duties on ceramic tile from Mexico and must revoke the countervailing duty order. Effective April 23, 1985, the date of the "Understanding Between the United States and Mexico Regarding Subsidies and Countervailing Duties" (the Understanding), the United States Trade Representative designated Mexico a "country under the Agreement" as defined in section 701 of the Tariff Act. Since Mexico is now a "country under the Agreement," section 303 of the Tariff Act is no longer applicable to any merchandise from Mexico. The United States Trade Representative did not exclude existing countervailing duty orders from the application of "country under the Agreement" status. Therefore, section 701 entitles Mexico to a determination by the International Trade Commission (ITC) that imports of the subject merchandise are materially injuring or threatening material injury to a United States industry producing a like product. Pursuant to section 701, the Department cannot impose countervailing duties on any merchandise from Mexico without an affirmative ITC injury determination. Since there has been no affirmative injury determination with respect to ceramic tile from Mexico, the Department cannot impose countervailing duties and should revoke the order effective April 23, 1985.

Respondents further contend that the Department's failure to revoke this order is inconsistent with past practice. In two previous countervailing duty administrative reviews, Certain Fasteners from India; Final Results of Administrative Review and Partial Revocation of Countervailing Duty Order (Indian Fasteners) (47 FR 44129; October 6, 1982) and Carbon Steel Wire Rod from Trinidad and Tobago; Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Revoke Countervailing Duty Order (Trinidad and Tobago Wire Rod) (50 FR 19561; May 9, 1985), where an outstanding countervailing duty order was issued pursuant to section 303(a)(1) without benefit of an ITC injury determination, the Department determined that it did not have the authority to impose countervailing duties when events subsequent to the issuance of the order required an affirmative ITC injury determination prior to imposition of countervailing duties.

Merchandise subject to an outstanding countervailing duty order, issued pursuant to section 303(a)(1) without benefit of an ITC injury determination, is entitled to an injury test when there is a change in the status of the merchandise or the country. Since the ITC has indicated that it does not have the legal authority to conduct an injury investigation concerning merchandise already subject to a countervailing duty order, the Department has in the past concluded that it could not impose countervailing duties and revoked, or preliminarily determined to revoke, the order effective the date the affirmative injury determination became a requirement.

Department's position: We disagree. The U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit (CAFC) have sustained the Department's legal position that Mexican imports subject to an outstanding countervailing duty order already in effect when Mexico entered into the Understanding are not entitled to an injury test pursuant to section 701 of the Tariff Act and paragraph 5 of the Understanding (*Cementos Anahuac del Golfo, S.A.* v. *U.S.*, 689 F. Supp. 1192, 1210–1211 (CIT 1988), *aff'd Cementos Guadalajara, S.A.* v. *U.S.* 879 F.2d 847 (Fed. Cir. 1989), *cert. denied,* 110 S. Ct. 1318 (1990)). Because the Department published the countervailing duty order on ceramic tile from Mexico before Mexico entered into the Understanding, imports of the subject merchandise are not entitled to an injury test pursuant to section 701 of the Tariff Act.

Furthermore, respondents' reliance upon Indian Fasteners and Trinidad and Tobago Wire Rod is misplaced. In those cases, the United States had an international obligation pursuant to section 303(a)(2) of the Tariff Act and Article VI of the General Agreement on Tariffs and Trade (GATT) to provide an injury test. The exporting countries in question were signatories to the GATT and the merchandise was duty-free. The two cases cited by respondents are not analogous to this proceeding because ceramic tile from Mexico is not duty-free and, therefore, is not subject to section 303(a)(2). Contrary to respondents' argument concerning the relevance of Indian Fasteners, the Department did not provide an injury test for this order after India became a "country under the Agreement." The Department partially revoked the order only when some of the merchandise covered by the order attained duty-free status under the Generalized System of Preferences and, thus, was entitled to an injury test under section 303(a)(2). The only Mexican cases where the Department revoked a countervailing duty order as a result of

47 firms listed above and to assess countervailing duties of 1.29 percent of the f.o.b. invoice price on shipments from the 47 firms listed from all other firms exported on or after January 1, 1987 and on or before December 31, 1987.

The Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments of this merchandise from the 47 firms listed above and to collect a cash deposit of estimated countervailing duties of 1.29 percent of the f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement and waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: November 3, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-28893 Filed 12-7-90; 8:45 am]

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[C-533-063]

Certain Iron-Metal Castings From India; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On April 5, 1990, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India. We have now completed that review and determine the net subsidy to be 9.81 percent *ad valorem* for R.B. Agarwalla, 19.32 percent *ad valorem* for Carnation, 36.40 percent *ad valorem* for Crescent, 78.86 percent *ad valorem* for Govind, 44.84 percent *ad valorem* for Kajaria, 9.06 percent *ad valorem* for RSI, 41.87 percent *ad valorem* for Serampore and 27.37 percent *ad valorem* for all other firms during the period January 1, 1985 through December 31, 1985.

EFFECTIVE DATE: December 10, 1990.

FOR FURTHER INFORMATION CONTACT: Philip Pia or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 5, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 12702) the preliminary results of its administrative review of the countervailing duty order on certain iron-metal castings from India (October 16, 1980; 46 FR 16921). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

Imports covered by the review are shipments of Indian manhole covers and frames, clean-out covers and frames, and catch basin grates and frames. These articles are commonly called municipal or public works castings and are used for access or for drainage for public utility, water, and sanitary systems. During the review period, such merchandise was classifiable under Tariff Schedules of the United States Annotated (TSUSA) item numbers 657.0950 and 657.0990. These products are currently classifiable under item numbers 7325.10.0010 and 7325.10.0050 of the Harmonized Tariff Schedule (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period January 1, 1985 through December 31, 1985 and ten programs: (1) International Price Reimbursement Scheme (IPRS), (2) Cash Compensatory Support program (CCS), (3) pre-shipment export loans, (4) post-shipment financing, (5) income tax reductions, (6) Market Development Assistance (MDA) grants, (7) sale of import replenishment licenses, (8) extension of free trade zones, (9) preferential freight rates, and (10) import duty exemptions available to 100 percent export-oriented units.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the Indian exporters, U.S. importers and the petitioner, Pinkerton Foundry.

Comment 1: The exporters and importers argue that IPRS payments are not countervailable subsidies. In intent and practice, the IPRS refunds to exporters of castings the difference between the price they must pay for certain raw materials purchased from government-owned Indian producers and the price they would otherwise pay on the world market. It was operated in a manner consistent with item (d) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (the List) which states:

> The delivery by governments or their agencies of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favorable than for delivery of like or directly competitive products or services for use in the production of goods for domestic consumption, *if (in the case of products) such terms or conditions are more favorable than those commercially available on world markets to their exporters* (emphasis added).

Item (d) of the List is thus explicit that the provision of raw materials at world market prices to exporters is not a subsidy. The Department recognized this in previous countervailing duty cases, namely in Final Negative Countervailing Duty Determination; Certain Steel Wire Nails from the Republic of Korea (47 FR 39549; September 8, 1982), the Department held that "price preferences for inputs to be used in the production of export goods constitute a subsidy only if the preference lowers the price of that input below that which the input purchaser would pay on world markets." Similarly, in Final Negative Countervailing Duty Determination; Oil Country Tubular Goods from Taiwan (51 FR 19583; May 30, 1986), the Department stated that:

> Based on an examination of China Steel's second-tier prices for hot-rolled coil used in the production of OCTG, and of the world market prices for such coil, we found that China Steel's prices were at world market levels; therefore, we determine that China Steel's two-tiered pricing policy does not confer a countervailable benefit within the meaning of the countervailing duty law.

Furthermore, the exporters state that there is no evidence in the statutes or in the legislative history to support a theory that Congress intended to reject the principle embodied in item (d) of the List when it enacted the Trade Agreements Act of 1979 (the TAA). In fact, the importers claim that this issue was examined by the U.S. Treasury Department in a countervailing duty investigation that predates the 1979 statute (*see,* Final Countervailing Duty Determination; Leather Wearing Apparel from Uruguay (43 FR 3974; January 30, 1978). According to the importers, Treasury determined that direct payments to exporters of apparel that lowered the price of their primary

input, hides, to the "readily available price of hides in other markets" was not a subsidy.

The exporters also argue that the IPRS benefits not the exporter of castings, but rather the Indian pig iron producers. Castings exporters can import pig iron or purchase domestic pig iron at the relatively high price that is set by the Indian government and receive IPRS rebates. The net effects of these two alternatives are the same.

In addition, importers argue that the Department is attempting to use an unauthorized interpretation of U.S. law to find the Indian IPRS program countervailable. In Certain Cotton Yarn Products from Brazil; Final Results of Countervailing Duty Administrative Review (55 FR 3442; February 1, 1990), the Department determined as countervailable a similar Brazilian dual pricing scheme, the Price Equalization Program (PEP). In Cotton Yarn, the Department advanced the theory that the List is not controlling on the identification of subsidies: "It is irrelevant whether the PEP is consistent with item (d) or whether cotton yarn exporters could have imported raw cotton at world market prices. We are concerned with the alternative price commercially available in the domestic market" (55 FR 3446). Importers argue that such a theory is untenable because Congress incorporated the List into U.S. countervailing duty law and the Department has no authority to claim item (d) as "irrelevant." The Court of International Trade (CIT) has acknowledged this adoption of the List in U.S. law in its decision in *Fabricas El Carmen, S.A. de C.V., et al.* v. *United States*, Slip Op. 87–113 (CIT October 7, 1987), as did the U.S. Court of Appeals in its decision of the 1984 review of this countervailing duty order (*see RSI (India) Pvt., Ltd.* v. *United States*, 887 F.2d 1571 (Fed. Cir. 1989)). The legislative history confirms that the sole reservation expressed by Congress in adopting the List was that it not be regarded as a permanent, exhaustive listing of all export subsidies countervailable under U.S. law. The Department is empowered only to supplement or expand the existing List, not alter or ignore established principles of the List. Consequently, in the case of item (d), U.S. law specifically excludes from countervailability any such programs which do not result in the provision of inputs on terms more favorable than those obtainable on world markets. Furthermore, the Department's failure to observe the principle of the statutory language and item (d) also directly conflicts with its efforts to codify item (d) in its own regulations. Commerce's proposed Regulation 355.44(h) in 19 CFR part 355 Countervailing Duties; Notice of Proposed Rulemaking and Request for Public Comments (54 FR 23366; May 31, 1989) clearly states that price preferences for inputs used in the production of goods for export are subsidies only if they are provided on terms or conditions that "are more favorable than those commercially available on world markets to their exporters."

Conversely, petitioner argues that the IPRS is a countervailable subsidy because the exception in item (d) applies only to the preferential pricing of inputs and not to payments contingent upon the exportation of finished goods. Petitioner maintains that the Department's interpretation of item (d) has always been a narrow one, i.e., the exception in item (d) applies only to inputs, not monetary payments. Such an interpretation of item (d) is consistent with a panel report of the GATT Committee on Subsidies and Countervailing Measures that examined item (d) in conjunction with an investigation of European Community pasta export payments. See GATT Panel Report on EEC Subsidies on Export Pasta Products, SCM/433 (May 19, 1983). The Department's determination in *Cotton Yarn*, that the Brazilian PEP program is countervailable, is consistent with past Department determinations that reflect a narrow interpretation of the exception in item (d). The Department's preliminary determination that IPRS payments are countervailable implicitly recognizes that the exception in item (d) does not apply because item (d) clearly encompasses the IPRS within its definition of an export subsidy.

Department's position: We disagree with the importers and exporters. The Indian government's decision to insulate its pig iron producers from foreign competition placed users of domestic pig iron at a disadvantage vis-a-vis competitors abroad by raising the price of domestic pig iron. During the review period, Indian castings exporters could have overcome this competitive disadvantage in two ways: Duty drawback and the IPRS.

Imported pig iron in India is subject to normal customs duties. Had Indian castings exporters imported foreign pig iron for use as an input and processed it into castings for export, they could have been exempted from the normal customs duties on pig iron by using duty drawback, a practice acceptable under U.S. countervailing duty law and the GATT. Alternatively, under the IPRS, the Indian government created a benchmark price for pig iron and made cash payments to exporters based on the difference between the benchmark price and the domestic price. These cash payments were made exclusively to castings exporters, with the net effect being a reduction in the price of pig iron to a level well below the price commercially available in the domestic market. The IPRS was an instrument used by the Indian government to ameliorate the deleterious effects of high-price pig iron on a specific group of downstream users.

The circumstances is both Korean Nails and Taiwanese OCTG differ from those in this case. In Korean Nails, the Korean producers of nails for export had access to wire rod from foreign as well as domestic sources at comparable prices. Although afforded the opportunity through tariff protection to charge high prices for wire rod used in the manufacture of products sold domestically, POSCO (an integrated steel producer which is largely government-owned) and other Korean producers of wire rod chose to lower their prices to exporters of nails and compete with foreign-sourced wire rod purchased under duty drawback. We concluded that "the different prices for purchasers do not arise from a scheme to subsidize exports, but rather are a commercial response to a segmented market, one segment being protected and the other fully open to foreign competition." We further stated that "this dual pricing system reflects strictly economic motivations (of the wire rod producers) rather than a desire of the Government of Korea (the owners of POSCO) to subsidize nail exports" (47 FR 39552).

We noted in addition that our conclusion regarding the dual pricing system was consistent with the principle contained in item (d). However, our decision not to countervail the Korean pricing scheme was not made solely on the basis of item (d). Rather, our decision was based in large part on a determination that POSCO was acting in a commercially reasonable fashion by instituting a dual-pricing system. As support for this, we stated that two privately-owned Korean wire rod producers also had dual-pricing systems in place. These facts led us to conclude that the Korean government was not acting to subsidize exports.

Similary, in Taiwanese OCTG, we found that China Steel, a state-owned corporation and a supplier of pipe and tube inputs, maintained a two-tiered pricing policy. Accordingly, in determining whether China Steel's

prices were preferential, we compared not only the actual prices FEMCO (an OCTG producer) paid China Steel to the actual prices FEMCO paid for imported coil, but we also compared the prices FEMCO paid China Steel to generally available world market prices for coil. In doing so, we found that China Steel's prices were at world market levels. Once again, our decision was based on a determination that China Steel was acting in a commercially reasonable manner.

In this case, the fact pattern is different. The Steel Authority of India, Ltd. (SAIL), an Indian government entity that supplied all of the pig iron used by the castings exporters, did not institute a dual-pricing scheme for pig iron. Instead, the Indian government intervened to ensure that Indian castings exporters could continue to use domestically-sourced pig iron while pig iron producers continued to enjoy the full benefits of tariff protection. Thus, the Indian government's decision to establish the IPRS and make cash payments to castings producers made possible exports that otherwise would not have occurred. Without this direct government action, castings exporters would have had to pay the high domestic price for Indian pig iron.

The fact that the Illustrative List is incorporated into U.S. law has no bearing on our decision. In determining whether item (d) is applicable to the identification and measurement of an export subsidy from this type of program, we have examined the law and its legislative history. Section 771(5) of the Tariff Act states, in relevant part: "the term 'subsidy' has the same meaning as the term 'bounty or grant' as that term is used in section 303, and includes, *but is not limited to,* the following: (A) Any export subsidy described in Annex A to the Agreement (relating to the illustrative list of export subsidies) * * *" (emphasis added). While Congress incorporated the Illustrative List in the statute, it did not limit the definition of export subsidy to the practices outlined in the List. The legislative history of the TAA explains, "The reference to specific subsidies in the definition is not all inclusive, but rather is illustrative of practices which are subsidies within the meaning of the word as used in the bill. The administering authority may expand upon the list of specified subsidies consistent with the basic definition." S. Rep. No. 96–249, 96th Cong., 1st Sess. 85 (1979). See also Trade Agreements Act of 1979: Statements of Administrative Action, H.R. Doc. No. 96–153, Pt. II, 96th Cong., 1st Sess. 432 (1979). The Illustrative List is not, therefore, controlling of the identification and measurement of export subsidies, but must be considered along with other provisions of the statute and its legislative history, administrative practice and judicial precedent. In light of the foregoing reasons, the inclusion of proposed regulation 355.44(h), which corresponds to item (d) on the List, in no way supports the importers' position. Finally, contrary to the exporter's claim regarding administrative practice prior to 1979, Uruguayan Leather Apparel is not relevant to the exception in item (d). There was no provision of hides to apparel manufacturers by the Uruguayan government, nor did the Uruguayan government intervene to manipulate the domestic price of hides. Uruguayan leather tanners were provided payments upon the export of finished leather wearing apparel, and Treasury offset the amount of the payment to the extent that it considered of a rebate of value-added and other indirect taxes.

We consider a government program that results in the provision of an input to exporters at a price lower than to producers of domestically-sold products to confer a subsidy within the meaning of section 771(5) of the Tariff Act. It is irrelevant whether the IPRS is consistent with item (d) because we are not concerned with world market prices but with the alternative price of pig iron commercially available in the domestic market. This, we determine the IPRS program to be countervailable.

An analogy to the IPRS program is the case of export loans. In this case, as in many others, we have determined that export loans at preferential interest rates constitute a subsidy. In measuring the subsidy, we do not concern ourselves with whether firms could have borrowed money at commercial rates in international credit markets. The fact that, as a result of a government program, they borrowed from domestic sources at rates below those commercially available in the domestic market leads us to determine that a subsidy is bestowed.

Comment 2: The exporters argue that the benefit from the IPRS program is overstated, claiming that it should be offset by the Engineering Goods Export Assistance Fund (EGEAF) and Freight Equalization Fee (FEF) levies which are included in the price of pig iron. Because IPRS payments include the refund of both the EGEAF and the FEF, the amounts paid for these two levies should be deducted from IPRS receipts to determine the net subsidy from this program.

Conversely, petitioner argues that the EGEAF and the FEF levies are not allowable offsets under section 771(6) of the Tariff Act. These levies are included in the price of pig iron and are paid regardless of whether the castings produced from the purchased pig iron is sold domestically or exported.

Department's position: We agree with petitioner. Section 771(6)(A) of the Tariff Act states that to determine the net subsidy the Department may subtract from the gross subsidy the amount of "any application fee, deposit, or similar payment paid in order to qualify for, or to receive, the benefit of the subsidy * * *." Both levies are paid by all consumers of Indian pig iron, not just exporters. Therefore, they do not constitute offsets to the IPRS benefits as defined in the statute.

Comment 3: The exporters argue that the Department overstated the IPRS benefit received by Uma, because the questionnaire response shows a refund of "excess claims" that the Department failed to deduct from the amount of the IPRS payment.

Department's position: Despite repeated attempts by the Department to remedy deficiencies in initial and supplemental questionnaire responses, the existence of Uma's refund is not substantiated. Therefore, we have not deducted any amount from Uma's reported receipts of IPRS payments.

Comment 4: The exporters argue that the Department overstated the IPRS benefit received by Carnation because Carnation reported IPRS payments received on all exports to all markets and the Department allocated the IPRS payments over the value of subject exports to the United States.

Department's position: We agree and have corrected our calculation accordingly.

Comment 5: The exporters claim that the Department overstated the amount of IPRS payments received by Serampore because of an inadvertent transposition of two numbers.

Department's position: We agree and have corrected our calculation accordingly.

Comment 6: The petitioner claims that the Department understated the IPRS benefit to RSI by allocating the IPRS payments over a value of exports that included RSI's exports of furniture.

Department's position: We agree and have corrected our calculation accordingly.

Comment 7: The petitioner claims that the Department understated the amount of IPRS payments received by Super Castings because of a transposition of two numbers.

Department's position: We agree and have corrected our calculation accordingly.

Comment 8: The petitioner argues that a single country-wide rate should be applied to all exporters. Section 706(a) of the Tariff Act states, in part, that "the order *may* provide for differing countervailing duties," 19 U.S.C. section 1671(a) (emphasis added). Thus, Congress created a presumption in favor of country-wide rates. The exporters add that the Department's discretion to apply separate company-specific rates should not be exercised because all the companies benefit from the IPRS program to the same degree. The varying rates of subsidy attributable to the IPRS program led to the application of individual company rates not because the companies received differing rates of benefits under the IPRS program, but rather because the Department used IPRS payments received in 1985, rather than the amounts claimed on 1985 exports. Therefore, it is inappropriate to assign individual company rates solely because some companies, as a result of happenstance, received IPRS payments during the review period that were substantially different from the amounts claimed for exports made during the review period.

Conversely, the importers argue that the Department correctly assigned company-specific rates, rather than a single country-wide rate. The Department is required by its regulations to issue company-specific rates if significant differentials exist between the weighted-average country-wide rate and individual company rates.

Department's position: We disagree with the petitioner and the exporters. Section 607 of the Tariff and Trade Act of 1984 establishes a statutory presumption in favor of country-wide countervailing duty rates, with the possibility of company-specific rates if the Department determines that a "significant differential" exists between companies receiving subsidies benefits. 19 U.S.C. 1671e(a)(2). Pursuant to that section, the Department promulgated regulations to use a single weighted-average country-wide rate unless there is a significant differential between an individual company rate and the weighted-average country-wide rate. Under § 355.20(d)(3) of our regulations, a significant differential is a "difference of the greater of at least five percentage points or 25 percent, from the weighted-average net subsidy calculated on a country-wide basis." In this review, seven companies met the standard in the regulations for being significantly different; therefore, we assigned them company-specific rates.

Regarding the exporters' argument that it is inappropriate to assign company-specific rates solely because lagged receipts of IPRS payments resulted in varying subsidies for individual companies, the Department has consistently used receipts and not claims filed during the review period to measure the subsidy from the IPRS program. We use receipts because they represent a tangible measure of benefits received. Claims, on the other hand, are tenuous in nature and have the potential to be rejected.

As a result of the changes in our calculations discussed in Comments 4 through 7, we determine the net subsidy from the IPRS program to be 9.11 percent *ad valorem* for R.B. Agarwalla, 18.14 percent *ad valorem* for Carnation, 30.92 percent *ad valorem* for Crescent, 65.83 percent *ad valorem* for Govind, 39.17 percent *ad valorem* for Kajaria, 8.00 percent *ad valorem* for RSI, 41.08 percent *ad valorem* for Serampore and 25.33 percent *ad valorem* for all other firms.

Comment 9: The exporters argue that it is inappropriate to calculate IPRS benefits based on when benefits are received because, even though payment is not received for months after shipment, the program provides known payments on a sale-by-sale basis. The Department should calculate the benefit from the IPRS using payments claimed during the review period, rather than payments received during the review period.

Conversely, the petitioner argues that the Department should be consistent from one review to the next and continue to use the total amount of IPRS payments received during the review period in calculating the benefit from this program.

Department's position: We agree with petitioner. It has been our general practice to compute benefits received by a firm during the review period (in this case the 1985 calendar year), and apply them to the total value of exports for the same period. There are a few exceptions to this practice, such as when a benefit is earned on a shipment-by-shipment basis and the exact amount of the benefit is known at the time of export (see e.g., Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Certain Steel Wire Nails from New Zealand (52 FR 37196; October 5, 1987)). Even if we were to consider the IPRS such an exception, the exporters did not make such a claim when we first determined in the 1984 review of this order that the IPRS provided a countervailable subsidy. In that review, we calculated the subsidy from the IPRS program by allocating receipts over exports. The use of the lag in payments from this new program resulted in lower benefits than would have been the case if we had measured the subsidy based on IPRS claims during the 1984 review period. Furthermore, a shift in methodology at this time would result in a substantial gap in the measurement of subsidies from this program (*i.e.*, IPRS payments claimed in 1984 but received in 1985 would be excluded from not only 1984 but 1985 as well).

Comment 10: The petitioner argues that the Department incorrectly determined that the benefit from the IPRS program is zero for purposes of the cash deposit of estimated countervailing duties. While it is the Department's policy to adjust the deposit rate if a program-wide change has taken place since the review period but prior to publication of the preliminary results of administrative review, the exporters' renunciation of IPRS payments on exports of the subject merchandise to the United States does not constitute a program-wide change because it was not effectuated by an official act, statute, regulation or decree, and the exporters could resume receiving IPRS payments if they chose.

The exporters respond that the Department verified that no exporter was permitted to receive IPRS payments on sales to the United States of the subject merchandise and that this change applied to all exporters without exception. The Engineering Export Promotion Council (EEPC) issued a decree, verified by the Department, terminating IPRS payments for exports of subject castings to the United States. The EEPC is an official body legally sanctioned by the Indian Ministry of Commerce. A change that affects the entire program and affects equally all exporters under that program is a program-wide change. Accordingly, the exporters argue that the Department correctly determined that this program-wide change meets the Department's requirements for setting a deposit rate different from the net subsidy determined for the review period.

Department's position: We agree with the exporters. At verification, we established that the EEPC stopped accepting any IPRS claims filed on shipments of the subject merchandise exported to the United States after July 1, 1987. The Ministry of Commerce has subsequently enforced the renunciation. Allowing for the normal lag of a few months between the filing of IPRS

claims and the receipt of payment, there is no evidence or reason to believe that IPRS payments will be received by any exporters after publication of the preliminary results. Therefore, for purposes of the cash deposit of estimated countervailing duties, we determine the benefit from this program to be zero.

Comment 11: The exporters claim that Crescent inadvertently failed to include in the questionnaire response a revision to the amount of income tax benefit it received under section 80HHC and, with the submission of the revised information, argue that the Department should recalculate its benefit accordingly.

Department's position: We disagree. Section 355.31(b) of the Department's regulations does not allow for submission of factual information after the date of publication of the preliminary results. Crescent's submission was untimely.

Comment 12: The exporters argue that the Department overstated Carnation's benefit from the Income Tax Deduction under section 80HHC by incorrectly applying a 68.25 percent tax rate, instead of the 63 percent rate applicable to Carnation. Although the exporters acknowledge that the verification report and the questionnaire response show that Carnation's tax rate is 68.25 percent, they claim this information is incorrect.

Department's position: We disagree. The exporters' assertion that this information is incorrect was untimely and unsubstantiated.

Comment 13: The exporters argue that the Department overstated Uma's, Agarwalla's and Kejriwal's benefits from the Income Tax Deduction under section 80HHC by incorrectly applying a 63 percent tax rate, instead of the rates applicable to partnerships.

Department's position: We agree and have corrected our calculations by applying an 18 percent tax rate to Uma and a 21 percent tax rate to Agarwalla and Kejriwal. These are the rates that the partnerships actually paid during the review period. Accordingly, we determine the net subsidy from this program to be 0.21 percent *ad valorem* for R.B. Agarwalla, 1.18 percent *ad valorem* for Carnation, 5.48 percent *ad valorem* for Crescent, 11.81 percent *ad valorem* for Govind, 0.83 percent *ad valorem* for Kajaria, zero for RSI, 0.12 percent *ad valorem* for Serampore and 0.62 percent *ad valorem* for all other firms.

Comment 14: The exporters argue that a separate and greater deposit rate for Govind is inappropriate. Govind received benefits under the section 80HHC income tax provision during the 1985 assessment year. Because the income tax provision changed substantially between 1985 and 1986, the Department has no basis to set a greater deposit rate based on prior findings. Furthermore, the benefit of a tax program will always vary depending upon profits, and profits vary from year to year. Therefore, all companies should be considered as benefitting equally from a tax reduction program until the actual company-specific profit/loss data demonstrate otherwise.

Department's position: We disagree. We calculate deposit rates based upon the amount of benefits each company received during the review period, except where program-wide changes have been demonstrated prior to the notice of preliminary results of review. Because we have no basis for assuming what the future benefit will be in any given program, we have consistently determined the deposit rate based upon prior benefit levels. We have determined the deposit rates for all companies based upon their respective net subsidies in 1985. It would be inappropriate to treat Govind differently from the rest.

Comment 15: The exporters argue that the Department overstated the benefit to Govind, RSI, Uma and Serampore from packing credit loans by incorrectly allocating the benefits over castings exports rather than all exports. The companies reported packing credit loans used to finance all exports not castings exports alone, and the Department should have divided by each company's exports of all products.

Department's position: We agree and have corrected our calculations accordingly. We determine the benefit from packing credit loans to be 0.49 percent *ad valorem* for R.B. Agarwalla, zero for Carnation, zero for Crescent, 1.22 percent *ad valorem* for Govind, 4.84 percent *ad valorem* for Kajaria, 1.06 percent *ad valorem* for RSI, 0.22 percent *ad valorem* for Serampore and 0.44 percent *ad valorem* for all other firms.

Comment 16: The petitioner claims that the Department incorrectly allocated Serampore's benefit from post-shipment preferential financing over castings exports to all markets. Because Serampore reported post-shipment financing only on sales to the United States, the benefit should be allocated over castings exports to the United States.

Department's position: We disagree. Serampore exported castings *only* to the United States. Therefore, castings exports to all markets and castings exports to the United States are the same.

Comment 17: The exporters argue that Govind had commercial borrowings during the review period at a 15 percent annual rate of interest. Therefore, the Department should revise its calculation of the benefits from export packing and pre-shipment financing.

Department's position: We disagree. Information in the record shows the Govind's commercial borrowing rate was 16.5 percent during the review period. Nevertheless, the Department does not use company specific-benchmarks, rather we use one benchmark for all companies based on the average interest rate commercially available for short-term borrowings in the country during the review period (see Final Results of Countervailing Duty Administrative Review; Ceramic Tile from Mexico (53 FR 15091; April 27, 1988)).

Comment 18: The petitioner claims that the Department inadvertently understated Super Castings' benefit from post-shipment financing because of a transposition of numbers.

Department's position: We agree and have corrected our calculation accordingly. We determine the benefit from this program to be 0.45 percent *ad valorem* for Serampore, zero for R.B. Agarwalla, Carnation, Crescent, Govind, Kajaria, and RSI, and 0.98 percent *ad valorem* for all other firms.

Comment 19: The exporters claim that castings exporters paid an insurance premium to the Export Credit Guarantee Corp. (ECGC) in order to utilize the preferential packing credit. Since castings exporters can borrow commercially without paying such a premium, the Department should deduct the cost of the premium paid from the benefit received under packing credit financing.

Department's position: We disagree. The cost of export credit insurance is not an offset to a benefit as defined by section 771(6)(A) of the Tariff Act (see the Department's position in response to Comment 2). Credit insurance is part of the cost of obtaining pre-shipment financing and, as such, is part of the calculation of the effective interest on these loans. However, we lack sufficient information to derive an effective interest rate benchmark. Therefore, we can only compare a nominal interest rate benchmark to a nominal preferential interest rate.

Comment 20: The exporters claim that the Department used an incorrect Indian rupee/U.S. dollar exchange rate to convert Crescent's reported sales values from dollars to rupees.

Department's position: We disagree. We used an average annual exchange

rate based on verified information obtained from the Central Bank of India. The exporters presented no evidence that this information is incorrect.

Comment 21: The petitioner argues that the Department should not accept Kejriwal's allocation of its MDA grant when calculating the benefit from the grant. Kejriwal's representatives used MDA grant money to attend trade fairs in both Atlanta and Toronto. However, because Kejriwal provided neither information detailing the duration of its representatives' stay in each city nor a list of contacts made in each city, the Department should not accept the allocation offered by Kejriwal. Instead, the Department should allocate the total amount of the grant based solely on Kejriwal's sales of castings to the United States.

The exporters respond that the Department verified that the MDA grant was used for meetings both within and outside of the United States, and argue that it is appropriate to allocate half of the grant over exports to the United States.

Department's position: We agree with the exporters. We verified that Kejriwal applied for the MDA grant for meetings in Atlanta and Toronto. We also verified that the representatives did, in fact, attend meetings in the two cities. Allocating the grant equally between the two cities is reasonable.

Comment 22: The petitioner argues that the responding companies failed to provide specific information detailing their transactions in which the central sales tax (CST) and the West Bengal sales tax (WBST) apply to purchases of pig iron. In the absence of such information, the Department should assume that the CST and WBST do not apply to purchases of pig iron when calculating the benefit attributable to the Cash Compensatory Scheme (CCS).

Department's position: We disagree. The official record demonstrates a reasonable and documented calculation of the indirect tax incidence on exported castings. Where we had no evidence that pig iron was purchased from dealers in the West Bengal state, we did not include the WBST in the amount of taxes paid and rebated on pig iron.

Comment 23: The petitioner claims the Department inadvertently understated the average f.o.b. value per metric ton of pig iron in its calculation of Kejriwal's tax rebate through the CCS program.

Department's position: We agree and have corrected our calculation accordingly. We still find no overrebate of indirect taxes to Kejriwal from the CCS program.

Comment 24: The petitioner argues that the Department failed to measure the indirect tax incidence and compare it to the rebate provided under the CCS program for Super Castings and Kajaria.

Department's position: We agree and have measured the indirect tax incidence and rebate from the CCS program for Super Castings and Kajaria. We determine the benefit from the CCS program to be zero for both companies.

Final Results of Review

After reviewing all of the comments received, we determine that the following net subsidies exist for the period January 1, 1985 through December 31, 1985:

Manufacturer/exporter	Net subsidy (percent)
R.B. Agarwalla	9.81
Carnation	19.32
Crescent	36.40
Govind	78.86
Kajaria	44.84
RSI	9.06
Serampore	41.87
All other firms	27.37

The Department will instruct the Customs Service to assess countervailing duties at the above percentages of the f.o.b. invoice price on shipments of the subject merchandise exported on or after January 1, 1985, and on or before December 31, 1985.

As a result of the termination of benefits attributable to the IPRS program, the Department will also instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 13.03 percent of the f.o.b. invoice price for Govind and 2.21 percent for all other firms on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results of administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: November 30, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-28894 Filed 12-7-90; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Determination; Certain Large Diameter Pipe

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply determination on certain large diameter pipe.

SHORT-SUPPLY REVIEW NUMBER: 31.

SUMMARY: The Secretary of Commerce ("Secretary") hereby grants a request for a short-supply allowance of 31,350.5 net tons of certain large diameter pipe ("LDP") for the first half of 1991 under the U.S.-Japan steel arrangement.

EFFECTIVE DATE: November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Norbert Gannon or Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4037 or (202) 377-0159.

SUPPLEMENTARY INFORMATION: On October 31, 1990, Enron Corporation ("Enron") submitted an adequate petition to the Secretary requesting a short-supply allowance under Paragraph 8 of the Arrangement Between the Government of Japan, and the Government of the United States of America Concerning Trade in Certain Steel Products, for: 31,350.5 net tons of American Petroleum Institute grade X-70 submerged arc welded steel pipe, 30 inches in diameter and with a wall thickness of 0.30 inch; and 3,200 net tons of a "contingency quantity" of LDP for which no size and grade were specified. The X-70 grade material will be used for production of the Transwestern Pipeline Expansion and must be delivered during the first half of 1991. Enron states that the contingency quantity "is needed in case any of our domestic sources have difficulty in producing the quantities ordered from them since their schedules are so full that they have no margin for error." Enron is requesting a short-supply allowance because the domestic manufacturers of LDP are unable to meet Enron's needs for this material during the requested period and its potential foreign supplier has no regular export licenses available. The Secretary conducted this review pursuant to section 4(b)(4)(A) of the Steel Trade Liberalization Program Implementation Act, Public Law Number 101-221, 103 Stat. 1886 (1989) ("the Act"), and section 357.102 of the Department of Commerce's Short-Supply Procedures (19 CFR 357.102) ("Commerce's Short-Supply Procedures").

Action

On October 31, 1990, the Secretary established an official record on this short-supply request (Case Number 31) in the Central Records Unit, room B-099,

Import Administration, U.S. Department of Commerce, at the above address. On November 13, 1990, the Secretary published a notice in the **Federal Register** announcing a review of this request and soliciting comments from interested parties. Comments were required to be received no later than November 20, 1990, and interested parties were invited to file replies to any comments not later than five days after that date. In order to determine whether this product could be supplied to Enron during the first half of 1991, the Secretary sent questionnaires to Bethlehem Steel Corporation ("Bethlehem"), Napa Pipe Corporation ("Napa") and Berg Steel Pipe Company ("Berg"). The Secretary received questionnaire responses from Bethlehem and Berg and comments to the **Federal Register** notice by Bethlehem. The Secretary did not receive a questionnaire response from Napa.

Questionnaire Responses

Berg notes that it has the capability to produce the requested product and is a regular supplier of this product to Enron. However, Berg states that it has no available capacity to produce the requested product during the first half of 1991 because its mill is "fully booked". Bethlehem also states that it has the capability to produce the requested product and is a regular supplier to Enron. However, Bethlehem states that due to "schedule constraints," it does not have the ability to supply the requested product during the first half of 1991.

In addition to its questionnaire response, Bethlehem provided comments to the Department concerning the request. Bethlehem indicated that it could not see the need for a short-supply allowance since its estimated tonnage of the subject pipe available under regular quota during the first half of 1991 was significantly higher than its estimates of the tonnage for LDP projects that voluntary restraint arrangement (VRA) countries have been awarded. Based on its estimates, Bethlehem believes there is significant available licenses to meet Enron's needs.

Analysis

This request is for two different tonnages of LDP: 31,350.5 net tons of X–70 grade submerged arc welded LDP, 30 inches in diameter with a wall thickness of 0.300 inch; and 3,200 net tons of an unspecified size of LDP to be used as a "contingency quantity; in case Enron's domestic suppliers have difficulty meeting their obligations for other types of LDP.

Concerning the 31,350.5 net tons of X–70 grade LDP, no domestic producer indicated that it could supply this material during the required time period. However, Bethlehem is concerned that regular export licenses of line pipe are not being exhausted before Enron is requesting short supply. While the Department can understand Bethlehem's concerns regarding the utilization of export quotas, the total line pipe export ceilings of VRA countries are distributed among numerous producers. Some of these companies may produce LDP; however, some may not be able to meet Enron's specifications and a significant number of these companies may only make smaller sizes of line pipe. Hence, it is not always possible for the export ceilings to be exhausted before a company requests short supply for a particular grade and size of a product. In this case, Enron made a commercial decision to source material for this pipeline from both domestic and foreign suppliers. It has purchased all the material it could from domestic sources and has purchased the balance from a foreign supplier that can physically meet Enron's needs. This producer has informed Enron that it could only supply the requested material through a short-supply allowance due to its regular quota being accounted for by other customers. Based on the unavailability of this material from domestic sources and the inability of the potential offshore supplier to meet Enron's needs without short-supply licenses, the Secretary can only conclude that a supply shortfall does exist for this material.

Concerning the 3,200 net tons of "contingency" LDP, Enron is seeking this material as a form of short-supply relief in case domestic mills are unable to meet its total needs for various types of LDP. Since domestic mills will be operating at optimal capacity during the first half of 1991, Enron believes they may have difficulty meeting their total obligation on all projects. Therefore, it wants this tonnage to have a guaranteed supply. While Enron may have legitimate concerns in its request for this material, the short-supply procedures are not intended to guarantee a potential short-supply requestor with material in anticipation of domestic mills failing to meet contractual obligations. Rather, the short-supply program exists to address market situations in which there is an insufficient supply of a particular product to meet demand. In this request, Enron has found suppliers for its LDP needs (both domestic and foreign) who are committed to supply Enron's requirements by specified dates. No evidence has been provided to indicate that these suppliers will not meet their commitments. Therefore, the Secretary concludes that a short-supply situation for this tonnage does not exist.

Conclusion

Concerning the 31,350.5 net tons of X–70 grade submerged arc welded LDP included in this request, potential domestic suppliers have stated that they are unable to supply this material to Enron during the required time frame, and Enron's potential foreign supplier cannot meet Enron's needs for this tonnage with regular export licenses. However, Enron has failed to demonstrate that there is an insufficient supply of 3,200 net tons of the "contingency" tonnage to meet demand. Therefore, the Secretary determines that short-supply exists with respect to 31,350.5 net tons of the X–70 grade submerged arc welded LDP included in this request. Pursuant to section 4(b)(4)(A) of the Act, and § 357.102 of Commerce's Short-Supply Procedures (19 CFR 357.102), the Secretary grants Enron a short-supply allowance for 31,350.5 net tons of the X–70 grade submerged arc welded LDP included in this request for the first half of 1991.

Dated: November 30, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90–28895 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–DS–M

Minority Business Development Agency

Business Development Center Applications: Anaheim, CA

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is $276,250 in Federal funds and a minimum of $48,750 in non-Federal contributions for the budget period May 1, 1991 to April 30, 1992. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the

Anaheim, California Geographic service area.

The I.D. number for this project will be 09–10–91006–01.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: (Selection Process/ Procedures as required by DAO 203–26, Grants Administration) the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50.00 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is January 22, 1991. Applications must be postmarked on or before January 22, 1991.

Proposals are to be mailed to the following address: San Francisco Regional Office, Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, room 1280, San Francisco, California 94105, 415/744–3001.

A pre-application conference to assist all interested applicants will be held at the following address and time: Minority Business Development Agency, U.S. Department of Commerce, 221 Main Street, room 1280, San Francisco, California 94105. January 3, 1991 at 10 a.m.

FOR FURTHER INFORMATION CONTACT: Xavier Mena, Regional Director, San Francisco Regional Office.

SUPPLEMENTARY INFORMATION: Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department are made to pay the debt.

Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. A "Certification for Contracts, Grants Loans, and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Awards under this program shall be subject to all Federal and departmental regulations, policies, and, procedures applicable to Federal assistance awards.

A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Funding Authority for MBDA Awards: Executive Order 11625.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: December 4, 1990.

Xavier Mena,

Regional Director, San Francisco Regional Office.

[FR Doc. 90–28863 Filed 12–7–90; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by Robert E. Harris From Objection by State of New York Department of State

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of appeal and request for comments.

On November 1, 1990, the Secretary of Commerce received a notice of appeal from Robert E. Harris (Appellant). Mr. Harris is appealing to the Secretary under section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA) and the Department's implementing regulations, 15 CFR part 930, subpart H. The appeal is taken from an objection by the State of New York, Department of State, (New York) to the appellant's consistency certification that his proposal to install a 75 foot walking pier and an 18 slip float platform offshore from appellant's property on the Hudson River in Rensselaer, New York, for which a U.S. Army Corps of Engineers permit must be obtained, is consistent with the State's coastal zone management program.

The CZMA provides that a timely objection by a state to a consistency certification precludes any Federal agency from issuing licenses or permits for the activity unless the Secretary of Commerce finds that the activity is either "consistent with the objectives" of the CZMA (Ground I) or "necessary in the interest of national security" (Ground II). Section 307(c)(3) (A) or (B). To make such a determination, the Secretary must find that the proposed project satisfies the requirements of 15 CFR 930.121 or 15 CFR 930.122.

Appellant requests that the Secretary override New York's consistency objections based on Ground I. To make the determination that the proposed activity is "consistent with the objectives" of the CZMA, the Secretary must find that (1) The proposed activity furthers one or more of the national objectives or purposes contained in section 302 or 303 of the CZMA; (2) the

adverse effects of the proposed activity do not outweigh its contribution to the national interest; (3) the proposed activity will not violate the Clean Air Act or the Federal Water Pollution Control Act; and (4) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with New York's coastal management program. 15 CFR 930.121.

Public comments are invited on the findings that the Secretary must make as set forth in the regulations at 15 CFR 930.121. Comments are due within thirty days of the publication of this notice and should be sent to Susan K. Auer, Attorney-Adviser, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, 1825 Connecticut Avenue NW., suite 603, Washington, DC 20235. Copies of comments should also be sent to Brian Cullen, New York Department of State, 1621 Washington Avenue, Albany, NY 12231–0001.

All nonconfidential documents submitted in this appeal are available for public inspection during business hours at the offices of the New York Department of State, 1621 Washington Avenue, Albany, NY, and the Office of the Assistant General Counsel for Ocean Services, NOAA.

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

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: December 4, 1990.

Thomas A. Campbell,

General Counsel.

[FR Doc. 90–28897 Filed 12–7–90; 8:45 am]

BILLING CODE 3508–10–M

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Notice of availability of a fishery management plan amendment and request for comments.

SUMMARY: NOAA issues this notice that the Western Pacific Fishery Management Council (Council) has submitted Amendment 1 to its Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP) for Secretarial review and is requesting comments from the public. Copies of Amendment 1 may be obtained from the Council (See **ADDRESSES**).

DATES: Comments on the amendment should be submitted on or before January 28, 1991.

ADDRESSES: All comments should be sent to E.C. Fullerton, Regional Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the amendment and the environmental assessment are available from the Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, Hawaii 96813, (808) 541–1974.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, NMFS, Terminal Island, California (213) 514–6660 or Alvin Katekaru, NMFS, Pacific Area Office, Honolulu, Hawaii, (808) 955–8831.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.* requires that each Regional Fishery Management Council submit any fishery management plan or amendment it prepares to the Secretary of Commerce (Secretary) for review and approval, disapproval, or partial disapproval. The Magnuson Act also requires that the Secretary, upon receiving a plan or amendment, immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider all public comments in determining whether to approve the plan or amendment.

The Magnuson Act also established seven national standards that fishery management plans must meet to be approvable, and requires the Secretary to publish guidelines for the Councils to use in applying these national standards. The guidelines (50 CFR part 602) were revised July 24, 1989 (54 FR 30826 *et seq.*) to require that the Councils amend their fishery management plans to include definitions of overfishing for the respective fisheries. Amendment 1 to the FMP is intended to address the requirements of the Secretary's guidelines for compliance with national standards 1 and 2 of the Magnuson Act.

The amendment defines overfishing (i.e., recruitment overfishing) for pelagic management unit species in terms of Spawning Potential Ratio (SPR), which may be estimated in several ways depending on the quality of available statistics. SPR is a measure of the current reproductive capacity of the stock relative to its unexploited capacity and is inversely proportional to fishing mortality. Thus, SPR ranges from 1.0 before exploitation to 0.0 with increasing fishing mortality. Billfishes, mahimahi, and wahoo are considered overfished when SPR is equal to or less than 0.2. A pelagic shark species is considered overfished when its SPR is equal to or less than 0.35. When a pelagic management unit species or stock is overfished, overfishing is defined as a harvesting rate that is not consistent with a program established to maintain the species or stock above the minimum level of SPR and incapable of achieving Optimum Yield (OY). The Council will evaluate annually the status of the pelagic stocks and conditions in the fishery to determine if any stock is overfished relative to the overfishing definitions. It is the Council's intent to manage the fisheries at OY, thus preventing the stocks from declining to the point of recruitment overfishing. The amendment also revises the objectives of the FMP and definition for OY in order to bring them into accord with the overfishing definitions.

No Federal regulatory action is necessary to implement this amendment. The Council has determined that the proposed amendment is consistent to the maximum extent practicable with the coastal zone programs of the governments in the Council's region and has asked for concurrence with this determination. The amendment incorporates an environmental assessment which is available upon request (See **ADDRESSES**). It has no direct effect on either the fishery resources or fishery participants and will not require rulemaking; therefore, neither a Regulatory Impact Analysis nor a Regulatory Flexibility Analysis is necessary. There will be no impact on marine mammals or endangered species. There is no taking under Executive Order 12630. No information collection burdens are imposed. If actions are taken subsequently to implement new conservation and management measures to prevent overfishing, the appropriate analyses and determinations will be made at that time. Amendment 1 does

not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

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

Dated: December 4, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-28860 Filed 12-5-90; 12:23 pm]

BILLING CODE 3510-22-M

Caribbean Fishery Management Council; Statement of Organization, Practices and Procedures

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

Pursuant to section 302(f)(6) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.*, each Regional Fishery Management Council (Council) is responsible for carrying out its functions under the Magnuson Act, in accordance with such uniform standards as are prescribed by the Secretary of Commerce (Secretary). Further, each Council must make available to the public a statement of its organization, practices and procedures (SOPP).

On January 17, 1989, NOAA published in the **Federal Register** (54 FR 1700) a final rule that revised the regulations (50 CFR parts 600, 601, 604, and 605) and guidelines concerning the operation of the Councils under the Magnuson Act. The final rule, effective February 16, 1989, implemented parts of title 1 of Public Law 99-659, amending the Magnuson Act, and among other things, clarified instructions of the Secretary on other statutory requirements affecting the Councils.

In accordance with the above-mentioned final rule, the Caribbean Fishery Management Council (Caribbean Council) has prepared its revised SOPP originally published October 13, 1977. Interested parties may obtain a copy of the Caribbean Council's revised SOPP by contacting Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, P.O. Box 1001, Hato Rey, Puerto Rico 00918-2577; telephone (809) 753-6910.

Dated: December 4, 1990.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-28885 Filed 12-7-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

The Correlation: Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States for 1991

December 4, 1990.

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

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION: The Committee for the Implementation of Textile Agreements (CITA) announces that the 1991 Correlation, based on the Harmonized Tariff Schedule of the United States, will be available on or about December 5, 1990.

Copies of the Correlation may be purchased from the U.S. Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Avenue NW., room H3100, Washington, DC 20230, ATTN: Correlation, at a cost of $30 per copy. Checks or money orders should be made payable to the U.S. Department of Commerce.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-28857 Filed 12-7-90; 8:45 am]

BILLING CODE 3510-DR-M

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

December 4, 1990.

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

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

EFFECTIVE DATE: January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, 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) 566-5810. 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 Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5 and 31, 1984, as amended and extended, between the Governments of the United States and the Republic of Poland establishes limits for the period Janaury 1, 1991 through December 31, 1991. The limits for Categories 433 and 443/643/644 are being reduced for carryforward used during the 1990 agreement year.

A copy of the current agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-3889.

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). Information regarding the 1991 Correlation will be published in the **Federal Register** at a later date.

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 implementaiton of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

December 4, 1990.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further amended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5 and 31, 1984, as amended and extended, between the Governments of the United States and the Republic of Poland; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products in the following categories, produced or manufactured in Poland and

exported during the twelve-month period begining on January 1, 1991 and extending through December 31, 1991, in excess of the following levels of restraint:

Category	12-month restraint limit
Levels not in a group	
334	306,687 dozen of which not more than 26,500 dozen shall be in Category 334-O.[1]
335	60,415 dozen.
338/339	1,060,000 dozen.
340/640	125,080 dozen.
341/641	95,400 dozen.
347/348	180,200 dozen.
611	1,325,000 square meters.
645/646	153,432 dozen.
Group II	
400, 410/624, 414, 431-436, 438-440, 442, 443/643/644, 444-448, 459, 464, 465 and 469, as group.	5,252,000 square meters equivalent.
Sublevels in group II	
410/624	2,525,000 square meters of which not more than 2,121,000 square meters shall be in Category 410.
433	7,805 dozen.
434	5,555 dozen.
435	8,080 dozen.
440	7,975 dozen.
443/643/644	175,750 numbers.
444	63,228 numbers.
445	17,736 dozen.
446	11,398 dozen.
447	12,521 dozen.
459	51,112 kilograms.
Group III	
200-239, 300-333, 336, 342, 345, 349-369, 600-607, 613-622, 625-639, 642, 647-654, 659, 665-670 and 831-859, as a group.	13,780,000 square meters equivalent.

[1] Category 334-O: all HTS numbers except 6101.20.0010, 6101.20.0020 and 6112.11.0010.

Imports charged to these category limits for the period January 1, 1990 through December 31, 1990 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The restraint limits set forth above are subject to adjustment in the future according to the provisions of the current bilateral agreement between the Governments of the United States and the Republic of Poland.

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

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

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 90-28858 Filed 12-7-90; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Employment in Private Shipyards under Cognizance of Supervisors of Shipbuilding, Conversion and Repair (SUPSHIPS), NAVSEA 4350/2, OMB Control No. 0703-0005.

Type of Request: Reinstatement.

Average Burden Hours/Minutes per Response: 8 hours.

Responses per Respondent: 12.

Number of Respondents: 115.

Annual Burden Hours: 11,040.

Annual Responses: 1,380.

Needs and Uses: To collect information on employment in private shipyards to make a determination of the capabilities of the shipbuilding industry and its ability to meet the shipbuilding, conversion and repair needs for Navy and Merchant ships. It is collected from firms that build, convert or repair ships.

Affected Public: Businesses or other for-profit.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Dr. J. Timothy Sprehe.

Written comments and recommendations on the proposed information collection should be sent to Dr. Sprehe at the Office of Management and Budget, Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, Virginia 22202-4302.

Dated: November 4, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-28799 Filed 12-7-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Environmental; Chlorofluorocarbons (CFCs) Advisory Committee

ACTION: Notice of meeting.

SUMMARY: This is another in a series of meetings to be held by the CFC Advisory Committee Subcommittee Chairman to study the feasibility and cost within DoD of substituting chemicals or technologies to replace ozone depleting chemicals whose production is restricted by the Montreal Protocol.

DATES: December 18, 1990.

ADDRESSES: 409 12th St., SW., suite 700, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. William D. Goins, (703) 325-2215.

SUPPLEMENTARY INFORMATION: Due to limited space and security considerations, please contact Charles W. Purcell, (202) 646-6082 for attendance information and admission number.

Dated: November 4, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-28798 Filed 12-7-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Review of the A-12 Aircraft

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Review of the A-12 Aircraft will meet in closed session on 19 and 20 December 1990 at the Pentagon, Washington, DC.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will receive briefings on the Navy requirements for a medium-attack aircraft and the technical design aspects of the A-12 aircraft.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. Nl. 92-463, as amended (5 U.S.C. app. II, (1982)), it has been determined

that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: November 4, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-28796 Filed 12-7-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on The Detection and Neutralization of Illegal Drugs and Terrorist Devices

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on the Detection and Neutralization of Illegal Drugs and Terrorist Devices will meet in closed session on December 19–20, 1990 at System Planning Corporation, 1500 Wilson Blvd., Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as the affect the perceived needs of the Department of Defense. At this meeting the Task Force will continue to review, in detail, classified material associated with the DoD counternarcotics efforts.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. app. II. (1982)). It has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: November 4, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-28797 Filed 12-7-90; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Strategic Sensors

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Strategic Sensors will meet in closed session on December 21, 1990 at DBA, Inc. in Fairfax, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will investigate technologies that are capable of improving strategic surveillance sensor performance.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that this DSB Task Froce meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly this meeting will be closed to the public.

Dated: December 5, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-28884 Filed 12-7-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB)

Dates of Meeting: 8 January 1991

Time: 1000–1100

Place: Pentagon, Washington, DC

Agenda: The Army Science Board (ASB) Ad Hoc Subgroup on Electromagnetic and Electrothermal Technologies will meet for the final report and discussion on the findings and conclusions concerning the report. This meeting will be closed to the public in accordance with section 552(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695–0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 90-28793 Filed 12-7-90; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before January 9, 1991.

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 20202–4651

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: December 3, 1990.

James O'Donnell,

Acting Director for Office of Information Resources Management.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.
Title: Quarterly Cumulative Caseload Report.
Frequency: Quarterly.
Affected Public: State or local governments.
Reporting Burden:
Responses: 84
Burden Hours: 336
Recordkeeping Burden:
Recordkeepers: 84
Burden Hours: 84
Abstract: State Vocational Rehabilitative (VR) agencies report caseload data. The Department uses the information collected to assess the accomplishment of program goals and objectives and to aid in effective program management.

Office of Special Education and Rehabilitative Services

Type of Review: Revision.
Title: Application—Handicapped Infants and Toddlers Program, Under Part H of the Education of the Handicapped Act.
Frequency: Annually.
Affected Public: State or local governments.
Reporting Burden:
Responses: 58
Burden Hours: 580
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: States are required to submit an application for funds authorized under part H of the Education of the Handicapped Act. Funds will be used by States to plan, develop, and implement the statewide comprehensive system of early intervention services for infants and toddlers with handicaps and their families.

Office of Educational Research and Improvement

Type of Review: New.
Title: School Library Survey—A component of the Schools and Staffing Survey (SASS)—Field Test.
Frequency: One-time.
Affected Public: State or local governments; Non-profit Institutions; Small businesses or organizations.
Reporting Burden:
Responses: 650
Burden Hours: 1300
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: This field test for a national survey of school media centers and of school librarians will provide a basis for planning, policy decisions, and program administration. This information will contribute to the assessment of the Federal role in supporting school libraries.

Office of Postsecondary Education

Type of Review: Revision.
Title: Performance Report for the Robert C. Byrd Honors Scholarship Program.
Frequency: Annually.
Affected Public: State or local governments.
Reporting Burden:
Responses: 52
Burden Hours: 52
Recordkeeping Burden:
Recordkeepers: 52
Burden Hours: 5
Abstract: State agencies that have participated in the Robert C. Byrd Honors Scholarship Program submit these reports to the Department. The Department uses the information to assess the accomplishment of project goals and objectives, and to aid in effecive program management.

Office of Vocational and Adult Education

Type of Review: Extension.
Title: Performance Report for State Administered Vocational Education.
Frequency: Annually.
Affected Public: State and local governments.
Reporting Burden:
Responses: 53
Burden Hours: 2,544
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: State Boards for Vocational Education must submit state plans under the Carl D. Perkins Vocational Education Act, as amended. The Department uses the information to determine compliance with the Act.

[FR Doc. 90–28834 Filed 12–7–90; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Award of a Grant, Noncompetitive Financial Assistance

AGENCY: DOE, Yucca Mountain Site Characterization Project Office (Project Office).

ACTION: Notice of intent to award based on an unsolicited application.

SUMMARY: Pursuant to 10 CFR 600.14(j), DOE announces its intent to award a grant based on an unsolicited application from the Clark County Community College, North Las Vegas, Nevada, to provide a local source of training in the use of Geographic Information Systems (GIS). The training is essential for the development of GIS in the monitoring of effects involved with the Yucca Mountain Site Characterization Project. The Nuclear Waste Policy Act of 1982, as amended by the Nuclear Waste Policy Amendments Act of 1987, provides for the development of a program for the permanent, safe storage of spent-fuel and high-level nuclear waste. It is the DOE policy to keep the Nevada residents informed of activities with respect to the project.

The objectives of the work effort are to set up and provide a locally available source of training in the use of GIS. It has been determined that GIS will be part of the Project Technical Data Base, used in storing and evaluating the results of the project site characterization activities of the Yucca Mountain Site Characterization Project. The program set up under this proposed grant will provide the community with individuals trained in the development and use of this technology. It will also make reasonable, affordable training in GIS technology available to the community.

The project period for the proposed grant award is one year. The anticipated award date is January 1, 1991. The total estimated cost of this award is $143,000.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Yucca Mountain Site Characterization Project Office, Attn: Birdie Hamilton-Ray, P.O. Box 98608, Las Vegas, Nevada 89193–8608.

Issued in Las Vegas, Nevada, on November 29, 1990.

Nick C. Aquilina,

Manager, Nevada Operations Office.

[FR Doc. 90–28882 Filed 12–7–90; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 10556–001 New York]

Kenneth M. Grover; Availability of Environmental Assessment

December 4, 1990

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of

Hydropower Licensing has reviewed the application for exemption from licensing for the proposed Tuck Tape Dam Hydroelectric Project, located on Fishkill Creek in the city of Beacon, Dutchess County, New York, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28830 Filed 12–7–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91–39–000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that on November 30, 1990, pursuant to section 4 of the Natural Gas Act and part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations thereunder, ANR Pipeline Company ("ANR") tendered for filing with the Commission Seventh Revised Sheet No. 570 of its FERC Gas Tariff, Original Volume No. 2 with a proposed effective date of January 1, 1991.

Seventh Revised Sheet No. 570 reflects a decrease from $261,482 to $250,763 in the monthly charge paid by the High Island Offshore System ("HIOS") to ANR pursuant to Rate Scheduled X–64 under Original Volume No. 2 of ANR's FERC Gas Tariff. Rate Schedule X–64 is a Service Agreement dated August 4, 1977 between ANR and HIOS. Under the terms of this Service Agreement, which was approved by Commission Order issued July 6, 1978 at Docket No. CP78–134, ANR provides certain gas measurement, dehydration and related services for HIOS at the Grand Chenier, Louisiana facility.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 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 to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28821 Filed 12–7–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91–35–000]

ANR Pipeline Co.; Changes in FERC Gas Tariff

December 4, 1990.

Take notice that ANR Pipeline Company ("ANR") on November 29, 1990 tendered for filing as part of its Original Volume No. 1 of its FERC Gas Tariff, six copies each of the following tariff sheets which ANR proposes to become effective on December 29, 1990:

Thirty–Fourth Revised Sheet No. 18
Eighth Revised Sheet No. 88
Eighth Revised Sheet No. 89
Eighth Revised Sheet No. 90
Seventh Revised Sheet No. 90A
Fourth Revised Sheet No. 90A.1
First Revised Sheet No. 130
First Revised Sheet No. 131

ANR states that the above-referenced tariff sheets are being filed under Section 2.104 of the Commission's Regulations to implement partial recovery of approximately $11.0 million of additional buyout buydown costs. Under the proposed filing, ANR is proposing to absorb twenty five percent of its buyout buydown costs, to recover twenty-five percent of such costs through a fixed monthly charge applicable to its Rate Schedules CD–1, MC–1 amd SGS–1 sales customers and to recover up to fifty percent of such costs through a volumetric buyout buydown surcharge of 0.28¢ per dth applicable to each sales, transportation and storage rate schedule, where appropriate, under Original Volume Nos. 1, 1–A, 2 and 3 of ANR's FERC Gas Tariff, but all subject to reservation of rights to make changes, including to achieve 100 percent cost recovery by increased direct charge recovery. It states that its allocation of is based on the methodology proposed in Docket No. RP91–33–000, filed on November 21, 1990, in response in Order No. 528.

ANR states that copies of the filing were served upon all of its Volume Nos. 1, 1–A, 2 and 3 customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426 by December 11, 1990, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate actions 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 application are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28822 Filed 12–7–90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91–3–20–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that Algonquin Gas Transmission Company "Algonquin") on November 30, 1990, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective December 1, 1990

48 Rev Sheet No. 201
10 Rev Sheet No. 201A
49 Rev Sheet No. 203
45 Rev Sheet No. 204
42 Rev Sheet No. 205

Algonquin states that above listed tariff sheets are being filed as part of an Out-of-Cycle Purchased Gas Adjustment ("PGA") pursuant to section 17 of the General Terms and Conditions of Algonquin's FERC Gas Tariff, Second Revised Volume No. 1 to reflect the changes in standby service costs to be charged by Texas Eastern Transmission Corporation ("Texas Eastern") and changes in purchased gas costs to be charged by its suppliers, Texas Eastern, National Fuel Gas Supply Corporation ("National") and CNG Transmission Corporation ("CNGT").

Algonquin states that the proposed effective date for the above listed tariff Sheet Nos. 201 through 205, is December 1, 1990.

Algonquin further states that the effect of the instant filing is to increase the demand charges by $0.5270 per MMBtu and to increase the commodity charges by 27.40¢ per MMBtu under Algonquin's firm sales rate schedules from those rates contained in

Algonquin's regularly scheduled Quarterly PGA filing of October 31, 1990 in Docket No. TQ91–2–20–000. In addition, the rate under, (i) Rate Schedule I–1 has increased by 27.40¢ per MMBtu, (ii) Rate Schedule WS–1 excess commodity has increased by 37.94¢ per MMBtu.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 385.214 and 385.21 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28815 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–4–20–000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on November 30, 1990, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be effective January 1, 1991

49 Rev Sheet No. 201
11 Rev Sheet No. 201A
50 Rev Sheet No. 203
46 Rev Sheet No. 204
43 Rev Sheet No. 205
4 Rev Sheet No. 208
9 Rev Sheet No. 223
9 Rev Sheet No. 224
14 Rev Sheet No. 324

Algonquin states that the revised tariff sheets listed above are being submitted to incorporate the Commission approved Gas Research Institute's ("GRI") Adjustment for the calendar year 1991. The instant filing is made pursuant to section 28 of the General Terms and Conditions of Algonquin's FERC Gas Tariff, Second Revised Volume No. 1. The proposed effective date for the listed revised tariff sheets is January 1, 1991.

Algonquin further states that the effect of the change in the GRI Adjustment is to increase all commodity and commodity handling charges in the listed tariff sheets by $0.0016 per MMBtu.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28825 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–2–31–000]

Arkla Energy Resources; Filing of Revised Tariff Sheets Reflecting Quarterly PGA Adjustment

December 4, 1990.

Take notice that on November 30, 1990, Arkla Energy Resources (AER) a division of Arkla, Inc., tendered for filing the following tariff sheets to become effective January 1, 1991:

Original Volume No. 3
11th Revised Sheet No. 185.1
First Revised Volume No. 1
59th Revised Sheet No. 4
First Revised Volume No. 1
12th Revised Sheet No. 7A

These tariff sheets reflect AER's third quarterly PGA filing made subsequent to its annual PGA effective April 1, 1990 under the Commission's Order Nos. 483 and 483A.

The proposed changes would increase AER's system cost by $124,478 and its revenue from jurisdictional sales and service by $1,285 for the PGA period of January, February, and March 1991 as adjusted.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28828 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–2–22–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that CNG Transmission Corporation ("CNG"), on November 29, 1990, pursuant to section 4 of the Natural Gas Act and section 12 of the General Terms and Conditions of CNG's FERC Gas Tariff, filed the following revised tariff sheet, all to First Revised Volume No. 1 of CNG's FERC Gas Tariff:

4th Revised First Revised Sheet No. 31

CNG requests that the Commission allow the proposed tariff revisions to become effective on December 1, 1990, as CNG's out-of-cycle purchased gas adjustment ("PGA") filing.

The filing would increase CNG's RQ and CD commodity rates by 6.04 cents per dekatherm, increase the D–1 demand rates by 87 cents per dekatherm, and decrease the D–2 demand rates by 6.31 cents per dekatherm from the rates as filed on the primary sheet in CNG's Quarterly PGA in Docket No. TQ91–1–22–000 filed October 31, 1990. Other rates will change correspondingly.

The sole change in this filing from the Quarterly PGA is to reflect a significant increase in Texas Eastern Transmission Corporation's rates as filed November 20, 1990, in its Out-of-Cycle PGA in Docket No. TQ91–2–17.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214

and 385.211). All motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28816 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–4–22–000]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that CNG Transmission Corporation ("CNG"), on November 30, 1990, pursuant to section 4 of the Natural Gas Act ("NGA"), part 154 and § 2.104 of the Commission's regulations, the provisions of the Settlement in CNG's Docket No. RP88–217, *et al.*, approved by the Commission by order issued October 6, 1989, and §§ 12.10 and 13.5 of the General Terms and Conditions of CRG's FERC Gas Tariff, files (6) copies of the following revised tariff sheets, all to Volume No. 1 of CNG's FERC Gas Tariff:

5th Revised First Revised Sheet No. 31
4th Revised Original Sheet No. 32

The proposed effective date is January 1, 1991.

The purpose of this filing is to make a minor change in the "Take-or-Pay Commodity Surcharge," which is currently in effect to facilitate CNG's collection of direct take-or-pay costs and to track Commission approved changes in the Gas Research Institute ("GRI") surcharge.

CNG also seeks waiver of the refund provisions of § 12.10 of the General Terms and Conditions of its tariff. This section requires CNG to credit customer invoices for any interest amounts overcollected in the previous year.

CNG states that copies of the filing were served upon CNG's customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a protest or motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR §§ 385.214 and 385.211). All motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28823 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–37–000]

Carnegie Natural Gas Co.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that on November 30, 1990, Carnegie Natural Gas Company ("Carnegie") tendered for filing the following revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff:

Thirteenth Revised Sheet No. 8;
Thirteenth Revised Sheet No. 9;
Second Revised Sheet No. 10;
First Revised Sheet No. 13;
First Revised Sheet No. 14;
Second Revised Sheet No. 18;
Second Revised Sheet No. 19;
First Revised Sheet No. 45;
First Revised Sheet No. 46; and
First Revised Sheet No. 103.

The proposed effective date of these revised tariff sheets is January 1, 1991.

Through this filing, Carnegie proposes to increase the level of its jurisdictional rates to provide an overall annual increase in its jurisdictional cost of service of approximately $1.2 million. Carnegie states that the filing is a general Natural Gas Act section 4 rate change submitted in accordance with 18 CFR 154.63 (1990) through which it proposes a change in its currently effective sales and transportation rates based on the twelve months ended September 30, 1990, adjusted for known and measurable changes through June 30, 1991, and further adjusted as outlined in the tariff filing. The rates stated on the revised tariff sheets are based on proposed jurisdictional sales of 13,406,200 Dth and annual jurisdictional interruptible transportation of 1,695,807 Dth.

Carnegie states that its filing reflects revisions in the design of its rates. The proposed rates are based on a seasonal demand-commodity rate structure, with seasonally-differentiated single demand and commodity charges applicable to firm sales and interruptible transportation rates. The filing also implements seasonally-differentiated Demand Charge Adjustment rates. Carnegie states that these rates have been developed in light of the Commission's Rate Design Policy Statement issued in Docket No. PL89–2–000.

Carnegie proposes to continue to track through its PGA, on a current as-billed basis, all transportation-related Standby Charges incurred from Texas Eastern Transmission Corporation. Carnegie also proposes to continue to price its storage inventory on a commodity-only basis, with all purchased gas demand charges recovered currently on an as-billed basis through its PGA. Carnegie is also proposing to change its ACA rate from $.0022 per Mcf to $.0021 per dekatherm as required by Commission order issued on October 26, 1990 in Docket No. TM91–1–63–000.

Carnegie states that its filing was served on each of its customers and affected state commissions pursuant to § 154.16 of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR § 385.211, 385.214). All such petitions or protests should be filed on or before December 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28808 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ91–1–32–000 and TM91–3–32–000]

Colorado Interstate Gas Co.; Filing

December 4, 1990.

Take notice that Colorado Interstate Gas Company (CIG) on November 30, 1990, submitted for filing fourteen copies of affected tariff sheets from Original Volume No. 1 of its FERC Gas Tariff. CIG requests that these proposed tariff sheets be made effective on January 1, 1991.

The instant purchased gas adjustment ("PGA") filing is made pursuant to

§ 154.308 of the Commission's Regulations implementing Order 483, *et seq.* The tariff rates underlying Substitute Fifth Revised Second Substitute First Revised Sheet Nos. 7.1 through 8.2 reflect a 0.51 cent/Mcf decrease in the commodity rate for the G–1, P–1, SG–1, H–1, F–1 and PS–1 Rate Schedules, and a 6 cent/Mcf increase in the Demand–1 rate for applicable rate schedules.

The proposed rates compare with those filed by CIG on October 12, 1990 in Docket Nos. TA91–1–32–001 and RP90–166–001, which rates were pending before the Commission at the time of this filing. In Docket Nos. TA91–1–32–001 and RP90–166–001, CIG seeks a waiver of § 154.305 (b) (1) of the Commission's regulations permitting the PGA flow-through of the demand and commodity pricing provisions in two newly negotiated September 28, 1990 producer contracts. Since September 28, 1990, CIG has entered into a third arrangement with a non-affiliated producer which provides for demand and commodity pricing. This arrangement results in a 6 cent/Mcf increase in the Demand–1 rate in the instant filing.

Accordingly, CIG requests waiver of § 154.305(b)(1) of the Commission's regulations to permit the "as billed" flow-through of the demand and commodity costs for this newly structured gas purchase agreement. Moreover, pursuant to § 388.112 of the Commission's regulations, CIG is filing one copy of this arrangement solely with the Commission, and requests privileged treatment by the Commission of all pages. The arrangement, enclosed in a separate sealed envelope, contains information that is commercially sensitive and could affect CIG's competitive position, and could jeopardize ongoing negotiations with other third party producers supplying gas to CIG.

The proposed rates also incorporate the 0.16 cent/Mcf increase in the GRI charge to 1.46 cents effective January 1, 1991, that CIG filed with the Commission on November 15, 1990 in Docket No. TM91–2–32–000.

CIG states that copies of this filing are being served on all jurisdictional customers and interested state commissions, and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

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 Capital Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28831 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–38–000]

Florida Gas Transmission Co., Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that on November 30, 1990 Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff the following tariff sheets to be effective January 1, 1991:

Second Revises Volume No. 1

Eighth Revised Sheet No. 8
Third Revised Sheet No. 8A
Third Revised Sheet No. 8B

Original Volume No. 3

Fourth Revised Sheet No. 1039

Reason for Filing

FGT is filing the above-referenced tariff sheets pursuant to section 25 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1 and section 4 of the Natural Gas Act to begin to recover, via a volumetric surcharge applicable to all throughput (TCR Surcharge), contract reformation costs incurred on or before September 30, 1990. The initial TCR surcharge is 3.5¢/MMBtu.

FGT states that on October 17, 1989, in Docket No. RP89–50 *et al.*, FGT filed a comprehensive Stipulation and Agreement (hereinafter "Stipulation") that provided for, among other items, the expansion of the FGT system, reallocation of capacity on the system, a comprehensive service restructuring on the FGT system, implementation of open access transportation of the FGT system under the Commission Order Nos. 436/500 *et seq.*, and the implementation of a Transitional Cost Recovery Mechanism under section 25 of General Terms and Conditions of its FERC Gas Tariff. On June 15, 1990 the Commission approved the Stipulation with regard to the proposed restructuring of FGT's service, open access tariff and most importantly, the TCR Mechanism. On August 1, 1990 FGT, as required by the Stipulation, implemented the terms of the June 15 Order, restructured its services, and became an open access transporter under part 284 of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 21 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 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 have been served on all of FGT's customers and interested State commissions. Additionally, copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room, as well as FGT's offices in Houston, Texas and Maitland, Florida.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28818 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–2–34–000]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that on November 30, 1990 Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

Second Revised Volume No. 1

Seventh Revised Sheet No. 8
Second Revised Sheet No. 8A
Second Revised Sheet No. 8B

Original Volume No. 3

Third Revised Sheet No. 1039

Reason for Filing

FGT is filing the above-referenced tariff sheets pursuant to Opinion No. 355 issued on October 1, 1990 in Docket No. RP90–120–000 by the Federal Energy Regulatory Commission (Commission) approving Gas Research Institute's (GRI) 1991 Research, Development and Demonstration Program and Five-Year Plan for 1991–1995. In Opinion No. 355

the Commission approved a GRI funding unit of 1.42¢ per dekatherm.

The proposed effective date of the tariff sheets listed above is January 1, 1991.

FGT states that copies of the filing have been served on FGT's jurisdictional customers and interested State commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-28826 Filed 12-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-3-15-000]

Mid Louisiana Gas Co.; Proposed Change of Rates

December 4, 1990.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on November 29, 1990, tendered for filing as part of First Revised Volume No. 1 of its FERC Gas Tariff the following Tariff Sheet to become effective December 1, 1990:

	Superseding
Seventy-Ninth Revised Sheet No. 3a.	Seventy-Eighth Revised Sheet No. 3a.

Mid Louisiana states that the purpose of the filing of Seventy-Ninth Revised Sheet No. 3a is to reflect a $0.0983 per MCF increase in its current cost of gas.

The Tariff Sheet was filed as an Out of Cycle PGA to reflect the latest estimated gas cost to Mid Louisiana from its various suppliers. The majority of these suppliers have contracts with Mid Louisiana which contain pricing provisions which are tied to the spot market price of gas.

Mid Louisiana requests waived of the notice requirements of § 154.309 of the Commission's regulations and any other waivers necessary to permit the above Tariff Sheet to become effective December 1, 1990, in order to implement the pricing provisions currently in effect between Mid Louisiana and its gas suppliers.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 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 Petition to Intervene. Copies of this filing have been mailed to Mid Louisiana's Jurisdictional Customers and interested State Commissions and are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-28817 Filed 12-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-3-25-000]

Mississippi River Transmission Corp.; Rate Change Filing

December 4, 1990.

Take notice that on November 30, 1990, Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets to its FERC Tariff:

Second revised volume No. 1	Proposed effective date
Fifty-Second Revised Sheet No. 4.	Jan. 1, 1991.
Eleventh Revised Sheet No. 4.1	Jan. 1, 1991
Eleventh Revised Sheet No. 4.2	Jan. 1, 1991
Tenth Revised Sheet No. 4B	Jan. 1, 1991
Original Volume 1-A	
Sixth Revised Sheet No. 2	Jan. 1, 1991.
Sixth Revised Sheet No. 3	Jan. 1, 1991.

The tariff sheets reflect an increase in the Gas Research Institute (GRI) surcharge to 1.26 cents per MMBtu in accordance with the Commission's Opinion No. 335, issued October 1, 1990 at Docket No. RP90-120-000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with § § 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90-28827 Filed 12-7-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-36-000]

Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on November 29, 1990, tendered for filing proposed changes to its FERC Gas Tariff. Northern has requested that the proposed filing become effective, and be implemented as proposed, on January 1, 1991.

Northern states that the purpose of this tariff filing is to adjust the Take-or-Pay Surcharge to recover approximately $5.3 million in litigation exception costs pursuant to section V of the Stipulation and Agreement of Settlement (Settlement) of Docket Nos. RP88-259 and RP89-136, approved by the Commission on December 29, 1989.

Northern states that this filing is being submitted to recover take-or-pay litigation exception costs, excluding interest, over a 50 month period commencing January 1, 1991 and ending February 28, 1995. Northern states that the termination of this surcharge coincides with the termination provided for in Northern's previous litigation exception cost filing in Docket No. RP90-82, which was filed on February 16, 1990.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or

protests must be filed on or before December 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28811 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–40–000]

Northern Natural Gas Co.; Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

This notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on November 30, 1990, tendered for filing proposed changes to its FERC Gas Tariff. Northern has requested that the proposed filing become effective February 1, 1991, and that a Settlement Conference be set as soon as possible.

Nothern states that this filing is being submitted pursuant to Order No. 528 to recover one hundred percent of certain settlement costs associated with Northern's gas purchase contracts (Transition Costs) that Northern has paid, or incurred an obligation to pay as of November 30, 1990, plus interest. Northern proposes to recover fifty percent of these costs through a direct bill over a twelve month period and the remaining fifty percent through a five year volumetric surcharge on total sales and transportation throughput. In the alternative Northern has proposed to absorb twenty-five percent of such costs, recover twenty-five percent through a direct bill over a twelve month period, and the remaining fifty percent through a five year volumetric surcharge on total sales and transportation throughput.

Northern further states that copies of the filing have been mailed to each of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such petitions or protests must be filed on or before December 11, 1990. Protests will be considered by before December 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28824 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–42–000 & TM91–4–37–000]

Northwest Pipeline Corp.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that on November 30, 1990, Northwest Pipeline Corporation ("Northwest") tendered for filing and acceptance the following tariff sheets:

Second Revised Volume No. 1

Third Revised Sheet No. 10
Third Revised Sheet No. 11
First Revised Sheet No. 13
First Revised Sheet No. 15

First Revised Volume No. 1–A

Second Revised Sheet No. 201

Original Volume No. 2

Nineteenth Revised Sheet No. 2.3

Northwest states that the purpose of this filing is to update its Commodity SSP Charge effective January 1, 1991, to reflect (1) interest applicable to October, November and December 1990, and (2) the amortization of principal and interest. The proposed revised Commodity SSP Charge is 4.28 cents per MMBtu. Northwest has also revised the Fixed Monthly SSP Charges to reflect additions to the Fixed SSP Account that have occurred since Northwest's last quarterly filing.

In Order No. 528 ("Order"), the Commission stayed tariff provisions of various pipelines, including Northwest, effective December 17, 1990 that provide for the collection of take-or-pay settlement costs pursuant to a purchase deficiency allocation methodology.

However, the Commission's Order permits individual pipelines to continue collections under a purchase deficiency allocation methodology if said collections are (1) the result of a Commission approved settlement, or (2) under filings approved by Commission orders that have become final and nonappealable. In appendix A of its Order the Commission identified all pipelines that are not currently affected by the stay because they satisfy one of the above qualifications. The Commission stated that there may be other pipelines who could qualify for "appendix A" treatment and encouraged any pipeline which believes it belongs on appendix A to make a filing stating the basis for its position.

On November 14, 1990 Northwest filed a Motion to be Included on appendix A of Order No. 528. First Revised Sheet No. 15, as tendered herein, provides for the collection of Northwest's Fixed SSP costs in a manner consistent with prior scheduled quarterly filings based on the assumption that the Commission will approve Northwest's motion. In the event the Commission denies Northwest's motion to be included on appendix A, First Revised Sheet No. 15 would not become effective January 1, 1991, and Northwest hereby reserves the right to file in the future a revised tariff sheet to collect the Fixed SSP charges under a different methodology consistent with Commission policy.

Northwest states that a copy of the non-confidential portion of this filing has been served upon all parties of record in Docket No. RP89–137 and upon Northwest's jurisdictional customer list and affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28819 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–2–86–000]

Pacific Gas Transmission Co.; Change in Rates

December 4, 1990.

Take notice that on November 30, 1990, Pacific Gas Transmission

Company (PGT), a California corporation, whose mailing address is 160 Spear Street, San Francisco, California 94105–1570, tendered for filing a revision in the Gas Research Institute (GRI) funding unit adjustment component of PGT's rates for certain sales and transportation services in accord with paragraph 3, Gas Research Institute Charge Adjustment Provisions of the General Terms and Conditions in PGT's FERC Gas Tariff Second Revised Volume No. 1 and paragraph 2 of the Transportation General Terms and Conditions in PGT's FERC Gas Tariff Original Volume 1–A. This change in rates is filed pursuant to section 4 of the Natural Gas Act and part 154 of the Regulations issued thereunder.

PGT states it is tendering certain tariff sheets in compliance with its GRI Tariff provisions, which reflect an increase in the GRI funding unit adjustment component of $0.0016 per Dth.

By Opinion No. 355 issued October 1, 1990 at Docket No. RP90–120–000, the Commission amended and approved the GRI's application for advanced approval of its 1991 research and development program and related five-year plan for 1991–1995. In so doing, the Commission approved the GRI's 1991 funding requirement which is to be raised through a funding unit of 1.42 cents per Dth. Accordingly, the tendered revised tariff sheets, when accepted for filing and permitted to become effective, will increase the GRI funding unit adjustment component of PGT's rates for certain sales and transportation services from the currently effective 1.26 cents per Dth to the 1.42 cents per Dth approved by the Commission in Opinion No. 355.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28812 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–2–8–000]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

December 4, 1990.

Take notice that on November 30, 1990, South Georgia Natural Gas Company (South Georgia) tendered for filing Sixty-Eighth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. This tariff sheet is being filed pursuant to the Purchased Gas Cost Adjustments (PGA) provision set out in section 14 of South Georgia's FERC Gas Tariff with a proposed effective date of January 1, 1991.

South Georgia states that Sixty-Eighth Revised Sheet No. 4 reflects a revised Current Adjustment computed in accordance with § 154.305(c) of the Federal Energy Regulatory Commission's (Commission) Regulations. The Current Adjustment, which is proposed to be in effect from January 1, 1991, through March 31, 1991, reflects an increase in jurisdictional revenues of approximately $639,000 which is attributable to an increase in the demand components of $1.117 per Mcf and an increase in the commodity component of $.32 per MMBtu from South Georgia's quarterly PGA filing in Docket No. TQ91–18–002.

South Georgia states that copies of the filing will be served upon all of South Georgia's jurisdictional purchasers, state commissions and interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (§§ 385.211 and 385.214). All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28820 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ91–2–7–000 and TM91–2–7–000]

Southern Natural Gas Co.; Proposed Changes to FERC Gas Tariff

December 4, 1990.

Take notice that on November 30, 1990, Southern Natural Gas Company (Southern) tendered for filing the following revised sheets to its FERC Gas Tariff:

Sixth Revised Volume No. 1:

Fifth Revised Ninety-seventh Revised Sheet No. 4A
Fifth Revised Sixteenth Revised Sheet No. 4J
First Revised First Revised Sheet No. 45I

Original Volume No. 2:

First Revised Tenth Revised Sheet No. 785
First Revised Tenth Revised Sheet No. 865
First Revised Eighth Revised Sheet No. 904

The proposed tariff sheets and supporting information are being filed with a proposed effective date of January 1, 1991. The proposed tariff sheets effect an increase of 31.7¢ per Mcf in the commodity component of Southern's rates from the level stated in Southern's last quarterly Purchased Gas Adjustment filing, Docket No. TQ91–1–7–000, to conform to projected changes in its commodity cost of purchased gas, and implement the revised Gas Research Institute surcharge of 1.42¢ per MMBtu. Southern has also requested a waiver from the Commission of those regulations which require it to continue compiling and reporting Natural Gas Policy Act price category information for those volumes of gas which have become price decontrolled pursuant to the Wellhead Decontrol Act of 1989.

Southern states that copies of Southern's filing were served upon all of Southern's jurisdictional purchasers, shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (§§ 385.214, 385.211). All such petitions or protests should be filed on or before December 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 petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28809 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–3–18–000]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that on November 29, 1990, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

FERC Gas Tariff, Original Volume No. 1

Thirty-second Revised Sheet No. 10
Thirty-second Revised Sheet No. 10A
Thirteenth Revised Sheet No. 11
Third Revised Sheet No. 11A
Third Revised Sheet No. 11B

FERC Gas Tariff, First Revised Volume No. 2–A

First Revised No. 10A
First Revised No. 11

The revised tariff sheets are being filed pursuant to section 24 of Volume No. 1 and section 20 of Volume No. 2–A of Texas Gas's tariff to reflect the 1991 General RD&D Funding Unit authorized by Opinion No. 355, issued by the Commission on October 1, 1990, in Docket No. RP90–120–000.

Texas Gas states that copies of the revised tariff sheets are being mailed to Texas Gas's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28813 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–4–29–000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes in FERC Gas Tariff

December 4, 1990.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on November 29, 1990, certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff included in appendix A attached to the filing.

Transco states that the purpose of the filing is to track rate changes attributable to (1) transportation services purchased from National Fuel Gas Supply Corporation (National Fuel) under its Rate Schedule X–42 the costs of which are included in the rates and charges payable under Transco's Rate Schedule LSS, (2) storage services purchased from Texas Eastern Transmission Corporation under its Rate Schedule X–28 the costs of which are included in the rates and charges payable under Transco's Rate Schedule S–2, and (3) transportation services purchased from National Fuel under its Rate Schedule X–54 the costs of which are included in the rates and charges payable under Transco's Rate Schedule SS–2. The tracking filing is being made pursuant to section 4 of Transco's Rate Schedule LSS, section 26 of the General Terms and Conditions of Volume No. 1 of Transco's FERC Gas Tariff and section 4 of Transco's Rate Schedule SS–2.

Included in appendices B through D attached to the filing is an explanation of each of the tracking rate changes, the proposed effective date of such changes, and details regarding the computation of the revised LSS, S–2, and SS–2 rates.

Also included therein for filing are revised tariff sheets which incorporate the Rate Schedule LSS, S–2 and SS–2 rate changes proposed therein into subsequent intervening rate filings which have been accepted by the Commission on the effective dates reflected thereon.

Transco states that copies of the filing are being mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 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 December 11, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28810 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–5–29–000]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

December 4, 1990.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on November 30, 1990 tendered for filing to be effective January 1, 1991 certain revised tariff sheets included in appendix A attached to the filing.

Transco states that the purpose of this filing is to reflect an increase of 0.16¢ per dt in the Gas Research Institute (GRI) Adjustment Charge applicable to sales and transportation deliveries to distributors for resale, to pipelines which are not members of GRI, and to ultimate consumers.

Transco states that on October 1, 1990 the Commission issued Opinion No 355 in Docket No. RP90–120–000. The Opinion provides that, as a member of GRI, Transco may file under its Gas Research Institute Charge Adjustment Provision to collect, in advance of payments to GRI, 1.42¢ per dt on sales and transportation deliveries. This charge will replace the currently effective charge of 1.26¢ per dt. All amounts collected under this provision will be remitted to GRI, less any applicable taxes.

Transco further states that copies of the filing have been mailed to each of its customers and 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 December 11, 1990. Protests will be

considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 90–28829 Filed 12–7–90; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[Docket No. PP–90]

Issuance of Presidential Permit to Imperial Irrigation District

AGENCY: Office of Fossil Energy Department of Energy.

ACTION: Notice of issuance of Presidential permit in Docket No. PP–90 to Imperial Irrigation District.

SUMMARY: Pursuant to the authority contained in Executive Order No. 10485, as amended by Executive Order No. 12038, the Office of Fuels Programs (OFP) of the Department of Energy (DOE) gives notice of the issuance of Presidential Permit PP–90 to Imperial Irrigation District (IID).

FOR FURTHER INFORMATION CONTACT:

William H. Freeman, Office of Fuels Programs (FE–52), Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5883

Lise Courtney M. Howe, Office of General Counsel (GC–41), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 586–2900

SUPPLEMENTARY INFORMATION: On February 6, 1989, the Imperial Irrigation District (IID) filed on application with OFP for a Presidential permit to construct, connect, operate and maintain a 34.5-kilovolt (kV) transmission facility at the international border between the United States and Mexico. The IID is an Irrigation District duly formed, organized and operating under Section 20500, *et seq.*, Division 11, of the Water Code of the State of California, and engaged in the business of providing electric service in a portion of Riverside and Imperial Counties, California, and in the wholesale sales of water in portions of Imperial County. IID seeks permission to extend a 34.5-kV electric transmission line approximately 100 feet from its existing border substation, near Calexico, California, across the U.S.-Mexican border, to connect with similar facilities owned and operated by the Commission Federal de Electricidad (CFE), the Mexican national electric utility. The authorized facilities will provide an emergency back-up electric supply to the U.S. Port of Entry located near Calexico, California, on the U.S. side of the U.S-Mexican border and the Mexican Port of Entry located near Mexicali, Mexico, on the Mexican side of the international border, in order to cope with occasional outages of both the IID and CFE electric systems.

On November 29, 1990, Presidential Permit PP–90 was issued to IID for the construction of the abovementioned facilities. A copy of this Presidential permit will be made available, upon request, for public inspection and copying at the DOE Freedom of Information Library, room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on November 29, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Fossil Energy.

[FR Doc. 90–28883 Filed 12–7–90; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port of Portland/ Hyundai Merchant Marine Co., Ltd. Terminal Agreement, et al.

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.: 224–200445.

Title: Port of Portland/Hyundai Merchant Marine Co., Ltd. Terminal Agreement.

Parties: Hyundai Merchant Marine Co., Ltd. ("Hyundai") Port of Portland, Oregon ("Port").

Synopsis: The Agreement provides for the preferential use of a container yard area, a vessel berth and two container cranes at the Port's Terminal 6 and for the Port (or its stevedore) to perform all terminal handling services, vessel stevedoring, and ancillary services. Hyundai agrees to call at the Port with a minimum of 75 vessel calls, and to provide a minimum of 26,000 containers, in Hyundai's joint Space Charter and Sailing Agreement with Nippon Yusen Kaisha, Ltd. ("NYK") (FMC Agreement No. 232–011283) combined with NYK's FEX service. Hyundai agrees to pay applicable Port tariff charges for services provided by the Port with the exception of a wharfage and dockage rate of $36 per container for the first 26,000 containers, with reduced rates to apply after that volume is attained. The Agreement's term is for one year.

Agreement No.: 224–200448

Title: Port of Portland/Nipon Yusen Kaisha, Ltd. Terminal Agreement.

Parties: Port of Portland, Oregon ("Port"), Nippon Yusen Kaisha, Ltd. ("NYK").

Synopsis: The Agreement provides for the preferential use of a container yard area, a vessel berth and two container cranes at the Port's Terminal 6 and for the Port (or its stevedore) to perform all terminal handling services, vessel stevedoring, and ancillary services. NYK agrees to call at the Port with a minimum of 75 vessel calls, and to provide a minimum of 26,000 containers, in NYK's joint Space Charter and Sailing Agreement with Hyundai Merchant Marine Co., Ltd. (FMC Agreement No. 232–011283) combined with NYK's FEX service. NYK agrees to pay applicable Port tariff charges for services provided by the Port with the exception of a wharfage and dockage rate of $36 per container for the first 26,000 containers, with reduced rates to apply after that volume is attained. The Agreement's term is for one year.

By order of the Federal Maritime Commission.

Dated: December 4, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 90–28786 Filed 12–7–90; 8:45 am]

BILLING CODE 6730–01–M

[Docket No. 90-34]

Sea-Land Service, Inc. v. Beza International Corp.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Sea-Land Service, Inc. ("Complainant") against Beza International Corp. ("Respondent") was served December 4, 1990. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing and refusing to pay ocean freight and other charges lawfully assessed pursuant to Complainant's applicable tariff for six shipments of waste paper from Florida to El Salvador and Guatemala between September 19, 1989, and May 9, 1990.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by December 4, 1991, and the final decision of the Commission shall be issued by April 1, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 90-28856 Filed 12-7-90; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 90-33]

Sea-Land Service, Inc. v. Shivago Enterprises; Filing of Complaint and Assignment

Notice is given that a complaint filed by Sea-Land Services, Inc. ("Complainant") against Shivago Enterprises ("Respondent") was served December 4, 1990. Complainant alleges that Respondent engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. 1709(a)(1), by failing and refusing to pay ocean freight and other charges lawfully assessed pursuant to Complainant's applicable tariff for twenty shipments of automobiles from Florida to Honduras and Guatemala between September and December 1990.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by April 1, 1992.

Joseph C. Polking,

Secretary.

[FR Doc. 90-28855 Filed 12-7-90; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 90-35]

Royal Caribbean Cruises Ltd.—Possible Violations of Passenger Vessel Certification Requirements; Order of Investigation

This proceeding is instituted pursuant to section 3 of Public Law 89-777, 46 U.S.C. app. 817e; section 22 of the Shipping Act, 1916, 46 U.S.C. app. 821; and the Commission's regulations at 46 CFR Part 540.

Royal Caribbean Cruises Ltd. ("Royal Caribbean") [1] is a Florida corporation organized on February 11, 1969. It is a cruise line operator and has operated in the United States trades for a number of years.

It appears that Royal Caribbean advertised cruises on the Nordic Empress in travel magazines, trade publications and newspapers prior to May 4, 1990, the date the Commission issued a Certificate (Performance) for the Nordic Empress. It further appears that Royal Caribbean sold 324 full fares and collected 31,041 deposits for passages on the Nordic Empress. The cruises were between Miami, Florida and the Bahamas and were scheduled to embark passengers at Miami after June 24, 1990. It further appears that the Nordic Empress is a vessel having berth or stateroom accommodations for fifty or more passengers.

Therefore, it appears that Royal Caribbean arranged, offered advertised, and collected fares and deposits for passages on the Nordic Empress, scheduled to embark passengers at a U.S. port, without first having obtained a Certificate (Performance) from the Commission, in violation of section 3(a) of Public Law 89-777 and the Commission's regulations at 46 CFR 540.3.

Now therefore it is ordered, That pursuant to section 3 of Public Law 89-777, section 22 of the Shipping Act, 1916, and 46 CFR part 540, a proceeding is instituted to determine whether Royal Caribbean violated section 3(a) of Public Law 89-777 and (or) the Commission's regulations at 46 CFR 540.3;

It is further ordered, That if Royal Caribbean is found to have violated Public Law 89-777 and (or) 46 CFR part 540, then this proceeding shall also determine whether civil penalties should be assessed, and if so, in what amount;

It is further ordered, That this matter be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be determined by the Administrative Law Judge in compliance with rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61;

It is further ordered, That Royal Caribbean Cruises Ltd. is designated a respondent in this proceeding;

It is further ordered, That the Commission's Bureau of Hearing Counsel is designated a party to this proceeding;

It is further ordered, That notice of this Order be published in the Federal Register, and copies be served upon all parties of record;

It is further ordered, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in accordance with rule 118 of the Commission's Rules of Practice and

[1] Sometime in October, 1989, Royal Caribbean's corporate name was changed from Royal Caribbean Cruise Line, Inc. to its present form.

Procedure, 46 CFR 502.118, and shall be served on parties of record;

It is further ordered, That pursuant to rule 61 of the Commission's Rules of Practice and Procedure, 46 CFR 502.61, the initial decision of the Administrative Law Judge shall be issued by August 5, 1991 and the final decision of the Commission shall be issued by December 5, 1991,

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 90–28854 Filed 12–7–90; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program; Application Solicitation for Labor-Management Committees—FY 1991

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Publication of final Fiscal Year 1991 Program Guidelines/Application Solicitation for labor-management committees.

SUMMARY: The Federal Mediation and Conciliation Service (FMCS) is publishing the final Fiscal Year 1991 Program Guidelines/Application Solicitation for the Labor-Management Cooperation program to inform the public. The program is supported by Federal funds authorized by the Labor-Management Cooperation Act of 1978, subject to annual appropriations.

No comments were received from the public. Changes in allocations were made to reflect congressional intent. The date for the application development training program has also been changed to January 22, 1991.

FOR FURTHER INFORMATION CONTACT: Peter L. Regner, 202/653–5320.

A. Introduction

The following is the final solicitation for the Fiscal Year (FY) 1991 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service to implement the provisions of the Labor-Management Cooperation Act of 1978 which was initially implemented in FY81. The Act generally authorizes FMCS to provide assistance in the establishment and operation of plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in section I. A copy of the Labor-Management Cooperation Act of 1978 follows this solicitation and should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria. The term "labor" refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (worksite), area, industry, or public sector levels. A plant or worksite committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor unions producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists of government employees and managers in one or more units of a local or state government. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 1991, competition will be open to plant, area, private industry, and public sector committees. In-plant committee applications should offer an innovative or unique effort. All application budget requests should focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (*e.g.,* job training, mediation of contract disputes, *etc.*). In addition, $77,000 will be reserved for a continuation grant to the State and Local Government Labor-Management Committee for support of the Sixth National Labor-Management Conference.

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full

range of impacts these problem(s) could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses why the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail what the labor-management committee as a demonstration effort will accomplish during the life of the grant. While a goal of "improving communication between employers and employees" may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committees should focus on expansion efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies how the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (*e.g.*, members represent 70% of the area or plant workforce);

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as résumés for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (*i.e.*, in existence at least 12 months prior to the submission deadline), a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for when they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1991 as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives.

An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from all proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. Union letters should be submitted on union letterhead.

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws, a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived likelihood of accomplishing the intended project results. For in-plant applicants, this section will address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and,

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include State and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under part B must be followed. Applications from third-party entities must document

particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applicants from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible.

Applicants who received funding under this program in the past for committee operations are generally not eligible to apply. The only exceptions apply to third-party grantees who seek funds on behalf of an entirely different committee.

D. Allocations

FMCS has been given an allocation of $1,063,000 for this program. Of this amount, $800,000 will be allocated for new submissions, $186,000 for contribution of selected FY89 grantees, and $77,000 for support of the Sixth National Labor-Management Conference. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be considered according to merit without regard to category.

FMCS reserves the right to retain up to 5 percent of the FY91 appropriation to contract for program support purposes other than administration.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management committees (i.e., in existence 12 months prior to the submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 12 months at double the initial cash match ratio. The total project period can thus normally be no more than 24 months.

Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued up to an additional 18 months at double the initial cash match ratio. The total project period can thus normally be no more than 36 months.

The dollar range of awards is as follows:

—Up to $35,000 in FMCS funds per annum for existing in-plant applicants;
—Up to $50,000 over 18 months for new in-plant committee applicants;
—Up to $75,000 in FMCS funds per annum for existing area, industry and public sector committees applicants;
—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

Applicants for new labor-management committees must provided at least 10 percent of the total allowable project costs. Applicants for existing committees must provide at least 25 percent of the total allowable project costs. All matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered "project income," and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as "in-kind" match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for these purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for time spent at committee meetings or time spent in training sessions. Applicants generally will not be allowed to claim all or a portion of existing staff time as expense or match contribution.

For a more complete discussion of cost allowability, applicants are encouraged to consult with the FY91 FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications should be signed by both a labor and management representative and be postmarked no later than May 11, 1991. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application containing numbered pages, plus three copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Grants and Projects, 2100 K Street, NW., Washington, DC 20427. FMCS will not consider videotaped submissions or attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored initially by one or more FMCS Grant Review Boards. The Board(s) will decide which applications will be recommended for funding consideration. The Director, Labor-Management Grants and Projects, will finalize the scoring and selection process for those applications recommended by the Board(s). The individual listed as contact person in Item 6 on the application form will be the only person with whom FMCS will communicate during the application review process.

All FY91 grant applicants will be notified of results and all grant awards will be made before September 30, 1991. Applications submitted after the May 11 deadline date or that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Grants and Projects.

H. Application Development Training

In FY91, FMCS will offer a free half-day training program to assist potential applicants with the development and writing of an FMCS grant application. This training session will be conducted in Washington, DC, on January 22, 1991. This date has been changed from the previously announced January 23 date. Individuals interested in attending the session should contact FMCS to reserve a space and receive additional information. See section I for contact information.

I. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits, as well as additional information or

clarification, can be obtained free of charge by contacting Lee A. Buddendeck or Peter L. Regner, Federal Mediation and Conciliation Service, Labor-Management Grants and Projects, 2100 K Street, NW., Washington, DC 20427; or by calling 202/653–5320.

Bernard E. DeLury,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 90–28791 Filed 12–7–90; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of October 2, 1990

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on October 2, 1990.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that economic activity expanded at a slow pace in the third quarter. The recent large increase in oil prices has boosted key measures of inflation and eroded real personal income; however, data available thus far provide only limited evidence of a retarding effect on production and aggregate spending. Total nonfarm payroll employment declined in July and August, reflecting layoffs of temporary census workers; employment in the private sector changed little over the two months. The civilian unemployment rate edged up to 5.6 percent in August. Consumer spending appeared to be about unchanged in real terms over July and August but was at a level significantly above the average for the second quarter. Advance indiactors of business capital spending point to some softening in investment in coming months. Residential construction weakened further in August. The nominal U.S. merchandise trade deficit increased sharply in July from the low rate in June. Markedly higher oil prices contributed to substantial increases in consumer and producer prices in August; excluding energy and food items, consumer inflation has picked up from the second-quarter rate. Data on labor costs suggest no improvement in underlying trends.

In short-term debt markets, Treasury bill rates have fallen somewhat since the Committee meeting on August 21, while rates on private market instruments are little changed. In the bond markets, most rates have edged lower on balance over this period. The trade-weighted foreign exchange value of the dollar in terms of the other G–10 currencies has declined slightly further on balance from the low level reached at the time of the August meeting.

M2 and M3 expanded at appreciably faster rates in August; available data for September suggest continued strength in M2 and some slowing in the growth of M3. More rapid expansion of M1 and money market funds has contributed to the greater strength in the broad aggregates over the two months. Through September, expansion of M2 was estimated to be a little below the middle of the Committee's range for the year and growth of M3 in the lower portion of its range. Expansion of total domestic nonfinancial debt appears to have been near the midpoint of its monitoring range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the range it had established in February for M2 growth of 3 to 7 percent, measured from the fourth quarter of 1989 to the fourth quarter of 1990. The Committee in July also retained the monitoring range of 5 to 9 percent for the year that it had set for growth of total domestic nonfinancial debt. With regard to M3, the Committee recognized that the ongoing restructuring of thrift depository institutions had depressed its growth relative to spending and total credit more than anticipated. Taking account of the unexpectedly strong M3 velocity, the Committee decided in July to reduce the 1990 range to 1 to 5 percent. For 1991, the Committee agreed on provisional ranges for monetary growth, measured from the fourth quarter of 1990 to the fourth quarter of 1991, of 2½ to 6½ percent for M2 and 1 to 5 percent for M3. The Committee tentatively set the associated monitoring range for growth of total domestic non-financial debt at 4½ to 8½ percent for 1991. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. Taking account of progress toward price stability, the strength of the business expansion, the behavior of the monetary aggregates, and developments in foreign exchange and domestic financial markets, slightly greater reserve restraint might or somewhat lesser reserve restraint would be acceptable in the inter-meeting period. The contemplated reserve conditions are expected to be consistent with growth of M2 and M3 over the period from September through December at annual rates of about 4 and 2 percent respectively. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 6 to 10 percent.

By order of the Federal Open Market Committee, December 3, 1990.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 90–28839 Filed 12–7–90; 8:45 am]

BILLING CODE 6210–01–M

Apple Merger Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these 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

[1] Copies of the Record of policy actions of the Committee for the meeting of October 2, 1990, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Apple Merger Corp.*, New York, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Apple Bancorp, Inc., New York, New York, and thereby indirectly acquire Apple Bank for Savings, New York, New York.

In connection with this application, Applicant also proposes to engage in making commercial loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 3, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-28640 Filed 12-7-90; 8:45 am]

BILLING CODE 6210-01-M

Barclays PLC et al.; Proposal To Underwrite and Deal in Certain Securities to a Limited Extent

Barclays PLC, London, England, and Barclays Bank PLC, London, England (collectively "Applicant"), have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act"), and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for prior approval to engage through Barclays de Zoete Wedd Securities, Inc., New York, New York ("Company"), in underwriting and dealing, to a limit extent, in all types of equity securities, except securities issued by open-end investment companies, on a world-wide basis.

Company is currently authorized to engage (i) in underwriting and dealing in government obligations and money market instruments, pursuant to § 225.25(b)(16) of the Board's Regulation Y (12 CFR 225.25(b)(16)); (ii) in underwriting and dealing in debt securities, pursuant to Board order, *Canadian Imperial Bank of Commerce, The Royal Bank of Canada, Barclays PLC, and Barclays Bank PLC*, 76 Federal Reserve Bulletin 158 (1990) ("*Canadian Imperial*"); (iii) in providing investment or financial advice, pursuant to § 225.25(b)(4) of the Board's Regulation Y (12 CFR 225.25(b)(4)); and (iv) in acting as a futures commission merchant, pursuant to § 225.25(b)(18) and (b)(19) of the Board's Regulation Y (12 CFR 225.25(b)(18) and (b)(19)).

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally so similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n* v. *Board of Governors*, 516 F.2d 1229, 1337 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

In determining whether an activity meets the second, or proper incident to banking, test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "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."

Applicant has applied to underwrite and deal in equity securities in substantial accordance with the Board's prior orders approving these activities for a number of bank holding companies. *Canadian Imperial.* Applicant has proposed the following modifications to the Board's previous orders. First, Applicant has requested that the Board review its requirement that Applicant must obtain the approval of the Board prior to providing additional funding for Company's operations. Applicant submits that the Bank of England, Applicant's primary regulator, should decide any issues regarding Applicant's method of funding the operations of Company. Second, Applicant maintains that extensions of credit by Applicant's U.S. operations in connection with Company's activities should restricted only if the operation is a United States bank, savings association, or branch, the deposits of which are insured by the Federal Deposit Insurance Corporation. Third, Applicant maintains that the Board should permit increased officer, director, and employee interlocks between Company and Applicant's United States banks, savings associations, or branches. Fourth, Applicant proposes to modify the current restrictions on marketing activities so as to be consistent with a recent proposal by the Board. *See, Review of Restrictions on Director and Employee Interlocks, Cross-Marketing Activities and the Purchase and Sale of U.S. Government Agency Securities*, 55 FR 28,295 (1990). Finally, Applicant proposes that the Board modify its previous orders so as to apply the current structure only to transactions and relationships between Company and affiliates that maintain deposits insured by the Federal Deposit Insurance Corporation.

Applicant contends that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. With regard to the proposed equity securities underwriting and dealing activities, Applicant states that, consistent with section 20, it would not be "engaged principally" in such activities on the basis of the restriction on the amount of the proposed activity relative to the total business conducted by the underwriting subsidiary previously approved by the Board. *See* Board's

Order dated September 21, 1989, 75 Federal Reserve Bulletin 751 (1989).

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any views or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 31, 1990. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented in a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, December 4, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-28838 Filed 12-4-90; 8:45 am]

BILLING CODE 6210-01-M

H.M.S. Holdings, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has 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 225.24) 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)).

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 to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than December 27, 1990.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *H.M.S. Holdings, Inc.*, San Antonio, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Castle Hills National Bank, San Antonio, Texas.

Board of Governors of the Federal Reserve System, December 3, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-28841 Filed 12-7-90; 8:45 am]

BILLING CODE 6210-01-M

Nancy K. Kelly and Clay Belongia; Change in Bank Control Notice; Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has 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 notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice 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 indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than December 21, 1990.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690.

1. *Nancy K. Kelly and Clay Belongia*, as trustee under the Peter G. Giachini Charitable Remainder Trust; to acquire 32 percent of the voting shares of Continental Mortgage Corporation, Maywood, Illinois, and thereby indirectly acquire Maywood Proviso State Bank, Maywood, Illinois.

Board of Governors of the Federal Reserve System, December 3, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-28838 Filed 12-7-90; 8:45 am]

BILLING CODE 6210-01-M

J.P. Morgan & Co. Incorporated; Application To Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President), 33 Liberty Street, New York, New York 10045:

1. *J.P. Morgan & Co. Incorporated*, New York, New York; to engage *de novo* through its subsidiary, J.P. Morgan California, Los Angeles, California, in trust company activities, including activities of a fiduciary, investment management, agency, security safekeeping and corporate trust nature pursuant to § 225.25(b)(3) of the Board's Regulation Y. These activities will be conducted in the Western United States.

Board of Governors of the Federal Reserve System, December 3, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–28843 Filed 12–7–90; 8:45 am]

BILLING CODE 6210–01–M

Saastopankkien Keshukus-Osake-Pankki; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking acivity 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 statment 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 evicence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 27, 1990.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President), 33 Liberty Street, New York, New York 10045:

1. *Saastopankkien Keshukus-Osake-Pannki,* Helsinki, Finland; to acquire Haskell Financing, Inc., Dallas, Texas, and thereby engage in making, acquiring, and or servicing purchase money loans for industrial equipment purchase to § 225.23(b)(1); leasing personal property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 3, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90–28844 Filed 12–7–90; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Development of Clinical Guidelines for AIDS and HIV Infection

The Agency for Health Care Policy and Research announces that it is establishing a panel of experts and health care consumers to develop clinical practice guidelines for AIDS and HIV infection and invites nominations of qualified individuals to serve as the chairperson(s) and as panel members.

Background

The Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239) enacted on December 19, 1989, added a new title IX to the Public Health Service Act (the Act), which established the Agency for Health Care Policy and Research (AHCPR) to enhance the quality, appropriateness, and effectiveness of health care services, and access to such services. The AHCPR is to achieve its goals through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice and in the organization, financing and delivery of health care services.

Section 911 of the Act established within the AHCPR the Office of the Forum for Quality and Effectiveness in Health Care (the Forum). Section 912 of the Act directs the Forum to arrange for the development and periodic review and updating of clinically relevant guidelines that may be used by physicians, educators, and health care practitioners to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and managed clinically.

Section 912 also requires that the guidelines be:

1. Based on the best available research and professional judgment;

2. Presented in formats appropriate for use by physicians, health care practitioners, providers, medical educators, medical review organizations, and consumers of health care; and

3. In forms appropriate for use in clincial practice, educational programs, and reviewing quality and appropriateness of medical care.

Panel Nominations

The panel of qualified experts and health care consumers that will develop the guidelines for AIDS and HIV infection will consist of a chairperson(s) and nine to fifteen members. To assist in identifying members for the panel, AHCPR is requesting recommendations from a broad range of interested individuals and organizations, including physicians representing specialty and general practices, nurses, and allied health and other health care practitioners, as well as consumers with pertinent experience or information. AHCPR is especially interested in receiving nominations of individuals with experience in developing guidelines for AIDS and HIV-related conditions, persons representing affected minority groups, women, and persons experienced in the care of children with AIDS and HIV infection.

This Notice requests nominations of qualified individuals to serve on the panel as members and as panel chairperson(s). The functions of the panel chairperson(s) are critical to the guideline development process and the final product. The chairperson(s) will provide leadership to the panel regarding methodology, literature review, panel deliberations, and formation of the final product. Nominations for the chairperson(s) should take into consideration the criteria specified below, which the AHCPR will use in making its selection.

AHCPR will appoint the panel chairperson(s) from among the nominations received using criteria that include the following:

- Relevant training and clinical experience
- Demonstrated interest in quality assurance and research on the clinical condition including publication of relevant peer-reviewed articles
- Commitment to the need to produce clinical guidelines
- Recognition in the field with a record of leadership in relevant activities
- Broad public health view of the utility of the particular procedure or clinical service

- Demonstrated capacity to lead a health care team in a group decisionmaking process
- Demonstrated capacity to respond to consumer concerns
- Prior experience in developing guidelines for the clinical conditions in question.

Once the panel chairperson(s) have been appointed, the nominations for members of the panel will be submitted for further review and consideration to the selected chairperson(s) who will in turn recommend proposed panel members to AHCPR. Appointments of the panel members will be made by the AHCPR, after review of proposed members' qualifications and the overall composition of the panel to ensure representation of a range of experience and expertise.

Nominations should indicate whether the individual is being recommended to serve as the panel chairperson(s) or to serve as a member of the panel. Each nomination must include a copy of the individual's curriculum vitae or resume, plus a statement of the rationale for the specific nomination. To be considered, nominations must be received by January 31, 1991 at the following address:

Office of the Forum on Quality and Effectiveness in Health Care, Attention: Director, HIV Clinical Policy Program, Agency for Health Care Policy and Research, 5600 Fishers Lane, Parklawn Building, room 18A46, Rockville, MD 20857.

For Additional Information

Additional information on the guideline development process is contained in the AHCPR Program Note, Clinical Guideline Development dated August 1990. This Program Note, describing the activities underway by AHCPR for developing clinical practice guidelines, includes the process and criteria for selecting the panels. Copies may be obtained by calling the Center for Research Dissemination and Liaison, Agency for Health Care Policy and Research, at (301) 443–2904.

For further information on the process for developing guidelines for AIDS and HIV infection, contact Janet Arrowsmith-Lowe, M.D., Director, HIV Clinical Policy Program, Office of the Forum on Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, at the above address.

Dated: December 4, 1990.

J. Jarrett Clinton,

Assistant Surgeon General, Acting Administrator.

[FR Doc. 90–28849 Filed 12–7–90; 8:45 am]

BILLING CODE 4160–17–M

Food and Drug Administration

[Docket No. 75P–0248]

Vitamin K Active Substances in Animal Feeds; Notice Concerning Food Additive Status

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a notice concerning the regulatory status of certain vitamin K active substances (VKAS) in animal food. The agency earlier concluded that certain VKAS are food additives but declined to formalize their regulatory status. This notice states that such VKAS are required to be marketed under provisions of a food additive regulation.

FOR FURTHER INFORMATION CONTACT: George Graber, Center for Veterinary Medicine (HFV–220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4438.

SUPPLEMENTARY INFORMATION: On July 13, 1990, the District Court of the United States for the Eastern District of New York issued an order requiring FDA to publish a notice under § 570.38 (21 CFR 570.38), providing for use of vitamin K active substances (VKAS) in accordance with one of the four alternatives listed in § 570.38(c). Section 570.38 is an FDA procedural regulation which determines the food additive status of a substance that is added to animal food. Section 570.38(b) provides that, if the agency concludes that the substance in question is not generally recognized as safe (GRAS) or otherwise exempt from the definition of a food additive in section 201(s) of the Food, Drug, and Cosmetic Act (the act), the agency will publish a notice thereof in the Federal Register. Section 570.38(c) states that the notice will provide for one of four alternatives that include: (1) Issuing a food additive regulation; (2) issuing an interim food additive regulation; (3) requiring discontinuation of the marketing of the substance; or (4) implementing a combination of the foregoing.

The District Court's decision resulted from a lawsuit filed by Heterochemical Corp. following publication by FDA of a notice concerning the regulatory status of VKAS. In the notice, published April 19, 1983 (48 FR 16748), the agency stated that it had concluded that none of the VKAS about which it had knowledge were GRAS, but that two VKAS—menadione and menadione sodium bisulfite complex (MSBC)—were prior-sanctioned for use in poultry feed at 2 to 4 grams per ton (g/ton). However, the agency concluded that it would not propose the issuance of food additive or GRAS affirmation regulations at that time. The agency decision not to formalize the regulatory status of the VKAS in question was based on its conclusion that VKAS had been added to animal food for more than 30 years without apparent animal or human safety problems. The agency's decision also reflected its assessment of its regulatory priorities and enforcement resources at that time. The agency advised those persons that intended to market new VKAS in the future to consult with it first in case the substance would raise potential safety questions such that a food additive regulation would be required.

The agency's 1983 notice responded to a petition filed by Heterochemical Corp., in which the firm asked the agency to review and clarify the legal status of several VKAS then being used as supplements in animal food. Heterochemical Corp. asked FDA to: (1) Require discontinuation of the use of menadione; (2) require discontinuation of the use of menadione sodium bisulfite; (3) declare that MSBC is GRAS for use solely in poultry feed at levels of up to 2 grams per ton; (4) require the discontinuation of use of MSBC for all other purposes; (5) and establish a reference standard for MSBC. See the Federal Register of August 18, 1976 (41 FR 35009).

FDA has concluded that it does not have in its possession enough scientific data and information to support publication of a food additive regulation for any of the VKAS in question. The agency has also concluded that publication of an interim food additive regulation for those VKAS would not be appropriate. Therefore, the agency is issuing this notice to state that the marketing of VKAS, other than menadione or MSBC for use in poultry feed at 2 to 4 g/ton is required to be done under provisions of a food additive regulation. Menadione dimethylpyrimidinol bisulfite may be marketed under the provision of 21 CFR 573.620. Persons who wish to market such substances should submit a food additive petition under the provisions in section 409 of the act. Such persons may also request GRAS affirmation under appropriate regulations.

The FDA has determined that it is not required to examine the economic impact of this notice in accordance with the Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). This notice is not a rule or regulation, but instead is a declaratory order under 5 U.S.C. 554(e) to terminate a controversy or remove uncertainty. Compare *Weinberger* v. *Hynson, Wescott & Dunning, Inc.*, 412 U.S. 609, 624–25 (1973).

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

Dated: December 3, 1990.

Ronald G. Chesemore,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 90–28848 Filed 12–7–90; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92–463, the Annual Report for the following Health Resources and Services Administration's Federal Advisory Committee has been filed with the Library of Congress:

Advisory Commission on Childhood Vaccines

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, DC, or weekdays between 9 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Law Library, HHS North Building, room G–619, 330 Independence Avenue, SW., Washington, DC, telephone (202) 245–6791. Copies may be obtained from: Ms. Rosemary Havill, Vaccine Injury Compensation Program, Bureau of Health Professions, room 702, 6001 Montrose Road, Rockville, Maryland 20852, Telephone (301) 443–6593.

Dated: December 4, 1990.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 90–28846 Filed 12–7–90; 8:45 am]

BILLING CODE 4160–15–M

Program Announcement for Cooperative Agreements for Acquired Immunodeficiency Syndrome (AIDS) Regional Education and Training Centers Program

The Health Resources and Services Administration (HRSA), announces that during fiscal year (FY) 1991 that $16,907,000 is available to initiate and continue the development of AIDS Regional Education and Training Centers (ETCs) as authorized by section 788A of the Public Health Service Act (the Act). The continuation of multi-year projects approved in prior years is estimated to cost $1,125,000. Approximately $15,782,000 is expected to be available for 16 competitive awards averaging $986,375.

In the past, section 301 of the Act has also been used to implement the ETC training program. Applications will also be accepted under the authority of section 301 should funds become available.

The ETCs will provide multidisciplinary training for primary health care personnel in the care of people with Acquired Immunodeficiency Syndrome (AIDS) and other conditions related to infection with the Human Immunodeficiency Virus (HIV). Comments are invited on the proposed project requirements, funding preference, priorities and set-aside stated below.

Eligibility

Awards are made to accredited health professional schools and academic health science centers (see below):

1. To train the faculty of schools and graduate departments of medicine, nursing, osteopathic medicine, dentistry, public health, psychology, and allied health to teach health professions students to provide for the health care needs of individuals with HIV/AIDS;

2. With respect to improving clinical skills in the diagnosis, treatment and prevention of such syndrome, to educate and train the health professionals and clinical staff of schools of medicine, osteopathic medicine, and dentistry; and

3. To develop and disseminate curricula relating to the care and treatment of individuals with HIV/AIDS.

Accredited Health Professional Schools means schools of medicine, dentistry, osteopathic medicine, pharmacy, optometry, podiatric medicine, veterinary medicine, public health, and chiropractic, as defined in section 701(4) of the Act, schools of allied health as defined in section 701(10) of the Act, and schools of nursing as defined in section 853 of the Act, which are located in States as defined in section 701(11) of the Act and which are accredited as provided in section 701(5) of the Act. The term also includes a "graduate program in health administration" and a "graduate program in clinical psychology" as defined in section 701(4) of the Act and a program for the training of physician assistants as defined in section 701(8)(A).

Academic Health Science Center means an organization within a post-secondary educational system, which brings together major divisions or programs of health professions instruction, research in the health sciences, and health services.

These definitions are consistent with the use of the terms within other title VII programs administered by HRSA.

Proposed Project Requirements

The proposed project requirements are designed to direct Federal resources where the greatest needs exist. Each project must define a geographic region and identify the types of providers to be targeted for training within that region. Thus, the focus of FY 1991 will be on clinical education of primary care providers in high HIV/AIDS prevalence areas. Consistent with this emphasis is the requirement that a minimum of two-thirds of the Federal funds provided must be expended to provide education to primary care providers (i.e., physicians, nurses, dentists, physician assistants, nurse practitioners, and dental hygienists).

A needs assessment must be made to guide program implementation. This assessment must be based on current epidemiological data, as well as training and educational needs within the defined region. Established centers will have up to one year to conduct the needs assessment and make required adjustments. New centers will also have up to one year for start-up activities and to conduct an educational and training needs assessment. The assessment must include training needs associated with rural and other low incidence areas within the defined region.

Each ETC must provide or perform the following:

- Clinical training of primary care physicians, nurses, dentists, physician assistants, nurse practitioners, and dental hygienists;
- An updated needs-assessment of the education and training needs of the primary care providers within the proposed service area which is linked to the allocation of Federal funds;

• Training in risk assessment, prevention, early intervention, and treatment;

• Development of primary/tertiary linkages and networking;

• Outreach to minorities, including involvement of minority providers, minority professional organizations, and minority health care delivery systems;

• Linkage to PHS funded AIDS Service Demonstration projects (section 301);

• Linkage to PHS funded migrant (section 329) and community health (section 330) centers, health care for the homeless programs (section 340) State and local health agencies;

• Linkage with substance abuse programs;

• Collaboration with health professions organizations in the proposed region;

• Networking with other community agencies to concentrate on filling the gaps in training;

• Dissemination of state-of-the-art information and educational materials in concert with other PHS agencies, using mechanisms such as hotlines;

• Program assessment and data collection on program and trainees which can be used for regional and national evaluative purposes; and

• Plan for future non-Federal funding of project.

Collaboration

The ETCs must operate in collaboration with health professions schools, community hospitals, health departments, PHS funded Area Health Education Centers, AIDS Service Demonstration projects, Health Care for the Homeless programs, community and migrant helath centers, and with substance abuse programs, community-based organizations, and other organizations involved in the provision of care to people with HIV/AIDS related conditions.

ETC projects also are encouraged to collaborate with the national network of 47 AIDS Clinical Trial Units (ACTUs) and the 18 Community Programs for Clinical Research on AIDS funded by the National Institute of Allergy and Infectious Diseases of the National Institutes of Health, and with other community based clinical trials sponsored by foundations such as the Robert Wood Johnson Foundation or the american Foundation for AIDS Research. Listing of the federally-funded programs will be provided to each applicant with the ETC application kit.

Conversion of Funding Mechanism From Grant to Cooperative Agreement

Effective in FY 1991 the funding mechanism for this program (competing and continuation projects) changed from grants to cooperative agreements to allow for a greater degree of Federal involvement in the conduct of the funded programs. This will permit greater Federal participation in many program areas. Substantial involvement will occur in the following areas:

• The design or direction of activities to develop a clinically-oriented training delivery model, with special emphasis for minority providers and providers who serve minority populations;

• The approval of key ETC project staff with particular emphasis on recruitment of minority faculty;

• The review of major contracts and agreements with subcontractors;

• The dissemination of state-of-the-art diagnostic and therapeutic clinical guidelines and algorithms, with a particular emphasis on early intervention strategies, which will include antiretroviral therapy, prophylaxis for opportunistic infections, and immunizations for viral and bacterial pathogens.

Review Criteria

The review criteria stated below, which were established in FY 1989 after public comment, will remain unchanged in FY 1991.

Applications will be reviewed and rated according to the applicant's ability to meet the following:

1. The potential effectiveness of the project in carrying out the purposes of the program;

2. The degree to which the project plan adequately provides for meeting the project requirements;

3. The capability of the applicant to conduct the proposed activities in a cost efficient manner;

4. The soundness of the fiscal plan for assuring effective utilization of funds; and

5. The potential of the project to continue of a self-sustaining basis after the period of support.

In addition, the following mechanisms may be applied in determining the funding of approved applications.

1. Funding preferences—funding of a specific category or group of approved applications ahead of other categories or groups of applications.

2. Funding priorities—favorable adjustment of review scores by HRSA staff when applications meet specified objective criteria.

Statutory Funding Preferences

In making awards in FY 1991, as required by section 788A, the Secretary shall give preference to projects which will:

1. Train, or result in the training of, health professionals who will provide treatment for minority individuals with acquired immunodeficiency syndrome and other individuals who are at a high risk of contracting such syndrome; and

2. Train, or result in the training of, minority health professionals and minority allied health professionals to provide treatment for individuals with HIV/AIDS.

Proposed Funding Preference for Fiscal Year 1991

The Health Resources and Services Administration proposes to give a funding preference to applications that spend the majority of Federal funds in a designated HIV/AIDS high incidence area(s). For purposes of this announcement in FY 1991, high incidence area means the 20 metropolitan statistical area(s) (MSA) with the highest cumulative number of cases or the 20 MSAs with the highest rate of AIDS as indicated in the July 1990 Centers for Disease Control HIV/AIDS Surveillance Report. A listing of the eligible MSAs will be provided to applicants with the program materials.

Where applicable, there must be remaining funds for lower incidence areas. Based on the needs assessment and, if applicable, the remaining effort and funds must be spent in lower incidence contiguous or regional localities, including rural or other areas experiencing significant increases in the incidence of HIV/AIDS. Projects must assume training responsibility for outlying areas where parctitioners are providing care for HIV infected persons.

This funding preference is designed to target resources to areas of greatest need and maximize prior Federal investments.

Proposed Funding Priorities for Fiscal Year 1991

In determining the order of funding of approved applications, the HRSA is proposing that funding priorities be given to the following:

1. Applications proposing substantial training in: Area Health Education Centers, (section 781 of the Act); Health Manpower Shortage Areas, (section 332 of the Act); Migrant Health Centers, (section 329 of the Act); Community Health Centers, (section 330 of the Act); or Health Care for the Homeless Programs, (section 340 of the Act).

Section 329 authorizes support for migrant health facilities nationwide and comprises a network of health care services for migrant and seasonal farm workers.

Section 330 authorizes support for community health care services to medically underserved populations. Section 332 establishes criteria to designate geographic areas, population groups, medical facilities, and other public facilities, in the States, as Health Manpower Shortage Areas (HMSAs). Section 340 authorizes support for community-based programs of comprehensive primary care and substance abuse services brought to the homeless population. Section 781 authorizes support for the planning, development and operation of area health education center programs. As the AIDS epidemic has expanded into underserved communities, there is an increasing need to educate and train more primary care providers (physicians, physician assistants, nurses, nurse practitioners, dentists, dental hygienists) in these centers and health manpower shortage areas to provide effective services to these communities.

2. Applications documenting the participation of underrepresented minorities, as faculty or key staff in the ETC program. There is an increasing need for minority faculty and key teaching and management staff to meet more effectively the special needs and expanded incidence of HIV/AIDS of Black Hispanic populations. ("Key staff" is faculty or any individual in an administrative or supervisory position.)

Proposed Funding Set-Aside for Fiscal Year 1991

It is proposed that up to 10 percent of appropriated funds for this program be set aside to fund rural regional education and training center projects that focus on training in early diagnosis, counseling, prevention, and treatment for primary care practitioners in rural areas. This is designed to address the need for an increased number of health providers trained to meet the expanding incidence of HIV-infected persons in rural areas. In the establishment of technical merit of approved rural regional ETCs, consideration will be given to those projects covering the largest geographic areas or number of States.

Definitions

The following definitions apply to those training sites/facilities included in the first proposed funding priority listed above:

Facilities

Community health center means an entity as defined in section 330(a) of the Public Health Service Act and in regulations at 42 CFR 57.102(c).

Health care for the homeless program, as used here, means a community-based program of comprehensive primary health care and substance abuse services brought to the homeless population under section 340 of the PHS Act. At a minimum, this program of care and services must be fully integrated and must assure that care, coordination and case management are rigorously employed. A full description of the program may be found in **Federal Register**, (55 FR 31233) (August 1, 1990).

Health manpower shortage area means an area designated under section 332 of the PHS Act.

Migrant health center means an entity as defined in section 329(a) of the Public Health Service Act and in regulations at 42 CFR 56.102(g)(1).

Other Definitions

Rural area means a Non-Metropolitan Statistical area or an area located outside a Metropolitan Statistical Area as defined by standards followed by the Office of Management and Budget.

Rural regional education and training center is an AIDS ETC project which meets the essential characteristics of an ETC, is adapted to serve the health professions education needs of rural areas and rural primary care providers, and has components which may be replicated in other rural areas.

The proposed preference, priorities and set-aside do not preclude funding of other eligible approved applications. Accordingly, entities which do not qualify for or elect to request consideration for the proposed preference, priorities, or set-aside are encouraged to submit applications.

Interested persons are invited to comment on the proposed project requirements, funding preferences, priorities, and set-aside. Normally the comment period would be 60 days but due to the need to implement any changes for the FY 1991 award cycle, this comment period has been reduced to 30 days.

All comments received on or before January 9, 1991 will be considered before the final funding mechanisms are established. No funds will be allocated or final selections made until a final notice is published stating whether the final project requirements funding preference, priorities and set-aside will be applied.

Written comments should be addressed to: Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 4C–25, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

The application deadline date is January 24, 1991. Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the dealine date; or

2. Postmarked on or before the dealine and received in time for submission to the independent review group. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

Applications received after the deadline will be returned to the applicant.

Requests for technical or programmatic information should be directed to: AIDS Regional Education and Training Centers Program, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 4C–03, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6364.

The standard application form (PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and Supplement) for this program has been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060. In addition, it should be emphasized that projects funded through cooperative agreements that involve collection of information from 10 or more individuals will be subject to OMB review under the Paperwork Reduction Act.

Application materials and additional information regarding business, administrative and fiscal issues related to the awarding of funds under this notice may be requested from: Grants Management Officer (D35), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6857.

Completed applications should be forwarded to the Grants Management Officer at the above address.

This program is listed at 93.145 in the Catalog of Federal Domestic Assistance

and is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

Dated: October 18, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90–28845 Filed 12–7–90; 8:45 am]

BILLING CODE 4160–15–M

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Public Health Service (PHS) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program ("the Program"), as required by section 2112(b)(2) of the PHS Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Claims Court is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program generally, contact the Clerk, United States Claims Court, 717 Madison Place, NW., Washington, DC 20005, (202) 633–7257. For information on the Public Health Service's role in the Program, contact the Administrator, Vaccine Injury Compensation Program, 6001 Montrose Road, room #702, Rockville, MD 20852, (301) 443–6593.

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq,* provides that those seeking compensation are to file a petition with the U.S. Claims Court and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated his responsibility under the Program to PHS. The Claims Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table set forth at section 2114 of the PHS Act. This Table lists for each covered childhood vaccine the conditions which will lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested after the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that the Secretary publish in the **Federal Register** a notice of each petition filed. Set forth below is a list of petitions received by PHS from July 17, 1990, through August 27, 1990. Section 2112(b)(2) also provides that the special master "shall afford all interested persons an opportunity to submit relevant, written information" relating to the following:

1. The existence of evidence "that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition," and

2. Any allegation in a petition that the petitioner either:

(a) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table (see section 2114 of the PHS Act) but which was caused by" one of the vaccines referred to in the table, or

(b) "Sustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine" referred to in the Table.

This notice will also serve as the special master's invitation to all interested persons to submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Claims Court at the address listed above (under the heading "For Further Information Contact"), with a copy to PHS addressed to Director, Bureau of Health Professions, 5600 Fishers Lane, room 8–05, Rockville, Maryland 20857. The Court's caption (Petitioner's Name v. Secretary of Health and Human Services) and the docket number assigned to the petition should be used as the caption for the written submission.

Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

List of Petitions

1. Kenneth and Meda Braker on behalf of Dawn Braker, Kirtland AFB, Arizona, Claims Court Number 90–0654/655 V
2. Randi Jo Flynn, Leonardwood, Michigan, Claims Court Number 90–0657 V
3. James and Kay Brink on behalf of Amy Brink, Ft. Huachuca, Arizona, Claims Court Number 90–0659 V
4. Frankie Cronkhite, Presque Isle, Maine, Claims Court Number 90–0660 V
5. Larry and Pat Collins on behalf of Mindy Dawn Collins, Nashville, Tennessee, Claims Court Number 90–0661 V
6. Douglas and Muriel Burt on behalf of Matthew Burt, Sarasota, Florida, Claims Court Number 90–0662 V
7. Colleen Krauch, New Lenox, Illinois, Claims Court Number 90–0666 V
8. Richard Wonish on behalf of Charmaine Wonish, St. Louis, Missouri, Claims Court Number 90–0667 V
9. Isabelle Dube on behalf of Martha Dube, Ft. Myers, Florida, Claims Court Number 90–0668 V
10. Jaleel and Liesa Malik on behalf of Sarah Malik, Tampa, Florida, Claims Court Number 90–0669 V
11. Jess and Jayne Ashcraft on behalf of Joy Ann Grimes, Deceased, Hugo, Colorado, Claims Court Number 90–0670 V
12. Stephen and Jackie Conafay on behalf of Stephen G. Conafay, Washingotn, DC, Claims Court Number 90–0673 V
13. Francis and Diane Froelich, Jr. on behalf of Natalie Froelich, Dallas, Texas, Claims Court Number 90–0676 V
14. Judith Klinglesmith on behalf of Jean Annette Tompkins, Louisville, Kentucky, Claims Court Number 90–0677 V
15. Terry Lugenbeel on behalf of Amy Lugenbeel, Deceased, Colorado Springs, Colorado, Claims Court Number 90–0678 V
16. Barbara Clarke on behalf of Heather Clarke, Chicago, Illinois, Claims Court Number 90–0679 V
17. Holly Adkins on behalf of Lisa Adkins, Wheatridge, Colorado, Claims Court Number 90–0685 V
18. Ann Arrington on behalf of Christina Arrington, Tampa, Florida, Claims Court Number 90–0686 V
19. Cynthia Lawton on behalf of Delshawn Lawton, Deceased, Virginia Beach, Virginia, Claims Court Number 90–0687 V
20. Michael and Linda Eagley on behalf of LaShell Eagley, Erie, Pennsylvania, Claims Court Number 90–0688 V
21. Barbara Eberle on behalf of Brad Scott Eberle, McPherson, Kansas, Claims Court Number 90–0689 V

22. Victor Matos on behalf of Joseph Matos, Bronx, New York, Claims Court Number 90–0690 V
23. Celeste Robinson on behalf of Eric Robinson, Philadelphia, Pennsylvania, Claims Court Number 90–0691 V
24. Michael and Kay Whitecotton on behalf of Margaret Whitecotton, Crawfordsville, Indiana, Claims Court Number 90–0692 V
25. Larry and Shirley McClanahan on behalf of Joseph McClanahan, Barboursville, West Virginia, Claims Court Number 90–0693 V
26. Frank and Elina Joy on behalf of Lucas Joy, East Liverpool, Ohio, Claims Court Number 90–0694 V
27. Wallace Jones on behalf of Jeremiah Jones, North Haven, Connecticut, Claims Court Number 90–0695 V
28. Sandra Gramling on behalf of Kimberly Gramling, Deceased, St. Petersburg, Florida, Claims Court Number 90–0696 V
29. Harold and Mary Held on behalf of Nicole Held, Greeley, Colorado, Claims Court Number 90–0697 V
30. Laurie Dearnley on behalf of Troy Dearnley, Worcester, Massachusetts, Claims Court Number 90–0700, V
31. Bonnie Marlow on behalf of Johnathan Marlow, Deceased, Cody, Wyoming, Claims Court Number 90–0701 V
32. Phillip and Mary Moore on behalf of Andria Moore, Parkersburg, West Virginia, Claims Court Number 90–0702 V
33. Michael and Lesli Muchnick on behalf of Jessica Muchnick, Sunrise, Florida, Claims Court Number 90–0703 V
34. James and Mary Edgar on behalf of Jamie Edgar, Piscataway, New Jersey, Claims Court Number 90–0711 V
35. Lucie Alexander on behalf of Robert Alexander, Mill Valley, California, Claims Court Number 90–0713 and 90–0788 V
36. Vanya Cochran on behalf of Deborah Fair, Cumberland, Maryland, Claims Court Number 90–0714 and 90–0715 V
37. Robin Lacy on behalf of Jason Eric Lacy, Deceased, Apple Valley, California, Claims Court Number 90–0717 V
38. Sandra Underwood on behalf of Travis Underwood, La Mesa, California, Claims Court Number 90–0719 V
39. Amanda Dickerson on behalf of Christopher Dickerson, Newton, Massachusetts, Claims Court Number 90–0720 V
40. Stephanie Sharp on behalf of Curtis Sharp, Harrison County, West Virginia, Claims Court Number 90–0721 V
41. Mary Eikel on behalf of Sarah Lawrence, Zephyrhills, Florida, Claims Court Number 90–0722 V
42. Ann Kozloski on behalf of Jennifer Kozloski, Duluth, Minnesota, Claims Court Number 90–0723 V
43. Susan Mihal on behalf of Heath Mihal, Cedar Rapids, Iowa, Claims Court Number 90–0724 V
44. Anna Baldanza on behalf of Jeremy Baldanza, Clifton, New Jersey, Claims Court Number 90–0725 V
45. Jennifer Byl, Oakland, California, Claims Court Number 90–0726 V
46. Joseph and Carlene Cioffi on behalf of Joseph Cioffi, Williamsport, Pennsylvania, Claims Court Number 90–0727 V
47. Joanne Morse on behalf of Courtney Morse, Boynton Beach, Florida, Claims Court Number 90–0728 V
48. Todd and Shawne Gardiner on behalf of Brynne Gardiner, Crowley, Louisiana, Claims Court Number 90–0730 V
49. Robb Chapman on behalf of John Chapman, Deceased, Dunwoody, Georgia, Claims Court Number 90–0731 V
50. Andrew and Susan Calliham on behalf of Rory Calliham, Tampa, Florida, Claims Court Number 90–0733 V
51. Edward and Elizabeth Janowski on behalf of Matthew Janowski, Eldora, Iowa, Claims Court Number 90–0734 V
52. Andrew and Karin Spooner on behalf of Alexander Spooner, San Pedro, California, Claims Court Number 90–0736 V
53. Suzanne Ketcham on behalf of Zachary Needham, Deceased, Reedley, California, Claims Court Number 90–0740 V
54. Mark and Donna Melancon on behalf of Mark Melancon Jr., Lafayette, Louisiana, Claims Court Number 90–0741 V
55. James Hazelbaker, Portsmith, Ohio, Claims Court Number 90–0743 V
56. Robert and Mary Jauch on behalf of Emily Jauch, Deceased, Milwaukee, Wisconsin, Claims Court Number 90–0745 V
57. Matthew Ponder, Forth Smith, Arkansas, Claims Court Number 90–0747 V
58. Patricia Shifflet on behalf of Kurt Shifflet, Salt Lake City, Utah, Claims Court Number 90–0748 and 90–0791 V
59. Alfred and Mary Estabrook on behalf of Elizabeth Estabrook, Portland, Oregon, Claims Court Number 90–0752 V
60. David and Linda Lane on behalf of David Lane, Deceased, Mesa, Arizona, Claims Court Number 90–0755 V
61. Mario and Anna Candelas on behalf of Rene Candelas, Deceased, Long Beach, California, Claims Court Number 90–0759 V
62. Michael and Roberta Hess on behalf of Brandon Hess, Deceased, Long Beach, California, Claims Court Number 90–0760 V
63. Linda Joyce Crutcher, Huntsville, Alabama, Claims Court Number 90–0761 V
64. Jeanne Bedell on behalf of Brooke Bolander, Atlanta, Georgia, Claims Court Number 90–0765 V
65. Barbara and Warren Amendola on behalf of Christopher Amendola, Huntington, New York, Claims Court Number 90–0766 V
66. Renwick and Nichole Knox on behalf of Jean Knox, St. Petersburg, Florida, Claims Court Number 90–0767 V
67. Deborah Davis on behalf of James Davis, Severna Park, Maryland, Claims Court Number 90–0769 V
68. Patty Chatigny on behalf of Travis Chatigny, Beaumont, California, Claims Court Number 90–0770 V
69. Robert and Barbara Zinko on behalf of Steven Zinko, Deceased, Pueblo, Colorado, Claims Court Number 90–0774 V
70. Michael and Kerri Evanson on behalf of Michael Evanson, Deceased, Stayton, Oregon, Claims Court Number 90–0775 V
71. Earl and Diane Veasey on behalf of Brandon Veasey, Little Rock, Arkansas, Claims Court Number 90–0776 V
72. Robert McAllister on behalf of Dana McAllister, Mineola, New York, Claims Court Number 90–0779 V
73. William and Mary Mensing on behalf of Mark Mensing, Deceased, Minnesota Lake, Minnesota, Claims Court Number 90–0782 V
74. Peggy Werlhof on behalf of Jennifer Werlhof, Chico, California, Claims Court Number 90–0789 V
75. Ronald Chaney, Grosse Point Farms, Michigan, Claims Court Number 90–0790 V
76. Thomas and Janice Taylor on behalf of Jason Taylor, Suffern, New York, Claims Court Number 90–0792 V
77. Gilbert and Yvonne Rodriguez on behalf of Elizabeth Rodriguez, Tampa, Florida, Claims Court Number 90–0793 V
78. Dianne Rouse on behalf of Stephanie Rouse, Great Falls, Minnesota, Claims Court Number 90–0794 V
79. Betty Jean Wilson on behalf of Monique Wilson, El Cajon, California, Claims Court Number 90–0795 V
80. Leelan and Amerlia Birch on behalf of Seth Birch, Portland, Oregon, Claims Court Number 90–0796 V
81. Aubrey and Joann Davis on behalf of Kevin Davis, Deceased, Longview, Texas, Claims Court Number 90–0799 V
82. Aubrey and Joann Davis on behalf of Kyle Davis, Deceased, Lonview, Texas, Claims Court Number 90–0800 V
83. Joseph and Joan Consiglio on behalf of Abigail Consiglio, Rochester, New York, Claims Court Number 90–0801 V
84. Darrell and Sharon Lafler on behalf of John Lafler, Lincoln, Nebraska, Claims Court Number 90–0802 V
85. Vazma Tomac on behalf of Timothy Tomac, Sunnyvale, California, Claims Court Number 90–0803 V
86. Radona Estrada on behalf of Kenneth Anderson, Jr., Salt Lake City, Utah, Claims Court Number 90–0805 V
87. JoAnn Allison on behalf of Thomas Allison, Las Vagas, Nevada, Claims Court Number 90–0810 V
88. Genera Correa on behalf of Gerson Correa, Brooklyn, New York, Claims Court Number 90–0811 V
89. Frank and Karen Strauhal on behalf of Benjamin Strauhal, Sioux City, Iowa, Claims Court Number 90–0812 V
90. Suzanne Johnson on behalf of Kial Johnson, Lincoln, Nebraska, Claims Court Number 90–0813 V
91. Mary Catherine Rusher on behalf of Elizabeth Rusher, Neptune, New Jersey, Claims Court Number 90–0817 V
92. Robert and Annette Daege on behalf of Annette Daege, Deceased, Rochester, New York, Claims Court Number 90–0818 V
93. Gary and Donna Heins on behalf of Gregory Heins, Branford, Connecticut Claims Court Number 90–08189 V
94. Velvet Carter on behalf of Christopher Carter, North St. Petersburg, Florida, Claims Court Number 90–0820 V
95. Darrell and Nova Carpenter on behalf of Angela Carpenter, Long Beach, California, Claims Court Number 90–0821 V
96. Barbara Wilkerson on behalf of Wendy Wilkerson, St. Joseph, Missouri, Claims Court Number 90–0822 V
97. Carma Ann Peery on behalf of Angela Peery, Albany, Missouri, Claims Court Number 90–0823 V

98. Toni Saunders on behalf of Chad Saunders, Casper, Wyoming, Claims Court Number 90–0826 V
99. Ron and Laurie Duffield on behalf of John Duffield, Portland, Oregon, Claims Court Number 90–0827 V
100. Gust and Carol Zahariades on behalf of John Zahariades, St. Paul, Minnesota, Claims Court Number 90–0828 V
101. James and Vilois Harmon on behalf of Joel Harmon, Pampa, Texas, Claims Court Number 90–0829 V

Dated: December 4, 1990.

Robert G. Harmon,

Administrator.

[FR Doc. 90–28847 Filed 12–7–90; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–610–4111]

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the proposal should be made directly to the Bureau Clearance Officer and to the Office of Management and Budget, Paperwork Reduction Project ( ), Washington, DC, telephone 202–395–7340.

Title: Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspections; General.

Subpart 3192–Cooperative Agreements with States and Tribes.

OMB approval number: (Has not been assigned).

Abstract: Respondents submit information relating to the type and extent of activities they are proposing to carry out under a cooperative inspection agreement with the Bureau of Land Management (BLM).

Bureau form number: None.

Frequency: On occasion.

Description of respondents: States and tribes proposing to enter into a cooperative inspection agreement with BLM.

Estimated completion time: 2 hours.

Annual responses: 10.

Annual burden hours: 20.

Bureau Clearance Officer: (Alternate) Gerri Jenkins, 202–653–8853.

Hillary A. Ogden,

Assistant Director, Energy and Mineral Resources.

[FR Doc. 90–28607 Filed 12–7–90; 8:45 am]

BILLING CODE 4310–84–M

National Park Service

Availability of the Record of Decision on the Lockheed Boulevard Connector Road Supplemental Environmental Assessment for Huntley Meadows Park, Virginia

AGENCY: National Park Service, Interior.

ACTION: Record of decision.

SUMMARY: Notice is hereby given that the National Park Service has prepared a Record of Decision for the Lockheed Boulevard Connector Road Supplemental Environmental Assessment for Huntley Meadows Park, Virginia. The Record of Decision will be available for public review at the National Park Service, National Capital Region, Office of Land Use Coordination, 1100 Ohio Drive SW., room 201, Washington, DC.

The Record of Decision is required by the National Environmental Policy Act of 1969 as amended (Public Law), and addresses the potential impacts to the Huntley Meadows Park which may result from construction of the proposed Lockheed Boulevard Connector.

SUPPLEMENTARY INFORMATION: For further information please contact Mr. Jeffrey L. Knoedler, Project Coordinator, Office of Land Use Coordination, 1100 Ohio Drive SW., room 201, Washington, DC 20242, (202) 619–7106.

Dated: November 21, 1990.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 90–28782 Filed 12–7–90; 8:45 am]

BILLING CODE 4310–70–M

Mississippi River Coordinating Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: January 9, 1991; 6 p.m. to 9:30 p.m.

ADDRESSES: Holiday Inn Metrodome, 1500 Washington Avenue South, Minneapolis, Minnesota.

FOR FURTHER INFORMATION CONTACT: Norman J. Reigle, Superintendent, Mississippi National River and Recreation Area, Post Office Box 65456, St. Paul, MN 55165–0456 (612–290–4160).

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Public Law 100–696, November 18, 1988.

Dated: November 29, 1990.

Warren H. Hill,

Acting Regional Director, Midwest Region.

[FR Doc. 90–28781 Filed 12–7–90; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 13)]

Intrastate Rail Rate Authority, Maryland

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Interstate Commerce Commission recertifies the State of Maryland to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective January 9, 1991, and will expire February 7, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmer (202) 275–7245. [TDD for hearing impaired: (202) 275–1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359.

Decided: December 3, 1990.

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

Sidney L. Strickland, Jr.

Secretary.

[FR Doc. 90–28871 Filed 12–7–90; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 388; Sub-No. 17]

Intrastate Rail Rate Authority—Missouri

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Interstate Commerce Commission recertifies the State of Missouri to regulate intrastate rail rates, classifications, rules, and practices for a 5-year period.

DATES: Recertification will be effective January 9, 1991, and will expire February 7, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. *Telephone:* (202) 289–4357/4359.

Decided: December 3, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–28870 Filed 12–7–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55, Sub–No. 367X]

CSX Transportation, Inc.; Abandonment Exemption in Liberty County, GA

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonment to abandon its 1.62-mile line of railroad between mileposts S–531.00 and S–529.38, at Riceboro, in Liberty County, GA.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on January 9, 1991 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by December 20, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by December 31, 1990, with:
Office of the Secretary,
Case Control Branch,
Interstate Commerce Commission,
Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative:
Charles M. Rosenberger,
CSX Transportation, Inc.,
500 Water Street,
Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by December 14, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

Decided: November 30, 1990.

By the Commission, David M. Knoschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–28867 Filed 12–7–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–318 (Sub-No. 2X)]

Louisiana and Delta Railroad, Inc.—Abandonment Exemption in Terrebonne Parish, LA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903–10904 the abandonment by Louisiana and Delta Railroad, Inc., of 17.55 miles of rail line in Terrebonne Parish, LA, subject to standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on January 9, 1990. Formal expressions of intent to file on offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by December 20, 1990, petitions to stay must be filed by December 26, 1990, and petitions for reconsideration must be filed by January 7, 1990. Requests for a public use condition must be filed by December 20, 1990.

ADDRESSES: Send pleadings referring to Docket AB–318 (Sub-No. 2X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representatives: James B. Gray Jr., Harter, Secrest & Emery, 700 Midtown Tower, Rochester, NY 14604.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

Decided: November 21, 1990.

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

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

Simmons dissented with a separate expression. Commissioner McDonald would have denied the exemption request, without prejudice to petitioner's right to seek abandonment through the regular abandonment process.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-28869 Filed 12-7-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-290; Sub-No. 108X]

Southern Railway Co.; Abandonment Exemption in Transylvania County, NC

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903-10904 the abandonment by Southern Railway Company of 2 miles of rail line between Pisgah Forest (milepost TR-19.8) and Brevard (milepost TR-21.8), in Transylvania County, NC, subject to standard labor protective conditions and an environmental condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on January 9, 1991. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by December 20, 1990, petitions to stay must be filed by December 26, 1990, and petitions for reconsideration must be filed by January 7, 1991. Requests for a public use condition must be filed by December 20, 1990.

ADDRESSES: Send pleadings referring to Docket No. AB-290 (Sub-No. 108X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: F. Blair Wimbush, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-2191.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD Services (202) 275-1721.]

Decided: December 3, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-28868 Filed 12-7-90; 8:45 am]

BILLING CODE 7035-01-M

[1] See Exempt. of Rail Abandonment—Offers of *Finan. Assist.*, 4 I.C.C.2d 164 (1987).

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW in Washington, DC on January 3 and 4, 1991, from 8:30 a.m. to 5 p.m. each day.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 5 U.S. Code, section 1242(a)(1)(B) and to review the November 1990 Joint Board examination in order to make recommendations relative thereto, including the minimum acceptable pass score. In addition, there will be a discussion of the concept of open book examinations and topics for inclusion on the syllabus for the Joint Board's examinations.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) that the portions of the meeting dealing with the discussion of questions which may appear on the Joint Board's examinations and review of the November 1990 Joint Board examination fall within the exceptions to the open meeting requirement set forth in title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the concept of open book examinations and the Joint Board examination syllabus will commence at 1:30 p.m. on January 3 and will continue for as long as necessary to complete the discussion, but not beyond 3 p.m. This portion of the meeting will be open to the public as space is available. Time permitting, after discussion of the program by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements are requested to notify the Committee Management officer in writing prior to the meeting in order to aid in scheduling the time available, and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be limited to ten minutes in length. Any interested person also may file a written statement for consideration by the Joint Board and Committee by sending it to the Committee Management Officer. Notifications and statements should be mailed no later than December 21, 1990 to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, c/o U.S. Department of the Treasury, Washington, DC 20220.

Dated: December 4, 1990.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 90-28777 Filed 12-7-90; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Information Collection Under Review

December 5, 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(s) of the Expiration Date(s) of Currently Approved Collection(s) of Information Without any Change in the Substance or in the Method of Collection

(1) DEA/USMS/USSS Drug of Abuse Chain of Custody Form.

(2) No form number. Health Services Unit, office of Personnel, Drug Enforcement Administration.

(3) On occasion.

(4) Individuals or households. Information is needed to document and control the chain of custody for drug testing an individual selected for a job vacancy prior to actual employment under E.O. 12564, in order to maintain a drug-free Federal workplace.

(5) 2,960 annual respondents at .083 hours per response.

(6) 245 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Special Note: The following three extension items deal with aspects of the Victims of Crime Act Grant Program, Office for Victims of Crime, Office of Justice Programs. In all cases, respondents are State or local governments administering the crime victim assistance provisions of the Victims of Crime Act, as amended. The information collected is necessary to generate and submit statutorily required reports to the President and to the Congress on the effectiveness of the Victims of Crime Act, as amended, and to ensure grantees' compliance with statutory criteria. These items are not applicable under 3504(H).

1. The Program Performance Report (Revised), Crime Victim Compensation Grant Program, OJP Form 7390/2. Collected from grantees 90 days after the completion of the grant. 56 annual respondents at five hours each with an associated recordkeeping burden of three hours for each respondent for an estimated annual burden of 448 hours.

2. The Subgrant Award Report (Revised), OJP Form 7390/2A. Grantees must submit 30 days after an award is made. 56 annual respondents with 32 responses per respondent, at 2 hours for each response with an associated recordkeeping burden of 32 annual hours each recordkeeper for an estimated annual burden of 5,376 hours.

3. The Program Performance Report (Revised), Crime Victim Assistance Grant Program, OJP Form 7390/4. Grantees submit 90 days after completion of the grant. 56 annual respondents at 22 hours each with an associated recordkeeping burden of one hour for each respondent for an estimated annual burden of 1,288 hours.

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

[FR Doc. 90-28850 Filed 12-7-90; 8:45 am]

BILLING CODE 4410-18-M

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984—CAD Framework Initiative, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), CAD Framework Initiative, Inc. ("CFI") on October 22, 1990, has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in the membership of CFI. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On December 30, 1988, CFI filed its original notification pursuant to section 6(a) of the Act. That filing was amended on February 7, 1989. The Department of Justice published a notice concerning the amended filing in the **Federal Register** pursuant to section 6(b) of the Act on March 13, 1989 (54 FR 10456). A correction to this notice was published on April 20, 1989 (54 FR 16013). On May 17, 1989, CFI filed an additional written notification. The Department published a notice in response to this additional notification on June 22, 1989 (54 FR 26265). A correction to the June 22, 1989 notice was published on August 4, 1989 (54 FR 32141); a further correction was published on August 23, 1989 (54 FR 35091). On August 16, 1989, CFI filed an additional written notification. The Department published a notice in response to this additional notification on September 21, 1989 (54 FR 38912). CFI filed a further additional notification on November 15, 1989. The Department published a notice in response to the further additional notification on January 10, 1990 (55 FR 925). On February 15, 1990, CFI filed an additional written notification. The Department published a notice in response to the further additional notification on April 23, 1990 (55 FR 15295).

CFI filed an additional notification on May 15, 1990. The Department published a notice in response to the additional notification on June 29, 1990 (55 FR 26792). CFI filed an additional notification on August 16, 1990. The Department published a notice in response to the additional notification on September 18, 1990 (55 FR 38417).

The purpose of this notification is to disclose certain changes in the membership of CFI. The changes consist of the following: (1) The addition of corporate member, Sharp Corporation; (2) the addition of associate members: Timothy Andrews, Philip S. Au, Gaal Balazs, John Burton, Bernard Clark, Peter Cundall, Thomas Miller, Myer Morron, Gordon Neal, Robert Piloty, John Prieur, Timothy Sampson, Jerry Sewell; (3) GenRad, Ltd. has not renewed its associate membership in CFI; (4) as reported in CFI's May 15, 1990 filing, Siemens AG has merged with Nixdorf Computer AG, however, Nixdorf Computer AG should be listed separately as an associate member and Siemens AG will continue to be listed as a corporate member.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90-28787 Filed 12-7-90; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984, National Center for Manufacturing Sciences, Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), the National Center For Manufacturing Sciences, Inc. ("NCMS"), on November 7, 1990, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership and describing the status of its research projects. The notification was filed for the purpose of maintaining the protections of the Act limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

The following companies recently were accepted as members of NCMS:

Chem-tronics, Inc., Hydro-Abrasive Machining, Inc., Manufacturing Resources, Inc., ORSCO, Inc.

Currently, NCMS has awarded contracts directed toward its objectives in the general areas of manufacturing data and factory control; manufacturing

operations; manufacturing processes and materials; production equipment design, analysis, testing, and control; and technology transfer. Other projects directed toward its objectives in those areas are under consideration.

On February 20, 1987, NCMS filed its original notification pursuant to section 6(a) of the Act, notice of which the Department of Justice published in the **Federal Register** pursuant to section 6(b) of the Act on March 17, 1987 (52 FR 8375). NCMS filed additional notifications on April 15, 1988, and May 5, 1988, notice of which the Department published in the **Federal Register** on June 2, 1988 (53 FR 20194). NCMS also filed additional notifications on July 11, 1988, September 13, 1988, December 8, 1988, March 9, 1989, August 10, 1989, November 3, 1989, January 29, 1990, April 27, 1990, and July 31, 1990, notices of which the Department published on August 19, 1988 (53 FR 31771), November 4, 1988 (53 FR 44680), January 18, 1989 (54 FR 2006), April 13, 1989 (54 FR 14878), September 18, 1989 (54 FR 38461), November 29, 1989 (54 FR 49122), February 28, 1990 (55 FR 7045), June 5, 1990 (55 FR 22964), and August 28, 1990 (55 FR 35192), respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90–28788 Filed 12–7–90; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursant to the National Cooperative Research Act of 1984 Software Productivity Consortium

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* (the "Act"), Software Productivity Consortium ("SPC") on November 7, 1990, filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing certain additional activities of the Consortium. Those additional activities are providing Software Process Assessment services in connection with its primary work in advanced computer productivity technology, and contracting with third parties to provide technology services. Also SPC is considering establishment of a separate, wholly-owned subsidiary corporation to conduct some or all of those activities. The notification was filed for the purpose of maintaining the protections of the Act limited the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Except as indicated above, no other changes have been made in either the membership or planned activity of SPC.

On December 21, 1984, SPC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 17, 1985, 50 FR 2633. Since then, SPC filed additional notifications on April 23, 1985, September 24, 1985, December 10, 1985, February 13, 1986, and November 30, 1989, identifying changes in its membership, and the Department of Justice published notice of these changes in the **Federal Register** pursuant to section 6(b) of the Act on May 21, 1985, 50 FR 20954; October 22, 1985, 50 FR 42786; January 13, 1986, 51 FR 1450; March 11, 1986, 51 FR 8373; and January 10, 1990, 55 FR 926, respectively. SPC also filed additional notifications on December 19, 1988, and December 27, 1988, notice of which the Justice Department published on January 31, 1989, 54 FR 4922, and another notification on March 23, 1989, notice of which the Department published on May 4, 1989, 54 FR 19256–57.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90–28790 Filed 12–7–90; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—PDES Inc.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), PDES Inc. ("PDES") on November 1, 1990 has filed an additional written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing changes to its membership. The additional written notification was filed for the purpose of extending the protections of section 4 of the Act, which limit the recovery of antitrust plaintiffs to actual damages under specified circumstances.

On September 20, 1988, PDES filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on October 14, 1988 (53 FR 40282). On February 16, 1989, June 27, 1989, January 5, 1990, and February 26, 1990, PDES filed additional written notifications. The Department published notices in response to the additional notifications on March 21, 1989 (54 FR 11580), July 18, 1985 (54 FR 30116), February 12, 1990 (55 FR 4918), and March 26, 1990 (55 FR 11067), respectively.

Rolls-Royce, plc. has admitted as been a member of PDES effective August 6, 1990.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 90–28789 Filed 12–7–90; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–21,505]

AT&T Technologies, Inc., General Markets Group a/k/a/ AT&T Information Systems, Inc., Shreveport, LA; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 30, 1988, applicable to all workers of AT&T Technologies, Inc., General Markets Group, Shreveport, Louisiana. The notice was published in the **Federal Register** on November 28, 1989 (54 FR 48955).

At the request of the State Agency, the Department reviewed the subject certification and found that the Shreveport facility was transferred from AT&T Technologies, Inc., to AT&T Information Systems, Inc. AT&T Information Systems in Shreveport, Louisiana is a successor-in-interest firm to AT&T Technologies, Inc., in Shreveport. Therefore, the certification is amended to properly reflect the correct worker group. The amended notice applicable to TA–W–21,505 is hereby issued as follows:

All workers of the Shreveport, Louisiana plant of AT&T Information Systems, Inc., previously known as AT&T Technologies, Inc., General Markets Group, Shreveport, Louisiana who became totally or partially separated from employment on or after October 17, 1987 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 30th day of November, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–28878 Filed 12–7–90; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Aberdeen Sportswear, Inc. et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 20, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 20, 1990.

The petitions filed in this cae are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 26th day of November 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition number	Articles produced
Aberdeen Sportswear, Inc. (Wkrs)	Trenton, NJ	11/26/90	10/07/90	25,110	Clothing
Calterm, Inc. (Workers)	Hillsdale, MI	11/26/90	11/05/90	25,111	Auto Parts
Columbia Mfg Co. (IAM)	Westfield, MA	11/26/90	11/13/90	25,112	Bicycles
Comdial Communications Corp. (Wkrs)	Charlottesville, VA	11/26/90	11/13/90	25,113	Telephones
Crown Worsted Mills Inc. (Wkrs)	Central Falls, RI	11/26/90	11/09/90	25,114	Yarns
Domtar Gypsum (Workers)	Still Water, TX	11/26/90	11/12/90	25,115	Sheetrock
Endicott Johnson (Workers)	Chapel Hill, TN	11/26/90	11/09/90	25,116	Footwear
Hylden Industries (Workers)	Fergus Falls, MN	11/26/90	11/09/90	25,117	Apparel
Mack Truck (Workers)	Winnsboro, SC	11/26/90	11/10/90	25,118	Trucks
McMoran Oil & Gas Co. (Wkrs)	New Orleans, LA	11/26/90	10/25/90	25,119	Oil & Gas
Moly Corp. (USWA)	Washington, PA	11/26/90	10/15/90	25,120	Oxide
Oak Technical, Inc. (URW)	Ravenna, OH	11/26/90	11/16/90	25,121	Gloves
Sanyo-Fisher Audio Corp. (Workers)	Milroy, PA	11/26/90	11/16/90	25,122	Components

[FR Doc. 90-28899 Filed 12-7-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24, 362]

Action Tungsram, Inc., East Brunswick, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 5, 1990 applicable to all workers of Action Tungsram, Inc., East Brunswick, New Jersey. The certification notice was published in the **Federal Register** on July 24, 1990 (55 FR 30047). The notice was amended on August 27, 1990 and published in the **Federal Register** on September 5, 1990 (55 FR 36334).

New information from the company shows that worker separations began in 1989 following the acquisition in 1989 by General Electric of Tungsram, Ltd., a Hungarian light bulb manufacturer. Therefore, the certification is amended by deleting the previous impact date and inserting a new impact date of April 16, 1989. The amended notice applicable to TA-W-24, 362 is hereby issued as follows:

"All workers of Action Tungsram, Incorporated, East Brunswick, New Jersey who became totally or partially separated from employment on or after April 16, 1989 and before August 24, 1990 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, DC this 30th day of November 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-28876 Filed 12-7-90; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-24,811]

Agnew Lumber Co., Centralia, WA; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

By an application dated November 12, 1990, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on November 6, 1990.

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous.

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The company claims that imported oriented strand board (OSB) competes with the veneer produced at Centralia.

The workers produced veneer for plywood manufacturers. Veneer is a component of plywood.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act was not met. This test is generally demonstrated through a survey of the workers' firm's customers. The Department's survey of Agnew's major declining customers showed that none of the respondents

imported veneer or OSB/waferboard during the period under investigation.

Further, the issue of components was addressed early in the administration of the worker adjustment assistance program. In *United Show Workers of America, AFL–CIO* v. *Bedell,* 506 F2d (DC Circ. 1974) the court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Accordingly, increased imports of OSB/waferboard cannot be considered in determining import injury to workers producing veneer a component of plywood which competes with OSB/waferboard. Imports of articles (OSB) competing with finished articles incorporating components (veneer) are not like or directly competitive with the articles produced at the workers' firm. Only imports of veneer, the article produced at the workers' firm, can be considered.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 3rd day of December 1990.

Robert O. Deslongchamps,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–28877 Filed 12–7–90; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–24,714]

Greenville Pants Manufacturing Company, Greenville, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 11, 1990 applicable to all workers of Greenville Pants Manufacturing Company, Greenville, Texas.

At the request of the State Agency the Department reviewed the subject certification. New information from the company reveals that the parent company, Haggar Apparel Company, placed the Greenville Pants Manufacturing Company under the Olney Manufacturing Company account for tax purposes. This name change is for accounting reasons and did not reflect a change in ownership. The notice, therefore, is amended to properly reflect the correct worker group.

The amended notice applicable to TA–W–24,714 is hereby issued as follows:

All workers of Greenville Pants Manufacturing Company, Greenville, Texas, also known as Olney Manufacturing Company Greenville, Texas who became totally or partially separated from employment on or after July 27, 1989 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 29th day of November 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–28880 Filed 12–7–90; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–24,753]

Larsan Manufacturing Company Newark, OH; Negative Determination Regarding Application for Reconsideration

By an application postmarked November 19, 1990, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on October 16, 1990 and published in the **Federal Register** on October 31, 1990 (55 FR 45874).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers at Newark produce handsaws, power tool accessories and lawn and garden spray tanks. The union claims that subject firm is transferring its production of lawn and garden spray tanks to Canada.

The Department's denial was based on the fact that "contributed importantly" test of the Group Eligibility Requirement of the Trade Act was not met. Larsan is transferring production of handsaws and power tool accessories from the subject plant to other domestic company plants. A domestic transfer of production would not provide a basis for a worker group certification. Investigation findings also showed that sales and production of handsaws and power tool accessories increased in 1989 compared to 1988.

Other investigation findings show that Larsan Manufacturing was one of several divisions of the Vermont American Corporation. Larsan produced the metal lawn and garden tanks for the Gilmore Company, another division of Vermont American Corporation which produced the plastic tank garden and lawn sprayer but not the metal tank. Production and inter-company sales of metal lawn and garden tanks at Newark accounted for less than three percent of Newark's total production in 1989. The decrease in production of metal spray tanks was the result of the increasing use of plastic tanks produced by Gilmore.

Although Gilmore contracted with a Canadian firm to produce the metal tanks because it lost Larsan as a supplier, this was a temporary measure to provide a supply for the new owner. Gilmore is in the process of being purchased by another domestic firm. Company officials indicated that no imports of the metal lawn and garden spray tanks have taken place.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 26th day of November, 1990.

Mary Ann Wyrsch,

Director, Office of Unemployment Insurance Service, UIS.

[FR Doc. 90–28879 Filed 12–7–90; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–24,764]

Soabar Product Group of Avery Corp., Philadelphia, PA, Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at Soabar Product Group of Avery Corporation, Philadelphia, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's

determination. Therefore, dismissal of the application was issued.

TA–W–24,764; Soabar Product Group of Avery Corporation, Philadelphia, PA (November 26, 1990)

Signed at Washington, DC this 27th day of November, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90–28881 Filed 12–7–90; 8:45 am]

BILLING CODE 4510–30–M

NATIONAL SCIENCE FOUNDATION

Committee Management; Establishment

The Assistant Director for Education and Human Resources has determined that the establishment of the Advisory Panel for Studies, Evaluation, and Dissemination is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Advisory Panel for Studies, Evaluation, and Dissemination.

Purpose: Advises on the merit of proposals and procurements for research, education, and related purposes submitted to the NSF for financial support. The Panel also provides general advice and policy guidance concerning research, studies and analyses, assessments, dissemination, evaluations, and related activities in the area of mathematical, scientific, and engineering education.

Balanced Membership Plan: About 72 panelists will be selected on an "as needed" basis in response to specific proposals, applications, projects, and/or sites to be reviewed. Members will be selected for their demonstrated mathematical, scientific, engineering and educational expertise so as to represent a reasonable balance of capability in the various subfields of the proposals to be reviewed. Consideration will also be given to achieving geographic balance and to enhancing representation for women, minority, younger and disabled experts.

Responsible NSF Official: Thomas Berger, Program Manager for Studies, Evaluation, and Dissemination, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Dated: December 4, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–28832 Filed 12–7–90; 8:45 am]

BILLING CODE 7555–01–M

Committee Management; Establishment

The Assistant Director for Engineering has determined that the establishment of the Special Emphasis Panel in Engineering Infrastructure Development is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF) by 42 U.S.C. 1861 et seq. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Special Emphasis Panel in Engineering Infrastructure Development.

Purpose: To advise on the merit of special initial proposals or applications submitted to NSF for financial support.

Balanced Membership Plan: Membership will be selected on an "as needed basis in response to specific proposals/applications/sites to be reviewed. Members will be selected for their demonstrated scientific and engineering expertise so as to represent a reasonable balance of capability in the various subfields of the proposals to be reviewed. Consideration will also be given to achieving geographic balance and to enhancing representation for women, minority, younger and disabled scientists.

Responsible NSF Official: Lucy C. Morse, Program Director for Engineering Infrastructure Development, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Dated: December 4, 1990.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–28833 Filed 12–7–90; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Potential for NRC Requirements Regarding a Uniform Low-Level Radioactive Waste Manifest; Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The Nuclear Regulatory Commission (NRC) will discuss efforts to develop a uniform low-level radioactive waste manifest in light of recommendations received from the Host State Technical Coordinating Committee for Low-Level Radioactive Waste Disposal (TCC).

DATES: January 9, 1991.

ADDRESSES: Host State Technical Coordinating Committee Meeting, Hyatt Regency Hotel, One St. Louis Union Station, St. Louis, MO 63103.

FOR FURTHER INFORMATION CONTACT: William R. Lahs, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492–0569.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss NRC efforts to develop a uniform manifest as an adjunct to a proposed rulemaking on low-level waste manifest information and reporting. The TCC believes that a uniform manifest is necessary and justifiable and, in a November 9, 1990 letter to Chairman Carr, submitted an example uniform manifest together with comments the TCC received on an earlier draft of this manifest.

The NRC staff, at a session of this meeting tentatively scheduled between 1:30 and 2:30 p.m. will present their preliminary views regarding the manifest and will use the sesssion as a mechanism to discuss issues which may be raised on this subject.

Persons other than NRC staff and TCC members may observe the meeting but will be permitted to participate in the discusssion only as time allows. Registrations will be conducted prior to the meeting.

Dated at Rockville, Maryland, this 3rd day of December 1990.

For the Nuclear Regulatory Commission.

John H. Austin,

Chief, Regulatory Branch, Division of Low-Level Waste Management and Decommissioning, NMSS.

[FR Doc. 90–28864 Filed 12–7–90; 8:45 am]

BILLING CODE 7590–01–M

Appendix A to the Memorandum of Understanding Between the U.S. Nuclear Regulatory Commission and the Defense Nuclear Facilities Safety Board

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of appendix A to memorandum of understanding.

SUMMARY: On November 28, 1990, the Nuclear Regulatory Commission (NRC) and the Defense Nuclear Facilities Safety Board (the Board) approved

Appendix A to the Memorandum of Understanding between the parties dated June 22, 1990. Appendix A outlines the Employee Assistance Program (EAP) support services which NRC will provide to the Board.

FOR FURTHER INFORMATION CONTACT: James L. Blaha, Assistant for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–1703.

Dated at Rockville, Maryland, this 3rd day of December, 1990.

For the Nuclear Regulatory Commission.

James L. Blaha,

Assistant for Operations.

Appendix A to the Memorandum of Understanding Between the Defense Nuclear Facilities Safety Board and the Nuclear Regulatory Commission

Employee Assistance Program

This appendix sets forth an understanding of the Employee Assistance Program (FAP) support services which the Nuclear Regulatory Commission (NRC) will provide to the Defense Nuclear Facilities Safety Board (Board).

Authority and Background

This agreement is entered into pursuant to Section 114 of the National Defense Authorization Act for FY-1989 (Public Law 100–456). The NRC considers employees to be the agency's most valuable resource. For this reason, their health and safety are of paramount concern. The agency also has a major responsibility for protecting the health and safety of the public and national security. Consistent with these dual concerns, the agency has established a policy of zero tolerance for illegal drug use and encourages employees with an alcohol or drug abuse problem to seek assistance. Executive Order 12564 mandates that all Federal agencies establish Employee Assistance Programs to accomplish these goals.

Office of Personnel Management guidelines set forth the following as required components of an Employee Assistance Program: (1) Employee counseling and referral; (2) education and training on drug-related issues; (3) supervisory consultation regarding troubled employees; and (4) supervisory training to assist managers in maintaining a drug-free workplace.

I. Scope of Work

The NRC will assist the Board in establishing and maintaining an Employee Assistance Program by offering the following services:

(a) *Education and Training for Board Managers and Supervisors* to familiarize them with the signs and symptoms of alcohol and drug abuse, and to define and clarify their role and responsibilities as they relate to the Drug-free Federal Workplace Program.

The NRC schedules supervisory training on a regular basis and will provide spaces for Board employees in these cures. If, however, the Board wishes to provide training sooner and/or more extensively than can be accommodated by NRC's schedule, NRC will provide the names of possible sources for training which can meet the Board's needs.

(b) *Informal Consultation.* The NRC's Employee Assistance Program and Labor Relations staffs will be available to the Board's General Manager and other designated staff members to share their knowledge and experiences in matters dealing with troubled employees, including drug testing, disciplinary action, confidentiality issues, the rehabilitation process, and reintegration of rehabilitated employees into the workplace. NRC staff will not, however, provide direct counseling to Board employees or directly advise Board superviors and managers on specific cases.

(c) *Referral Sources.* The NRC will assist the Board with other EAP functions, i.e., individual counseling, referral, supervisory consultation, and employee education, by providing the names of EAP firms in the Washington metropolitan area who can provide those services to meet the unique requirements of the Board.

II. Period of Performance

The period of performance shall commence upon signature by both parties and shall continue uninterrupted at the pleasure of either party. This agreement may be modified with the consent of both parties. Either party may terminate the agreement by providing 60 days written notice to the other party.

III. Applicable Guidance

The NRC and the Board will follow the guidance and directives contained in NRC Manual chapter 4161 and the NRC Drug Testing Plan (NUREG/BR–0134), section IV.

IV. Funding

NRC training and informal advice will be provided to the Board at no cost.

V. Point of Contact

The organizational points of contact are:

NRC: Patricia Kaplan, (301) 492–4639.
DNFSB: Janet Burke, (202) 376–5063.

Accepted:

By:

John T. Conway,

Chairman, Defense Nuclear Facilities Safety Board.

Dated: November 28, 1990.

By:

James M. Taylor,

Executive Director for Operations, U.S. Nuclear Regulatory Commission.

Dated: November 26, 1990.

[FR Doc. 90–28865 Filed 12–7–90; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–260]

Tennessee Valley Authority; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–52 issued to Tennessee Valley Authority (the licensee) for operation of Browns Ferry Nuclear Plant, Unit 2 (BFN2) located in Limestone County, Alabama.

The amendment request dated August 7, 1990 was previously noticed (55 FR 36356, September 5, 1990). The licensee's request of August 7, 1990 proposed to revise BFN2 Technical Specifications (TS) surveillance requirements of TS section 4.11.B.1.f for the electric and diesel-driven fire pumps to specify new values for flow and system head pressure (2100 gpm and 300 feet, respectively).

During the course of the review, the NRC staff determined that the reduction of the flow value would not be desirable below 2250 gpm. This matter was discussed with the licensee and on November 30, 1990 the licensee supplemented their original request by proposing the recommended flow value of 2250 gpm. As such the NRC staff decided to renotice the original "Consideration Of Issuance Of Amendment" and revised proposed No Significant Hazards Consideration (NSHC). The licensee stated that the original NSHC and supporting analysis submitted on August 7, 1990 would be unchanged except that the 2250 gpm value would replace 2100 gpm in the discussion on the safety margin.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended

(the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.91, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Therfore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, TVA has performed and provided the following analysis:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The present BFN technical specification requirements for the electric and diesel-driven high pressure fire pumps [Surveillance Requirements 4.11.B.1.f(2) and 4.11.B.1.f(3)] are based on a single data point on the manufacturer's laboratory performance curve and are not based on actual demand. Tests on the pumps installed at BFN have shown that in some cases they fall just short of achieving the technical specification value for flow at the specified head. The proposed change will revise the pump flow and head requirements based on actual demand requirements.

TVA has performed a calculation to determine the actual fire pump flow/pressure requirements to meet the most demanding fire suppression water load and an above normal raw service water (RSW) load. The calculation concluded that a fire pump developing 2100 gpm at a system head of 300 feet will adequately meet the fire suppression water and RSW loads. This requirement is applicable to both the electric and diesel-driven fire pumps.

This change will not involve an increase in the probability or consequences of a design basis event. It will ensure the fire protection system can supply sufficient water to suppress fires while not placing an overly restrictive surveillance requirement on the pumps.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to pump flow and head requirements for the electric and diesel-driven high pressure fire pumps does not involve any modification to plant equipment. No new failure modes are introduced nor are any new system interactions introduced by the change. The methods and ability of the BFN fire protection system to suppress fires is unaffected by the change. Sufficient capability will still exist to suppress fires and to supply the necessary demands. Therefore, the changes does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The current technical specification flow and head requirements for the electric and diesel-driven fire pumps are 2500 gpm at system heads of 300 and 340 feet respectively. The proposed change would revise the flow and head requirements for both the electric and diesel-driven fire pumps to [2250] gpm at a system head of 300 feet. The current technical specification values are based on a single data point on the manufacturer's laboratory performance curve and are not based on actual demand. The proposed values are based on a calculation of the actual demands that must be met for fire suppression water and RSW loads plus an additional margin. Although the fire pump surveillance flow requirements have been reduced, sufficient capacity still exists beyond the projected demands for fire suppression water and RSW. Thus, the margin of safety has not been reduced [significantly].

Therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By January 9, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at Athens Public Library, South Street, Athens, Alabama. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the

hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Frederick J. Hebdon (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Office of the General Counsel, U.S. nuclear Regulatory Commission, Washington, DC 20555, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, E11 B33, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based on a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 7, 1990, as supplemented November 30, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the Local Public Document Room located at the Athens Public Library, South Street, Athens, Alabama 35611.

Dated at Rockville, Maryland, this 4th day of December 1990.

For the Nuclear Regulatory Commission.

Thierry Ross,

Project Manager, Project Directorate II–4, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 90–28866 12–7–90; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–28669; File No. SR–OCC–90–12]

Self-Regulatory Organizations; the Options Clearing Corp. Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fees for the Options New Network Service

December 3, 1990.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 11, 1990, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend OCC's schedule of fees for clearing Member services to add a new service, the Options News Network ("ONN" [1]). OCC proposes to change fees immediately for ONN.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Items IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

ONN is an on-line centralized database developed by OCC at the request of its participant exchanges. The database contains informational memoranda and other notices issued by OCC and its participant exchanges for the benefit of Clearing Members as well as other options market participants. In December 1989, OCC began providing

[1] ONN is a trademark of OCC.

ONN on a pilot basis to a number of Clearing Members at no cost. Participant response has been highly favorable to the pilot, especially with respect to the ease of access to ONN and to timeliness of information contained therein. OCC does not believe that its operation of ONN will affect its systems' capacity to clear options transactions because the ONN database is maintained on a system separate from that which processes Clearing Members' position information.

OCC currently prints and distributes copies of information memoranda to Clearing Members via locked boxes. That distribution method, is inefficient compared to ONN. Moreover, ONN provides access not only to OCC's informational memoranda but also to those to OCC's participant exchanges. ONN additionally contains memoranda issued by OCC's futures subsidiary, the Intermarket Clearing Corporation ("ICC"), and the contract markets for which ICC provides clearing services. Accordingly, OCC has determined to charge a fee to those Clearing Members and exchange participants which elect to access informational memoranda via ONN. The proposed fees for ONN are based upon OCC's costs of developing and operating the service.

In conjunction with ONN, OCC proposes to offer to Clearing Members and exchange participants a sophisticated electronic mail ("E-mail") function which will facilitate communication among subscribing Clearing Members, exchanges, and OCC.[2] The proposed fees for the E-mail function are based upon OCC's costs of developing and operating the service.

The proposed rule change is consistent with section 17A of the Act, as amended, in that it allocates reasonable fees in an equitable manner among OCC's Clearing Members and exchange participants (*i.e,* the costs of the services will be borne by those using the services).

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

[2] Currently, only exchange participants are using the E-mail function. Subsequent to the filing on this proposed rule change, OCC withdrew from this rule filing (letter from Jean M. Cawley, Staff Counsel, OCC, to Jerry W. Carpenter, Branch Chief, Division of Market Regulation, Commission [November 30, 1990]) and submitted as a separate rule filing (File No. SR–OCC–90–13) that portion pertaining to use of the E-mail function by Clearing Members.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were not and are not intended to be solicited with respect to the proposed rule change and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on filing pursuant to section 19(b)(3)(A) of the Act and pursuant to Rule 19b–4(e) promulgated thereunder because the proposed rule change establishes or changes a due, fee, or other charge imposed by OCC. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solictation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–90–12 and should be submitted by December 31, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 89–28807 Filed 12–7–90; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 03/03–0160]

First Valley Capital Corporation, License Surrender

Notice is hereby given that First Valley Capital Corporation, One Bethlehem Plaza, Bethlehem, PA 18018, has surrendered its license to operate as a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). First Valley Capital Corporation was licensed by the Small Business Administration on August 19, 1983.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on November 27, 1990 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 29, 1990.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 90–28800 Filed 12–7–90; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice No. 1300]

Secretary of State's Advisory Committee on Private International Law, International Protection of Cultural Property: Draft Convention on the Return of Stolen and Illegally Exported Cultural Objects; Request for Public Comment

The Department of State has received for comment a preliminary draft convention (multilateral treaty) on the return of stolen or illegally exported cultural objects. The draft convention was prepared under the auspices of the International Institute for the Unification of Private Law (UNIDROIT). The United States is a member state of UNIDROIT, an international organization headquartered in Rome, Italy, which is comprised of 55 member states. UNIDROIT has requested comments from governments by March, 1991 in preparation for a meeting of governmental representatives in May, 1991 to review the draft convention. Comments by interested persons and organizations are being solicited through this notice to assist the Department of

State to prepare responses to UNIDROIT's request.

The draft convention, issued as document "UNIDROIT 1990—Study LXX/Doc. 19", contains provisions on two basic subjects: restitution of stolen cultural objects and the return of illegally exported cultural objects. Other provisions cover certain rights of compensation, claims and actions, application of national law and related matters. The draft convention is accompanied by an explanatory report which provides background information and sets forth underlying premises for the approaches taken and alternative solutions that were considered.

In order for the Department of prepare U.S. government comments for UNIDROIT, comments from interested persons and organizations should be received by January 15. Comments should deal with the nature of seriousness of the problems addressed and the effectiveness of the approach taken by the draft convention, as well as the specific provisions of the draft. We may of course propose alternative solutions or different underlying premises for those solutions. It should be noted that the Department of State has not been involved in the preparation of the draft convention, and has taken no position previously with regard to its provisions.

The Department will not focus on whether such a draft Convention, if completed, should be considered for possible United States implementation unless and until the convention proceeds through UNIDROIT to the point of being formally proposed to governments for their adoption. We plan to participate in the preparation of this draft as an UNIDROIT member state in order to ensure, in so far as possible, that its provisions reflect U.S. concerns.

For copies of the draft convention and explanatory report or for additional information, please contact Harold S. Burman, Executive Director of the Secretary of State's Advisory Committee on Private International Law, by writing to the Office of the Legal Adviser, room 402, 2100 K Street, NW., Washington, DC 20037, or by calling direct to (202) 653–9852. Written comments on the draft convention should be forwarded to the same address.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law.

[FR Doc. 90–28794 Filed 12–7–90; 8:45 am]

BILLING CODE 4710–08–M

[Public Notice No. 1301]

Overseas Schools Advisory Council; Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Executive Committee meeting on Thursday, January 24, 1991, at 9:30 a.m. in Conference room 1105, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

The Overseas Schools Advisory Council works closely with the U.S. business community in improving those American-sponsored schools overseas which are assisted by the Department of State and which are attended by dependents of U.S. government families and children of employees of U.S. corporations and foundations abroad.

This meeting, chaired by Dr. Ernest L. Boyer, President of Carnegie Foundation for the Advancement of Teaching, will deal with issues related to the work and the support provided by the Overseas Schools Advisory Council to the American-sponsored overseas schools.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. Access to the State Department is controlled and individual building passes are required for each attendee. Entry will be facilitated if arrangements are made in advance of the meeting. Persons who plan to attend should so advise the office of Dr. Ernest N. Mannino, Department of State, telephone 703–875–7800, prior to January 24. All attendees must use the C Street entrance to the building.

Dated: November 28, 1990.

Ernest N. Mannino,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 90–28785 Filed 12–7–90; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended November 30, 1990.

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47286.

Dated filed: November 27, 1990.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: December 26, 1990.

Description: Application of Virgin Atlantic Airways Limited, pursuant to section 402 of the Act and subpart Q of the Regulations, requests an amendment to its Foreign Air Carrier Permit to authorize scheduled combination air transportation of passengers, cargo and mail between London (Gatwick) and Boston, Massachusetts commencing May 30, 1991.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90–28783 Filed 12–7–90; 8:45 am]

BILLING CODE 4910–62–M

Aviation Proceedings; Agreements Filed During the Week Ended November 30, 1990

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47285
Date filed: November 27, 1990
Parties: Members of the International Air Transport Association
Subject: Approval of Amendment to IATA Articles of Association
Proposed Effective Date: Subject to Departmental Approval

Docket Number: 47289
Date filed: November 28, 1990
Parties: Members of the International Air Transport Association
Subject: Middle East-Africa Resolutions R–1 to R–13
Proposed Effective Date: April 1, 1991

Docket Number: 47290
Date filed: November 28, 1990
Parties: Members of the International Air Transport Association
Subject: TC23 Europe-South Asian Subcontinent Expedited Reso et al.
Proposed Effective Date: December 15, 1990

Docket Number: 47293
Date filed: November 28, 1990
Parties: Members of the International Air Transport Association
Subject: North Atlantic-Africa Expedited Reso 002h (R–1)

Proposed Effective Date: December 15, 1990

Docket Number: 47294
Date filed: November 30, 1990
Parties: Members of the International Air Transport Association
Subject: SNAC/1949 dated November 16, 1990, US-Europe Agreement, Resolution No. 21
Proposed Effective Date: December 10, 1990

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 90–28784 Filed 12–7–90; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: December 3, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–9014
Form Number: None
Type of Review: Extension
Title: Exclusion From Gross Income for Certain Foster Care Payments
Description: Section 131 of the Internal Revenue Code allows a foster care provider of a qualified foster individual to exclude from gross income difficulty of care payments designated as such by the payor, who may be a state, a political subdivision of a state, or an organization described in section 501(c)(3) of the Code.
Respondents: State or local governments, Non-profit institutions
Estimated Number of Respondents: 60,000
Estimated Burden Hours Per Response: 15 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 15,000 hours
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–28792 Filed 12–7–90; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 237
Monday, December 10, 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 COMMUNICATIONS COMMISSION

Open Commission Meeting, Thursday, December 13, 1990

December 6, 1990.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, December 13, 1990, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW. Washington, DC.

Item No., Bureau, and Subject

1—General Counsel—*Title:* Reform of the Commission's Comparative Hearing Process to Expedite the Resolution of Cases (Gen. Docket No. 90–264). *Summary:* The Commission will consider whether to adopt a Report and Order on this issue.

2—Mass Media—*Title:* Amendment of § 73.3525 of the Commission's Rules Regarding Settlement Agreements for Construction Permits (MM Docket No. 90–263). *Summary:* The Commission will consider whether to adopt a Report and Order placing limitations on settlement payments in comparative proceedings involving the licensing of new stations.

3—Mass Media—*Title:* Reexamination of the Effective Competition Standard for the Regulation of Cable Television Basic Service Rates (MM Docket No. 90–4). *Summary:* The Commission will consider whether to revise its effective competition standard for the regulation of basic cable television rates.

4—Private Radio—*Title:* Amendment of the Amateur Radio Service Rules to Make the Service More Accessible to Persons with Handicaps (PR Docket No. 90–356). *Summary:* The Commission will consider whether to exempt handicapped persons from the higher speed telegraphy examinations.

5—Private Radio—*Title:* Amendment of Part 97 of the Commission's Rules Concerning the Establishment of a Codeless Class of Amateur Operator License (PR Docket No. 90–55). *Summary:* The Commission will consider whether to establish a codeless class of amateur operator licenses.

6—Common Carrier—*Title:* In the Matter of Computer III Remand Proceedings: Open Network Architecture (ONA) (CC Docket No. 90–368). *Summary:* The Commission will consider whether to adopt a Report and Order in this proceeding.

7—Common Carrier—*Title:* In the Matter of Computer III Remand Proceedings: Bell Operating Company Safeguards. *Summary:* The Commission will consider whether to adopt a Notice of Proposed Rulemaking and Order in this proceeding.

8—Common Carrier—*Title:* Policies and Rules Concerning Operator Service Providers: Further Notice of Proposed Rulemaking (CC Docket No. 90–313, RM–6767). *Summary:* The Commission will consider whether to adopt a Further Notice proposing rules and initiating proceedings consistent with the Telephone Operator Consumer Services Improvement Act of 1990.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Issued: December 6, 1990.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 90–29003 Filed 12–6–90; 2:30 pm]

BILLING CODE 6712–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

December 5, 1990.

TIME AND DATE: 10:00 a.m., Wednesday, December 12, 1990.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Lancashire Coal Company,* Docket No. PENN 89–147–R, etc. (Issues include whether the judge erred in holding that demolition of coal preparation structures at a former mine site is subject to the jurisdiction of the Mine Act.)

2. *Mettiki Coal Corporation,* Docket No. YORK 89–6. (Issues include whether the judge erred in finding violations of a roof control plan.)

3. *Eastern Associated Coal Corp.,* Docket No. WEVA 89–198. (Issues include whether the judge erred in finding that a violation of 30 CFR § 75.400 was not significant and substantial and was not caused by an unwarrantable failure.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 652–5629 / (202) 708–9300 for TDD Relay 1–800–877–8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 90–29017 Filed 12–6–90; 3:33 pm]

BILLING CODE 6735–01–M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, December 18, 1990.

PLACE: Room 410, 1825 K Street, NW., Washington, D.C. 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Oral Argument before the Commission in—

Boise Cascade Corporation
OSHRC Docket Nos. 89–3087 & 89–3088.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller, (202) 634–4015.

Dated: December 5, 1990.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 90–28941 Filed 12–6–90; 1:34 pm]

BILLING CODE 7600–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Thursday, December 13, 1990.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, December 13

8:30 a.m.

Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)

10:00 a.m.

Affirmation/Discussion and Vote (Public Meeting)

a. Final Rule, Part 20—Revised Standards for Protection Against Radiation (Tentative)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (recording)—(301) 492–0292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 492–1661.

Dated: December 5, 1990.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 90–28958 Filed 12–6–90; 1:37 pm]

BILLING CODE 7590–01–M

POSTAL SERVICE

Board of Governors; Vote to Close Meeting

At its meeting on December 3, 1990, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for January 7, 1991, in Washington, DC. The members will consider the Postal Rate Commission's recommended decision in Docket No. R90–1.

The meeting is expected to be attended by the following persons: Governors Alvarado, Daniels, del Junco, Griesemer, Hall, Mackie, Nevin, Pace and Setrakian; Postmaster General Frank, Deputy Postmaster General Coughlin, Secretary to the Board Harris, and General Counsel Hughes.

The Board determined that pursuant to section 552b(c)(3) Title 5, United States Code, and section 7.3(c) of Title 39, Code of Federal Regulations, this portion of the meeting is exempt from the open meeting requirement of the Government in the Sunshine Act [5 U.S.C. 552b(b)] because it is likely to disclose information in connection with proceedings under Chapter 36 of Title 39, United States Code (having to do with postal ratemaking, mail classification and changes in postal services), which is specifically exempted from disclosure by section 410(c)(4) of Title 39, United States Code.

The Board has determined further that pursuant to section 552b(c)(10) of Title 5, United States Code, and section 7.3(j) of Title 39, Code of Federal Regulations, the discussion is exempt because it is likely to specifically concern participation of the Postal Service in a civil action or proceeding involving a determination on the record after opportunity for a hearing. The Board further determined that the public interest does not require that the Board's discussion of the matter be open to the public.

In accordance with section 552b(f)(1) of Title 5, United States Code, and section 7.6(a) of title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service has certified that in his opinion the meeting may properly be closed to public observation pursuant to section 552b(c)(3) and (10) of Title 5, United States Code; section 410(c)(4) of Title 39 United States Code; and section 7.3(c) and (j) of Title 39, Code of Federal Regulations.

Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

David F. Harris,

Secretary.

[FR Doc. 90–28942 Filed 12–6–90; 1:35 pm]

BILLING CODE 7710–12–M

RESOLUTION TRUST CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Resolution Trust Corporation determined, by unanimous vote, that Corporation business required the addition of the following matter for consideration at the closed meeting held at 2:40 p.m. on Tuesday, December 4, 1990. The Board also determined that the item could be considered with less than seven days notice to the public, that the public interest did not require consideration of the matter in a meeting open to public observation, and that no earlier notice of this change was practicable.

Memorandum re: Approval of contractors to perform accounting and data processing services.

[Exemptions (c)(5), (c)(6), (c)(7), and (c)(10)]

The meeting was held in the Board Room on the sixth floor of the Federal Deposit Insurance Corporation Building located at 550 17th Street NW., Washington, DC.

Resolution Trust Corporation.

Dated: December 5, 1990.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90–28983 Filed 12–6–90; 1:38 pm]

BILLING CODE 6714–01–M

Corrections

Federal Register
Vol. 55, No. 237
Monday, December 10, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

[CN-90-001]

Amendment to the Regulations Governing the Cotton Research and Promotion Program

Correction

In proposed rule document 90-27206 beginning on page 48242, in the issue of Tuesday, November 20, 1990, make the following corrections:

1. On page 48242, in the third column, in the first complete paragraph, in the second line "condition" should read "conditions".

§ 1205.515 [Corrected]

2. On page 48243, in the second column, in § 1205.515(d)(1)(ii), in the sixth line, "procedures" was misspelled.

3. In the same column, in § 1205.515(d)(2), in the sixth line, "marking" should read "marketing".

BILLING CODE 1505-01-D

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 275

[Amdt. No. 325]

Food Stamp Program; Quality Control Claims Adjustments for State Agency Investments

Correction

In Proposed rule document 90-27723 beginning on page 49290, in the issue of Tuesday, November 27, 1990, make the following corrections:

1. On page 49291, in the second column, in the third complete paragraph, in the second line, "part" should read "apart". In the last paragraph, in the third line, "JR" should read "HR".

2. On the same page, in the third column, in the second complete paragraph, in the fifth line from the end, delete "those".

3. On page 49292, in the first column, in the last paragraph, in the third line, delete "a".

4. On the same page in the third column, under **Implementation**, in the seventh line, "eligible" was misspelled.

§ 275.23 [Corrected]

5. On page 49293, in the second column, in § 275.23(e)(8)(ii)(E), in the second line "he" should read "the".

BILLING CODE 1505-01-D

GENERAL ACCOUNTING OFFICE

4 CFR Parts 91, 92, and 93

Standards for Waiver of Claims for Erroneous Payments of Pay and Allowances

Correction

In proposed rule document 90-28157 beginning on page 49624, in the issue of Friday, November 30, 1990, make the following corrections:

1. On page 49624, in the first column, under **FOR FURTHER INFORMATION CONTACT**, in the second line, "Association" should read "Associate".

2. On the same page, in the third column, in the paragraph designated 2, in the third line from the end, "compass" should read "encompass".

§ 91.4 [Corrected]

3. On page 49627, in the first column, in § 91.4(c)(3), in the fourth line "amount" should read "account".

§ 92.1 [Corrected]

4. On the same page in the third column, in § 92.1, in the fourth line, "unauthorized" should read "authorized".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, 65, and 121

[Docket Nos. 25148; Amdts. 61-83, 63-26, 65-33, 121-203]

RIN 2120-AC33

Anti-Drug Program for Personnel Engaged in Specified Aviation Activities

Correction

In rule document 90-27408 beginning on page 48822 in the issue of Wednesday, November 21, 1990, the docket number should read as set forth above.

BILLING CODE 1505-01-D

Orders from Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325

federal register

Monday
December 10, 1990

Part II

Reader Aids

Cumulative List of Public Laws—Second Session of the 101st Congress

CUMULATIVE LIST OF PUBLIC LAWS

This is the cumulative list of public laws for second session of the 101st Congress. The List of Public Laws will resume when bills are enacted into law during the first session of the 102d Congress, which convenes on January 3, 1991. Any comments may be addressed to the Director, Office of the Federal Register, Washington, DC 20408.

Public Law	Bill	Approval Date	104 Stat.	Title	Price
101-241	H.J. Res. 82	Feb. 12	3	To designate February 8, 1990, as "National Women and Girls in Sports Day"	$1.00
101-242	S.J. Res. 217	Feb. 12	5	To designate the period commencing February 4, 1990, and ending February 10, 1990, and the period commencing February 3, 1991, and ending February 9, 1991, as "National Burn Awareness Week".	$1.00
101-243	H.R. 3952	Feb. 14	7	Urgent Assistance for Democracy in Panama Act of 1990	$1.00
101-244	S.J. Res. 103	Feb. 14	11	To designate the period commencing February 18, 1990, and ending February 24, 1990, as "National Visiting Nurse Associations Week".	$1.00
101-245	S.J. Res. 130	Feb. 14	13	Designating February 11 through February 17, 1990, as "Vocational-Technical Education Week".	$1.00
101-246	H.R. 3792	Feb. 16	15	Foreign Relations Authorization Act, Fiscal Years 1990 and 1991	$2.25
101-247	H.J. Res. 149	Feb. 16	92	Designating February 16, 1990, as "Lithuanian Independence Day"	$1.00
101-248	S.J. Res. 186	Feb. 27	93	Designating the week of March 1 through March 7, 1990, as "National Quarter Horse Week".	$1.00
101-249	H.R. 150	Mar. 6	94	Posthumous Citizenship for Active Duty Service Act of 1989	$1.00
101-250	H.R. 2281	Mar. 6	96	To amend the Elementary and Secondary Education Act of 1965 to extend the authorization for certain school dropout demonstration programs.	$1.00
101-251	S.J. Res. 227	Mar. 13	98	To designate March 11 through March 17, 1990, as "Deaf Awareness Week"	$1.00
101-252	S.J. Res. 257	Mar. 13	99	To designate March 10, 1990, as "Harriet Tubman Day"	$1.00
101-253	S. 1016	Mar. 14	100	To change the name of "Marion Lake", located northwest of Marion, Kansas, to "Marion Reservoir".	$1.00
101-254	H.R. 2742	Mar. 15	101	Library Services and Construction Act Amendments of 1990	$1.00
101-255	H.R. 4010	Mar. 15	114	To provide the Secretary of Agriculture authority regarding the sale of sterile screwworms	$1.00
101-256	S.J. Res. 243	Mar. 20	116	To designate March 25, 1990, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".	$1.00
101-257	H.R. 2749	Mar. 20	117	To authorize the conveyance of a parcel of land in Whitney Lake, Texas	$1.00
101-258	S.J. Res. 237	Mar. 27	118	Providing for the commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.	$1.00
101-259	H.R. 3311	Mar. 30	121	To designate the Federal building located at 350 South Main Street in Salt Lake City, Utah, as the "Frank E. Moss United States Courthouse".	$1.00
101-260	S. 1091	Mar. 30	122	United States Coast Guard Bicentennial Medal Act	$1.00
101-261	S.J. Res. 229	Mar. 30	123	To designate April 1990 as "National Prevent-A-Litter Month"	$1.00
101-262	S. 2231	Mar. 31	124	Energy Policy and Conservation Act Extension Amendment of 1990	$1.00
101-263	S. 1521	Apr. 4	125	To provide for an increase in the maximum rates of basic pay for the police force of the National Zoological Park.	$1.00
101-264	S.J. Res. 250	Apr. 4	126	Designating April 1990 as "National Recycling Month"	$1.00
101-265	S.J. Res. 266	Apr. 4	128	Designating March 1990, as "United States Naval Reserve Month"	$1.00
101-266	S.J. Res. 190	Apr. 5	129	Designating April 9, 1990, as "National Former Prisoners of War Recognition Day"	$1.00
101-267	H.J. Res. 500	Apr. 6	130	To designate April 6, 1990, as "Education Day, U.S.A."	$1.00
101-268	H.R. 2692	Apr. 9	132	To amend the Woodrow Wilson Memorial Act of 1968 to provide that the Secretary of Education and two additional individuals from private life shall be members of the Board of Trustees of the Woodrow Wilson International Center for Scholars.	$1.00
101-269	S. 2151	Apr. 9	133	To permit the transfer of the obsolete submarine U.S.S. Requin to the Carnegie Institute in Pittsburgh, Pennsylvania, before the expiration of the 60-day waiting period that would otherwise be applicable to the transfer.	$1.00
101-270	H.R. 4099	Apr. 10	134	To suspend section 332 of the Agricultural Adjustment Act of 1938 for the 1991 crop of wheat.	$1.00
101-271	S. 388	Apr. 11	135	Federal Energy Regulatory Commission Member Term Act of 1990	$1.00
101-272	S. 1813	Apr. 18	137	To ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.	$1.00
101-273	S. 1949	Apr. 18	138	To amend the Labor Management Relations Act of 1947 to permit parties engaged in collective bargaining to bargain over the establishment and administration of trust funds to provide financial assistance for employee housing.	$1.00
101-274	H.R. 3968	Apr. 23	139	To further delay the applicability of certain amendments to the Public Health Service Act that relate to organ procurement organizations.	$1.00
101-275	H.R. 1048	Apr. 23	140	Hate Crime Statistics Act	$1.00
101-276	S.J. Res. 242	Apr. 25	142	Designating the week of April 22 through April 28, 1990, as "National Crime Victims' Rights Week".	$1.00
101-277	S. 1096	Apr. 30	143	To provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission.	$1.00
101-278	H.R. 2334	May 1	147	To redesignate the Post Office located at 300 East Ninth Street in Austin, Texas, as the "Homer Thornberry Judicial Building".	$1.00
101-279	S.J. Res. 258	May 1	148	To authorize the President to proclaim the last Friday of April 1990 as "National Arbor Day".	$1.00
101-280	H.J. Res. 553	May 4	149	To make technical changes in the Ethics Reform Act of 1989	$1.00
101-281	S. 2533	May 4	164	To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes.	$1.00
101-282	S.J. Res. 236	May 8	167	Designating May 6 through May 12, 1990, as "Be Kind to Animals and National Pet Week".	$1.00
101-283	H.R. 3802	May 9	168	To designate May 1990 as "Asian/Pacific American Heritage Month"	$1.00
101-284	S.J. Res. 153	May 9	169	Designating the third week in May 1990 as "National Tourism Week"	$1.00
101-285	S.J. Res. 230	May 9	170	To designate the period commencing on May 6, 1990, and ending on May 12, 1990, as "National Drinking Water Week".	$1.00

Public Law	Bill	Approval Date	104 Stat.	Title	Price
101-286	H.R. 1011	May 9	171	Wildfire Disaster Recovery Act of 1989	$1.00
101-287	H.J. Res. 546	May 10	177	Designating May 13, 1990, as "Infant Mortality Awareness Day"	$1.00
101-288	S. 1485	May 10	178	To grant the consent of Congress to the Quad Cities Interstate Metropolitan Authority Compact entered into between the States of Illinois and Iowa.	$1.00
101-289	S.J. Res. 224	May 10	182	To designate the month of May 1990, as "National Trauma Awareness Month"	$1.00
101-290	S.J. Res. 241	May 10	183	To designate the week of May 6, 1990 through May 13, 1990, as "Jewish Heritage Week".	$1.00
101-291	H.R. 922	May 17	184	To designate the building located at 1515 Sam Houston Street in Liberty, Texas, as the "M.P. Daniel and Thomas F. Calhoon, Senior, Post Office Building".	$1.00
101-292	H.R. 1472	May 17	185	To establish the Grand Island National Recreation Area in the State of Michigan, and for other purposes.	$1.00
101-293	H.R. 4637	May 17	192	To amend Public Law 101-86 to eliminate the 6-month limitation on the period for which civilian and military retirees may serve as temporary employees, in connection with the 1990 decennial census of population, without being subject to certain offsets from pay or other benefits.	$1.00
101-294	H.J. Res. 453	May 17	193	Designating May 1990 as "National Digestive Disease Awareness Month"	$1.00
101-295	H.J. Res. 490	May 17	195	Commemorating May 18, 1990, as the 25th anniversary of Head Start	$1.00
101-296	S. 1853	May 17	197	To award a congressional gold medal to Laurance Spelman Rockefeller	$1.00
101-297	H.R. 2890	May 22	200	To designate the Federal Building and United States Courthouse located at 750 Missouri Avenue in East St. Louis, Illinois, as the "Melvin Price Federal Building and United States Courthouse".	$1.00
101-298	S. 993	May 22	201	Biological Weapons Anti-Terrorism Act of 1989	$1.00
101-299	S.J. Res. 275	May 23	204	Designating May 13, 1990, as the "National Day in Support of Freedom and Human Rights in China and Tibet".	$1.00
101-300	S. 2300	May 24	205	To provide financial assistance to the Simon Wiesenthal Center in Los Angeles, California, for the education programs of the Museum of Tolerance.	$1.00
101-301	S. 1846	May 24	206	To make miscellaneous amendments to Indian laws, and for other purposes	$1.00
101-302	H.R. 4404	May 25	213	Dire Emergency Supplemental Appropriations for Disaster Assistance, Food Stamps, Unemployment Compensation Administration, and Other Urgent Needs, and Transfers, and Reducing Funds Budgeted for Military Spending Act of 1990.	1.25
101-303	H.R. 1805	May 29	250	To amend title 5, United States Code, to allow Federal annuitants to make contributions for health benefits through direct payments rather than through annuity withholdings if the annuity is insufficient to cover the required withholdings, and for other purposes.	$1.00
101-304	H.R. 3961	May 29	252	To redesignate the Federal building at 1800 5th Avenue, North in Birmingham, Alabama, as the "Robert S. Vance Federal Building and United States Courthouse".	$1.00
101-305	H.R. 3910	May 30	253	1992 National Assessment of Chapter 1 Act	$1.00
101-306	H.R. 644	June 6	260	East Fork of the Jemez River and the Pecos River Wild and Scenic Rivers Addition Act of 1989.	$1.00
101-307	S.J. Res. 231	June 6	262	To designate the week of June 10, 1990 through June 16, 1990, as "State-Supported Homes for Veterans Week".	$1.00
101-308	S.J. Res. 267	June 6	263	To authorize and request the President to designate May 1990 as "National Physical Fitness and Sports Month".	$1.00
101-309	S.J. Res. 251	June 18	264	Designating "Baltic Freedom Day"	$1.00
101-310	H.J. Res. 516	June 18	266	To designate the week beginning June 10, 1990, as "National Scleroderma Awareness Week".	$1.00
101-311	H.R. 4612	June 25	267	To amend title 11 of the United States Code regarding swap agreements and forward contracts.	$1.00
101-312	S. 2700	June 25	271	To authorize the Secretary of Veterans Affairs to proceed with a proposed administrative reorganization of the regional field offices of the Veterans Health Services and Research Administration of the Department of Veterans Affairs, notwithstanding the notice-and-wait provisions in section 210(b) of title 38, United States Code.	$1.00
101-313	S. 286	June 27	272	To establish Petroglyph National Monument and Pecos National Historical Park in the State of New Mexico, and for other purposes.	$1.00
101-314	S.J. Res. 245	June 28	281	Designating July 3, 1990, as "Idaho Centennial Day"	$1.00
101-315	H.J. Res. 575	June 28	282	To designate June 25, 1990, as "Korean War Remembrance Day"	$1.00
101-316	S.J. Res. 264	June 28	284	To commemorate the 50th anniversary of the National Sheriffs' Association	$1.00
101-317	S.J. Res. 246	June 29	285	Calling upon the United Nations to repeal General Assembly Resolution 3379	$1.00
101-318	H.R. 1622	July 3	287	Copyright Fees and Technical Amendments Act of 1989	$1.00
101-319	H.R. 3046	July 3	290	Copyright Royalty Tribunal Reform and Miscellaneous Pay Act of 1989	$1.00
101-320	H.R. 3545	July 3	292	To amend the Chesapeake and Ohio Canal Development Act to make certain changes relating to the Chesapeake and Ohio Canal National Historical Park Commission.	$1.00
101-321	H.R. 3834	July 3	293	Selma to Montgomery National Trail Study Act of 1989	$1.00
101-322	H.R. 5075	July 6	295	Amtrak Reauthorization and Improvement Act of 1990	$1.00
101-323	H.J. Res. 555	July 6	299	To commemorate the bicentennial of the enactment of the law which provided civil government for the territory from which the State of Tennessee was formed.	$1.00
101-324	S. 1999	July 6	300	To amend the Higher Education Amendments of 1986 to clarify the administrative procedures of the National Commission on Responsibilities for Financing Postsecondary Education, and for other purposes.	$1.00
101-325	S.J. Res. 271	July 6	302	To designate July 10, 1990 as "Wyoming Centennial Day"	$1.00
101-326	S.J. Res. 315	July 6	304	For the designation of July 22, 1990, as "Rose Fitzgerald Kennedy Family Appreciation Day".	$1.00
101-327	S.J. Res. 320	July 6	306	Designating July 2, 1990, as "National Literacy Day"	$1.00
101-328	S. 2124	July 8	308	National Space Council Authorization Act of 1990	$1.00
101-329	S.J. Res. 278	July 8	310	Designating July 19, 1990, as "Flight Attendant Safety Professionals' Day"	$1.00
101-330	H.R. 5149	July 12	311	To amend the Child Nutrition Act of 1966 to provide that the Secretary of Agriculture may not consider, in allocating amounts to a State agency under the special supplemental food program for women, infants, and children for the fiscal year 1991, any amounts returned by such agency for reallocation during the fiscal year 1990 and to allow amounts allocated to a State for such program for the fiscal year 1991 to be expended for expenses incurred in the fiscal year 1990.	$1.00
101-331	H.J. Res. 599	July 13	312	To designate July 1, 1990, as "National Ducks and Wetlands Day"	$1.00
101-332	H.R. 1028	July 16	313	Mount Rushmore Commemorative Coin Act	$1.00

Public Law	Bill	Approval Date	104 Stat.	Title	Price
101-333	H.R. 4252	July 16	316	To authorize the Secretary of the Air Force to purchase certain property at Pease Air Force Base, New Hampshire.	$1.00
101-334	H.R. 4525	July 16	318	Ethics in Government Act Amendment of 1990	$1.00
101-335	H.R. 2514	July 17	319	Thrift Savings Plan Technical Amendments Act of 1990	$1.00
101-336	S. 933	July 26	327	Americans with Disabilities Act of 1990	$1.50
101-337	H.R. 2844	July 27	379	To improve the ability of the Secretary of the Interior to properly manage certain resources of the National Park System.	$1.00
101-338	S.J. Res. 276	July 27	382	Designating the week beginning July 22, 1990, as "Lyme Disease Awareness Week"	$1.00
101-339	S.J. Res. 75	July 31	383	Relating to NASA and the International Space Year	$1.00
101-340	S.J. Res. 281	July 31	385	To designate September 13, 1990, as "National D.A.R.E. Day"	$1.00
101-341	S.J. Res. 339	July 31	387	To designate August 1, 1990, as "Helsinki Human Rights Day"	$1.00
101-342	H.J. Res. 591	Aug. 2	390	Designating the third Sunday of August of 1990 as "National Senior Citizens Day"	$1.00
101-343	H.J. Res. 577	Aug. 3	391	Designating the month of November 1990 as "National American Indian Heritage Month"	$1.00
101-344	H.R. 2843	Aug. 6	393	To establish the Tumacacori National Historical Park in the State of Arizona	$1.00
101-345	H.J. Res. 625	Aug. 7	395	Designating August 6, 1990, as "Voting Rights Celebration Day"	$1.00
101-346	H.J. Res. 548	Aug. 9	397	Designating the week of August 19 through 25, 1990, as "National Agricultural Research Week".	$1.00
101-347	S.J. Res. 77	Aug. 9	398	Recognizing the National Fallen Firefighters' Memorial at the National Fire Academy in Emmitsburg, Maryland, as the official national memorial to volunteer and career firefighters who die in the line of duty.	$1.00
101-348	S.J. Res. 256	Aug. 9	399	To designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week".	$1.00
101-349	S.J. Res. 316	Aug. 9	401	To designate the second Sunday in October of 1990 as "National Children's Day"	$1.00
101-350	H.R. 5350	Aug. 9	403	To provide for a temporary increase in the public debt limit	$1.00
101-351	H.R. 5432	Aug. 9	404	To extend the expiration date of the Defense Production Act of 1950	$1.00
101-352	H.R. 293	Aug. 10	405	Fire Safe Cigarette Act of 1990	$1.00
101-353	H.R. 3048	Aug. 10	408	To designate the Agricultural Research Service, United States Department of Agriculture, animal health research building in Clay Center, Nebraska, as the "Virginia D. Smith Animal Health Research Laboratory".	$1.00
101-354	H.R. 4790	Aug. 10	409	Breast and Cervical Cancer Mortality Prevention Act of 1990	$1.00
101-355	H.J. Res. 467	Aug. 10	416	Designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag.	$1.00
101-356	S. 1046	Aug. 10	417	Merrimack River Study Act of 1990	$1.00
101-357	S. 1524	Aug. 10	418	Pemigewasset River Study Act of 1989	$1.00
101-358	S. 1543	Aug. 10	419	To authorize the Board of Regents of Gunston Hall to establish a memorial to George Mason in the District of Columbia.	$1.00
101-359	S. 1875	Aug. 10	420	To redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area.	$1.00
101-360	S. 2952	Aug. 10	421	Energy Policy and Conservation Act Short-Term Extension Amendment of 1990	$1.00
101-361	S.J. Res. 296	Aug. 10	422	Designating August 7, 1990, as "National Neighborhood Crime Watch Day"	$1.00
101-362	S.J. Res. 343	Aug. 10	423	To designate August 13 through August 19, 1990, as "Home Health Aide Week"	$1.00
101-363	H.R. 4872	Aug. 14	424	National Advisory Council on the Public Service Act of 1990	$1.00
101-364	H.R. 76	Aug. 15	428	To amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system.	$1.00
101-365	H.R. 1159	Aug. 15	429	Juan Bautista de Anza National Historic Trail Act	$1.00
101-366	H.R. 1199	Aug. 15	430	Department of Veterans Affairs Nurse Pay Act of 1990	$1.00
101-367	H.R. 4035	Aug. 15	445	To designate the Federal building located at 777 Sonoma Avenue in Santa Rosa, California, as the "John F. Shea Federal Building".	$1.00
101-368	H.R. 4273	Aug. 15	446	Tuberculosis Prevention Amendments of 1990	$1.00
101-369	H.R. 4314	Aug. 15	448	To implement the Inter-American Convention on International Commercial Arbitration	$1.00
101-370	H.R. 5131	Aug. 15	451	To amend the Federal Aviation Act of 1958 to extend the civil penalty assessment demonstration program, and for other purposes.	$1.00
101-371	H.J. Res. 515	Aug. 15	453	Designating the week beginning September 16, 1990, as "National Give Kids a Fighting Chance Week".	$1.00
101-372	H.J. Res. 554	Aug. 15	454	Designating January 6, 1991 through January 12, 1991 as "National Law Enforcement Training Week".	$1.00
101-373	H.J. Res. 627	Aug. 15	455	Designating Labor Day weekend, September 1 through September 3, 1990, as "National Drive for Life Weekend".	$1.00
101-374	S. 2461	Aug. 15	456	Drug Abuse Treatment Waiting Period Reduction Amendments of 1990	$1.00
101-375	S.J. Res. 248	Aug. 15	460	To designate the month of September 1990 as "International Visitors' Month"	$1.00
101-376	H.R. 3086	Aug. 17	461	Civil Service Due Process Amendments	$1.00
101-377	H.R. 3248	Aug. 17	464	To revise the boundary of Gettysburg National Military Park in the Commonwealth of Pennsylvania, and for other purposes.	$1.00
101-378	S. 666	Aug. 17	468	To enroll twenty individuals under the Alaska Native Claims Settlement Act	$1.00
101-379	H.R. 498	Aug. 18	473	Indian Law Enforcement Reform Act	$1.00
101-380	H.R. 1465	Aug. 18	484	Oil Pollution Act of 1990	$2.50
101-381	S. 2240	Aug. 18	576	Ryan White Comprehensive AIDS Resources Emergency Act of 1990	$1.50
101-382	H.R. 1594	Aug. 20	629	Customs and Trade Act of 1990	$2.75
101-383	S. 2088	Sept. 15	727	Energy Policy and Conservation Act Amendments of 1990	$1.00
101-384	S. 3033	Sept. 18	737	To amend title 39, United States Code, to allow free mailing privileges to be extended to members of the Armed Forces while engaged in temporary military operations under arduous circumstances.	$1.00
101-385	H.J. Res. 568	Sept. 20	738	Designating the week beginning September 16, 1990, as "Emergency Medical Services Week".	$1.00
101-386	S. 2597	Sept. 20	739	To amend the Act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges.	$1.00
101-387	S.J. Res. 285	Sept. 20	741	To designate the period commencing September 9, 1990, and ending on September 15, 1990, as "National Historically Black Colleges Week".	$1.00
101-388	S.J. Res. 289	Sept. 20	742	To designate October 1990 as "Polish American Heritage Month"	$1.00

Public Law	Bill	Approval Date	104 Stat.	Title	Price
101-389	S.J. Res. 309	Sept. 20	744	Designating the month of October 1990 as "Crime Prevention Month"	$1.00
101-390	S.J. Res. 279	Sept. 21	745	To designate the week of September 16, 1990, through September 22, 1990, as "National Rehabilitation Week".	$1.00
101-391	H.R. 94	Sept. 25	747	Hotel and Motel Fire Safety Act of 1990	$1.00
101-392	H.R. 7	Sept. 25	753	Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990	$2.50
101-393	S.J. Res. 313	Sept. 25	844	Designating October 3, 1990, as "National Teacher Appreciation Day"	$1.00
101-394	S.J. Res. 331	Sept. 25	845	To designate the week of September 23 through 29, 1990, as "Religious Freedom Week"	$1.00
101-395	S.J. Res. 333	Sept. 25	847	To designate the week of September 30, 1990, through October 6, 1990, as"National Job Skills Week".	$1.00
101-396	H.R. 3265	Sept. 28	848	Federal Communications Commission Authorization Act of 1990	$1.00
101-397	H.R. 1101	Sept. 28	852	To extend the authorization of appropriations for the Water Resources Research Act of 1984 through the end of fiscal year 1994.	$1.00
101-398	H.R. 2174	Sept. 28	855	Mississippi River Corridor Study Commission Act of 1989	$1.00
101-399	H.R. 4501	Sept. 28	860	To provide for the acquisition of the William Johnson House and its addition to the Natchez National Historical Park, and for other purposes.	$1.00
101-400	S. 963	Sept. 28	861	Route 66 Study Act of 1990	$1.00
101-401	S. 2205	Sept. 28	863	Maine Wilderness Act of 1990	$1.00
101-402	H.R. 5747	Oct. 1	866	To provide for the temporary extension of certain programs relating to housing and community development, and for other purposes.	$1.00
101-403	H.J. Res. 655	Oct. 1	867	Making continuing appropriations for the fiscal year 1991, supplemental appropriations for "Operation Desert Shield" for the fiscal year 1990, and for other purposes.	$1.00
101-404	H.R. 2761	Oct. 2	875	United Services Organization's 50th Anniversary Commemorative Coin Act	$1.00
101-405	H.R. 5755	Oct. 2	878	To extend the temporary increase in the public debt limit	$1.00
101-406	H.R. 4962	Oct. 3	879	1992 Olympic Commemorative Coin Act	$1.00
101-407	H.R. 5725	Oct. 4	882	To extend the expiration date of the Defense Production Act of 1950	$1.00
101-408	S. 2075	Oct. 4	883	Indian Environmental Regulatory Enhancement Act of 1990	$1.00
101-409	H.R. 4773	Oct. 5	885	White House Conference on Small Business Authorization Act	$1.00
101-410	S. 535	Oct. 5	890	Federal Civil Penalties Inflation Adjustment Act of 1990	$1.00
101-411	S. 3155	Oct. 6	893	To extend the expiration date of the Defense Production Act of 1950 to October 20, 1990	$1.00
101-412	H.J. Res. 666	Oct. 9	894	Making further continuing appropriations for the fiscal year 1991, and for other purposes	$1.00
101-413	H.J. Res. 469	Oct. 11	898	To designate October 6, 1990, as "German-American Day"	$1.00
101-414	H.J. Res. 603	Oct. 11	899	To designate the month of October 1990 as "Country Music Month"	$1.00
101-415	S.J. Res. 301	Oct. 11	900	Designating October 1990 as "National Breast Cancer Awareness Month"	$1.00
101-416	H.R. 5643	Oct. 12	902	To grant a temporary extension on the authority under which the Government may accept the voluntary services of private-sector executives; to clarify the status of Federal employees assigned to private-sector positions while participating in an executive exchange program; and for other purposes.	$1.00
101-417	H.J. Res. 398	Oct. 12	904	To commemorate the centennial of the creation by Congress of Yosemite National Park	$1.00
101-418	H.J. Res. 482	Oct. 12	906	Designating March 1991 as "Irish-American Heritage Month"	$1.00
101-419	S. 1738	Oct. 12	907	To convey certain Oregon and California Railroad Grant Lands in Josephine County, Oregon, to the Rogue Community College District, and for other purposes.	$1.00
101-420	S. 2588	Oct. 12	908	To amend section 5948 of title 5, United States Code, to reauthorize physicians comparability allowances.	$1.00
101-421	H.R. 3007	Oct. 12	909	Drug and Alcohol Dependent Offenders Treatment Act of 1989	$1.00
101-422	H.R. 3897	Oct. 12	910	To authorize appropriations for the Administrative Conference of the United States for fiscal years 1991, 1992, 1993, and 1994, and for other purposes.	$1.00
101-423	S.J. Res. 57	Oct. 12	912	To establish a national policy on permanent papers	$1.00
101-424	S.J. Res. 181	Oct. 12	914	To establish calendar year 1992 as the "Year of Clean Water"	$1.00
101-425	H.R. 1243	Oct. 15	915	Department of Energy Metal Casting Competitiveness Research Act of 1990	$1.00
101-426	H.R. 2372	Oct. 15	920	Radiation Exposure Compensation Act	$1.00
101-427	S. 2806	Oct. 15	927	To redesignate The National System of Interstate and Defense Highways as The Dwight D. Eisenhower System of Interstate and Defense Highways.	$1.00
101-428	H.R. 5641	Oct. 15	928	Capitol Police Retirement Act	$1.00
101-429	S. 647	Oct. 15	931	Securities Enforcement Remedies and Penny Stock Reform Act of 1990	$1.00
101-430	S. 1230	Oct. 15	959	To authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes.	$1.00
101-431	S. 1974	Oct. 15	960	Television Decoder Circuitry Act of 1990	$1.00
101-432	H.R. 3657	Oct. 16	963	Market Reform Act of 1990	$1.00
101-433	S. 1511	Oct. 16	978	Older Workers Benefit Protection Act	$1.00
101-434	H.R. 435	Oct. 17	985	To amend the Appalachian Regional Development Act of 1965 to include Columbiana County, Ohio, as part of the Appalachian region.	$1.00
101-435	H.R. 971	Oct. 17	986	Telephone Operator Consumer Services Improvement Act of 1990	$1.00
101-436	H.R. 2809	Oct. 17	993	To provide for the conveyance of certain lands to the State of California, and for other purposes.	$1.00
101-437	H.R. 1677	Oct. 18	996	Children's Television Act of 1990	$1.00
101-438	H.R. 4758	Oct. 18	1001	Rio Grande American Canal Extension Act of 1990	$1.00
101-439	H.J. Res. 602	Oct. 18	1004	Designating October 1990 as "National Domestic Violence Awareness Month"	$1.00
101-440	S. 247	Oct. 18	1006	State Energy Efficiency Programs Improvement Act of 1990	$1.00
101-441	S. 830	Oct. 18	1017	To amend Public Law 99-647, establishing the Blackstone River Valley National Heritage Corridor Commission, to authorize the Commission to take immediate action in furtherance of its purposes and to increase the authorization of appropriations for the Commission.	$1.00
101-442	S. 2437	Oct. 18	1019	To authorize the acquisition of certain lands in the States of Louisiana and Mississippi for inclusion in the Vicksburg National Military Park, to improve the management of certain public lands in the State of Minnesota, and for other purposes.	$1.00
101-443	H.R. 3468	Oct. 19	1028	Connecticut Coastal Protection Act of 1990	$1.00
101-444	H.J. Res. 677	Oct. 19	1030	Making further continuing appropriations for the fiscal year 1991, and for other purposes	$1.00
101-445	H.R. 1608	Oct. 22	1034	National Nutrition Monitoring and Related Research Act of 1990	$1.00
101-446	H.R. 4522	Oct. 22	1045	Firefighters' Safety Study Act	$1.00
101-447	H.R. 4593	Oct. 22	1047	San Carlos Mineral Strip Act of 1990	$1.00
101-448	H.R. 4985	Oct. 22	1049	To designate the Federal building located at 51 Southwest 1st Avenue in Miami, Florida, as the "Claude Pepper Federal Building".	$1.00

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101-449	H.R. 5070	Oct. 22	1050	To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration and other services necessary for the John F. Kennedy Center for the Performing Arts, and for other purposes.	$1.00
101-450	S.J. Res. 304	Oct. 22	1052	To designate October 17, 1990, as "National Drug-Free Schools and Communities Education and Awareness Day".	$1.00
101-451	S.J. Res. 317	Oct. 22	1053	To designate the week of October 14, 1990, through October 20, 1990, as "National Radon Action Week".	$1.00
101-452	H.R. 3787	Oct. 24	1054	Chehalis River Basin Fishery Resources Study and Restoration Act of 1990	$1.00
101-453	H.R. 4279	Oct. 24	1058	Cash Management Improvement Act of 1990	$1.00
101-454	S. 2017	Oct. 24	1063	Eisenhower Exchange Fellowship Act of 1990	$1.00
101-455	S. 2540	Oct. 24	1067	To authorize the Board of Regents of the Smithsonian Institution to plan, design, construct, and equip space in the East Court of the National Museum of Natural History building, and for other purposes.	$1.00
101-456	S. 3046	Oct. 24	1068	To redesignate the Federal building located at 1 Bowling Green in New York, New York, as the "Alexander Hamilton United States Custom House".	$1.00
101-457	S. 3127	Oct. 24	1069	To designate the Department of Veterans Affairs Medical Center in Albany, New York, as the "Samuel S. Stratton Department of Veterans Affairs Medical Center".	$1.00
101-458	S.J. Res. 342	Oct. 24	1070	Designating October 1990 as "Ending Hunger Month"	$1.00
101-459	S.J. Res. 346	Oct. 24	1071	To designate October 20 through 28, 1990, as "National Red Ribbon Week for a Drug-Free America".	$1.00
101-460	S.J. Res. 349	Oct. 24	1074	Designating October 1990 as "Italian-American Heritage and Culture Month"	$1.00
101-461	H.J. Res. 681	Oct. 25	1075	Making further continuing appropriations for the fiscal year 1991, and for other purposes	$1.00
101-462	H.R. 4757	Oct. 25	1079	To provide for the extension of certain authority for the Marshal of the Supreme Court and the Supreme Court Police.	$1.00
101-463	H.J. Res. 214	Oct. 25	1080	Designating the week of October 22 through October 28, 1990, as "Eating Disorders Awareness Week".	$1.00
101-464	H.J. Res. 518	Oct. 25	1081	Designating October 13 through 20, 1990, as "American Textile Industry Bicentennial Week".	$1.00
101-465	S.J. Res. 158	Oct. 25	1082	Designating October 21 through October 27, 1990, as "World Population Awareness Week".	$1.00
101-466	H.J. Res. 682	Oct. 27	1084	Waiving certain enrollment requirements with respect to any reconciliation bill, appropriation bill, or continuing resolution for the remainder of the One Hundred First Congress.	$1.00
101-467	H.J. Res. 687	Oct. 28	1086	Making further continuing appropriations for the fiscal year 1991, and for other purposes	$1.00
101-468	S.J. Res. 270	Oct. 30	1088	To designate the period commencing February 17, 1991, and ending February 23, 1991, as "National Visiting Nurse Associations Week".	$1.00
101-469	S.J. Res. 323	Oct. 30	1090	Designating November 11 through 17, 1990, as "Geography Awareness Week"	$1.00
101-470	S.J. Res. 347	Oct. 30	1092	Designating April 7 through 13, 1991, as "National County Government Week"	$1.00
101-471	S.J. Res. 351	Oct. 30	1093	To designate the month of May, 1991 as "National Trauma Awareness Month"	$1.00
101-472	S.J. Res. 362	Oct. 30	1094	To designate the period commencing on November 18, 1990, and ending on November 24, 1990, as "National Adoption Week".	$1.00
101-473	S.J. Res. 366	Oct. 30	1096	To designate March 30, 1991, as "National Doctors Day"	$1.00
101-474	H.R. 4174	Oct. 30	1097	Administrative Office of the United States Courts Personnel Act of 1990	$1.00
101-475	H.R. 5579	Oct. 30	1102	To amend section 28(w) of the Mineral Leasing Act, and for other purposes	$1.00
101-476	S. 1824	Oct. 30	1103	Education of the Handicapped Act Amendments of 1990	$1.50
101-477	S. 2167	Oct. 30	1152	To reauthorize the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.	$1.00
101-478	S. 3091	Oct. 30	1157	To amend the Act incorporating the American Legion so as to redefine eligibility for membership therein.	$1.00
101-479	H.R. 3888	Oct. 31	1158	To allow a certain parcel of land in Rockingham County, Virginia, to be used for a child care center.	$1.00
101-480	H.R. 5749	Oct. 31	1160	American University Incorporation Amendments Act of 1990	$1.00
101-481	H.J. Res. 519	Oct. 31	1162	Designating August 29, 1990, as "National Sarcoidosis Awareness Day"	$1.00
101-482	H.J. Res. 566	Oct. 31	1163	Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 19, 1990, as "National Military Families Recognition Day".	$1.00
101-483	H.J. Res. 587	Oct. 31	1165	Committing to the private sector the responsibility for support of the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, and for other purposes.	$1.00
101-484	S. 1747	Oct. 31	1167	Ponca Restoration Act	$1.00
101-485	S. 2059	Oct. 31	1171	Weir Farm National Historic Site Establishment Act of 1990	$1.00
101-486	S. 2203	Oct. 31	1174	Zuni Land Conservation Act of 1990	$1.00
101-487	S. 3032	Oct. 31	1177	To designate the planned Department of Veterans Affairs Medical Center in Honolulu, Hawaii, as the "Spark M. Matsunaga Department of Veterans Affairs Medical Center".	$1.00
101-488	S. 3216	Oct. 31	1178	To designate the Department of Veterans Affairs Medical Center in Charleston, South Carolina, as the "Ralph H. Johnson Department of Veterans Affairs Medical Center".	$1.00
101-489	S.J. Res. 293	Oct. 31	1179	To designate November 16, 1990, as "National Philanthropy Day"	$1.00
101-490	S.J. Res. 307	Oct. 31	1180	Designating November 11 through November 17, 1990, as "National Women Veterans Recognition Week".	$1.00
101-491	S.J. Res. 324	Oct. 31	1181	Designating June 2 through 8, 1991, as a "Week for the National Observance of the 50th Anniversary of World War II".	$1.00
101-492	S.J. Res. 353	Oct. 31	1182	To designate September of 1991 as "National Rice Month"	$1.00
101-493	H.R. 5209	Oct. 31	1184	Drug and Household Substance Mailing Act of 1990	$1.00
101-494	H.R. 5933	Oct. 31	1185	To provide for the temporary extension of the certain laws relating to housing and community development.	$1.00
101-495	S. 2737	Oct. 31	1187	Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act	$1.00
101-496	S. 2753	Oct. 31	1191	Developmental Disabilities Assistance and Bill of Rights Act of 1990	$1.00
101-497	S.J. Res. 388	Oct. 31	1205	Waiving certain enrollment requirements with respect to S. 2830, the Food, Agriculture, Conservation and Trade Act of 1990.	$1.00
101-498	H.R. 4111	Nov. 2	1207	Strategic and Critical Minerals Act of 1990	$1.00
101-499	S. 2846	Nov. 2	1209	To authorize and direct the Secretary of the Interior to conduct a study of the feasibility of establishing a unit of the National Park System to interpret and commemorate the origins, development, and progression of jazz in the United States, and for other purposes.	$1.00

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101-500	H.R. 3386	Nov. 3	1213	Sanitary Food Transportation Act of 1990	$1.00
101-501	H.R. 4151	Nov. 3	1222	Augustus F. Hawkins Human Services Reauthorization Act of 1990	$1.75
101-502	H.R. 4238	Nov. 3	1285	Vaccine Immunization Amendments of 1990	$1.00
101-503	H.R. 5367	Nov. 3	1292	Seneca Nation Settlement Act of 1990	$1.00
101-504	H.R. 5794	Nov. 3	1298	Age Discrimination Claims Assistance Amendments of 1990	$1.00
101-505	H.J. Res. 520	Nov. 3	1300	Granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact.	$1.00
101-506	H.R. 5268	Nov. 5	1315	Rural Development, Agriculture, and Related Agencies Appropriations Act, 1991	1.25
101-507	H.R. 5158	Nov. 5	1351	Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1991.	1.25
101-508	H.R. 5835	Nov. 5	1388	Omnibus Budget Reconciliation Act of 1990	$18.00
101-509	H.R. 5241	Nov. 5	1389	Treasury, Postal Service and General Government Appropriations Act, 1991	$2.75
101-510	H.R. 4739	Nov. 5	1485	National Defense Authorization Act for Fiscal Year 1991	$11.00
101-511	H.R. 5803	Nov. 5	1856	Department of Defense Appropriations Act, 1991	$1.75
101-512	H.R. 5769	Nov. 5	1915	Department of the Interior and Related Agencies Appropriations Act, 1991	$1.75
101-513	H.R. 5114	Nov. 5	1979	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991	$2.75
101-514	H.R. 5019	Nov. 5	2074	Energy and Water Development Appropriations Act, 1991	$1.00
101-515	H.R. 5021	Nov. 5	2101	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1991.	$1.50
101-516	H.R. 5229	Nov. 5	2155	Department of Transportation and Related Agencies Approprations Act, 1991	$1.25
101-517	H.R. 5257	Nov. 5	2190	Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1991.	$1.25
101-518	H.R. 5311	Nov. 5	2224	District of Columbia Appropriations Act, 1991	$1.00
101-519	H.R. 5313	Nov. 5	2240	Military Construction Appropriations Act, 1991	$1.00
101-520	H.R. 5399	Nov. 5	2254	Legislative Branch Appropriations Act, 1991	$1.25
101-521	H.R. 5759	Nov. 5	2287	To amend the Age Discrimination in Employment Act of 1967 to clarify the application of such Act to employee group health plans.	$1.00
101-522	H.R. 3840	Nov. 5	2288	To establish the Newberry National Volcanic Monument in the State of Oregon, and for other purposes.	$1.00
101-523	H.R. 5144	Nov. 5	2297	To provide for the study of certain historical and cultural resources located in the city of Vancouver, Washington, and for other purposes.	$1.00
101-524	H.R. 2331	Nov. 6	2301	Deceptive Mailings Prevention Act of 1990	$1.00
101-525	H.R. 5275	Nov. 6	2305	Congressional Award Amendments of 1990	$1.00
101-526	H.R. 5482	Nov. 6	2309	District of Columbia Revenue Bond Act of 1990	$1.00
101-527	H.R. 5702	Nov. 6	2311	Disadvantaged Minority Health Improvement Act of 1990	$1.00
101-528	H.J. Res. 525	Nov. 6	2336	Designating November 18 through 24, 1990, "National Family Caregivers Week"	$1.00
101-529	H.J. Res. 667	Nov. 6	2337	To designate November 16, 1990, as "National Federation of the Blind Day"	$1.00
101-530	S. 1890	Nov. 6	2338	To amend title 5, United States Code, to provide relief from certain inequities remaining in the crediting of National Guard technician service in connection with civil service retirement, and for other purposes.	$1.00
101-531	S. 3062	Nov. 6	2341	To transfer the responsibility for operation and maintenance of Highway 82 Bridge at Greenville, Mississippi, to the States of Mississippi and Arkansas.	$1.00
101-532	H.J. Res. 669	Nov. 7	2342	To salute and congratulate the people of Poland as they commemorate the two-hundredth anniversary of the adoption of the Polish Constitution on May 3, 1991.	$1.00
101-533	S. 2516	Nov. 7	2344	Foreign Direct Investment and International Financial Data Improvements Act of 1990	$1.00
101-534	H.R. 3911	Nov. 7	2352	Attendant Allowance Adjustment Act	$1.00
101-535	H.R. 3562	Nov. 8	2353	Nutrition Labeling and Education Act of 1990	$1.00
101-536	H.R. 4090	Nov. 8	2368	Pecos National Historical Park Expansion Act of 1990	$1.00
101-537	H.R. 4299	Nov. 8	2370	To authorize a study of the fishery resources of the Great Lakes, and for other purposes	$1.00
101-538	H.R. 5004	Nov. 8	2376	To amend the Wild and Scenic Rivers Act to designate certain segments of the Mills River in the State of North Carolina for potential addition to the wild and scenic rivers system.	$1.00
101-539	H.R. 5433	Nov. 8	2377	To direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes.	$1.00
101-540	H.R. 5872	Nov. 8	2379	To amend title I of the Employee Retirement Income Security Act of 1974 to require qualifying employer securities to include interest in publicly traded partnerships.	$1.00
101-541	H.J. Res. 649	Nov. 8	2380	Approving the extension of nondiscriminatory treatment (most favored nation treatment) to the products of Czechoslovakia.	$1.00
101-542	S. 580	Nov. 8	2381	Student Right-To-Know and Campus Security Act	$1.00
101-543	S. 1756	Nov. 8	2389	Maine Acadian Culture Preservation Act	$1.00
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101-545	H.R. 5007	Nov. 14	2394	To designate the facility of the United States Postal Service located at 100 South John F. Kennedy Drive, Carpentersville, Illinois, as the "Robert McClory Post Office Building".	$1.00
101-546	H.R. 5409	Nov. 14	2395	To designate the Post Office building at 222 West Center Street in Orem, Utah, as the "Arthur V. Watkins Post Office Building".	$1.00
101-547	H.J. Res. 673	Nov. 14	2396	To designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families.	$1.00
101-548	S. 3156	Nov. 14	2398	To correct a clerical error in Public Law 101-383	$1.00
101-549	S. 1630	Nov. 15	2399	To amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.	$9.50
101-550	H.R. 1396	Nov. 15	2713	Securities Acts Amendments of 1990	$1.00
101-551	H.R. 1463	Nov. 15	2733	National Capital Transportation Amendments of 1990	$1.00
101-552	H.R. 2497	Nov. 15	2736	Administrative Dispute Resolution Act	$1.00
101-553	H.R. 3045	Nov. 15	2749	Copyright Remedy Clarification Act	$1.00
101-554	H.R. 3069	Nov. 15	2751	Displaced Homemakers Self-Sufficiency Assistance Act	$1.00
101-555	H.R. 3310	Nov. 15	2758	To authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991.	$1.00
101-556	H.R. 4630	Nov. 15	2762	Baca Location No. 1 Land Acquisition and Study Act of 1990	$1.00
101-557	H.R. 5112	Nov. 15	2766	Home Health Care and Alzheimer's Disease Amendments of 1990	$1.00
101-558	H.R. 5113	Nov. 15	2772	Injury Control Act of 1990	$1.00

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101-546	H.R. 5409	Nov. 14	2395	To designate the Post Office building at 222 West Center Street in Orem, Utah, as the "Arthur V. Watkins Post Office Building".	$1.00
101-547	H.J. Res. 673	Nov. 14	2396	To designate November 2, 1990, as a national day of prayer for members of American military forces and American citizens stationed or held hostage in the Middle East, and for their families.	$1.00
101-548	S. 3156	Nov. 14	2398	To correct a clerical error in Public Law 101-383	$1.00
101-549	S. 1630	Nov. 15	2399	To amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.	$9.50
101-550	H.R. 1396	Nov. 15	2713	Securities Acts Amendments of 1990	$1.00
101-551	H.R. 1463	Nov. 15	2733	National Capital Transportation Amendments of 1990	$1.00
101-552	H.R. 2497	Nov. 15	2736	Administrative Dispute Resolution Act	$1.00
101-553	H.R. 3045	Nov. 15	2749	Copyright Remedy Clarification Act	$1.00
101-554	H.R. 3069	Nov. 15	2751	Displaced Homemakers Self-Sufficiency Assistance Act	$1.00
101-555	H.R. 3310	Nov. 15	2758	To authorize appropriations for activities of the National Telecommunications and Information Administration for fiscal years 1990 and 1991.	$1.00
101-556	H.R. 4630	Nov. 15	2762	Baca Location No. 1 Land Acquisition and Study Act of 1990	$1.00
101-557	H.R. 5112	Nov. 15	2766	Home Health Care and Alzheimer's Disease Amendments of 1990	$1.00
101-558	H.R. 5113	Nov. 15	2772	Injury Control Act of 1990	$1.00

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101-622	H.R. 5264	Nov. 21	3347	To authorize modification of the boundaries of the Alaska Maritime National Wildlife Refuge.	$1.00
101-623	H.R. 5567	Nov. 21	3350	International Narcotics Control Act of 1990	$1.00
101-624	S. 2830	Nov. 28	3359	Food, Agriculture, Conservation, and Trade Act of 1990	$21.00
101-625	S. 566	Nov. 28	4079	Cranston-Gonzalez National Affordable Housing Act	$10.00
101-626	H.R. 987	Nov. 28	4426	Tongass Timber Reform Act	$1.00
101-627	H.R. 2061	Nov. 28	4436	Fishery Conservation Amendments of 1990	$1.25
101-628	H.R. 2570	Nov. 28	4469	To provide for the designation of certain public lands as wilderness in the State of Arizona.	$1.25
101-629	H.R. 3095	Nov. 28	4511	Safe Medical Devices Act of 1990	$1.00
101-630	H.R. 3703	Nov. 28	4531	To authorize the Rumsey Indian Rancheria to convey a certain parcel of land	$1.25
101-631	H.R. 4567	Nov. 28	4569	To authorize an exchange of lands in South Dakota and Colorado	$1.00
101-632	H.R. 4834	Nov. 28	4575	To provide for a visitor center at Salem Maritime National Historic Site in the Commonwealth of Massachusetts.	$1.00
101-633	H.R. 5428	Nov. 28	4577	Illinois Wilderness Act of 1990	$1.00
101-634	S. 319	Nov. 28	4580	Salt Lake City Watershed Improvement Act of 1990	$1.00
101-635	S. 845	Nov. 28	4583	Food and Drug Administration Revitalization Act	$1.00
101-636	S. 1859	Nov. 28	4586	To restructure repayment terms and conditions for loans made by the Secretary of the Interior to the Wolf Trap Foundation for the Performing Arts for the reconstruction of the Filene Center in Wolf Trap Farm Park in Fairfax County, Virginia, and for other purposes.	$1.00
101-637	S. 1893	Nov. 28	4589	Asbestos School Hazard Abatement Reauthorization Act of 1990	$1.00
101-638	S. 1939	Nov. 28	4599	To extend the authorization of appropriations for the Taft Institute	$1.00
101-639	S. 2628	Nov. 28	4600	Mental Health Amendments of 1990	$1.00
101-640	S. 2740	Nov. 28	4604	Water Resources Development Act of 1990	$1.50
101-641	S. 3012	Nov. 28	4654	Independent Safety Board Act Amendments of 1990	$1.00
101-642	S.J. Res. 329	Nov. 28	4659	To designate the week of November 3, 1990, to November 10, 1990, as "National Week to Commemorate the Victims of the Famine in the Ukraine, 1932-1933", and to commemorate the Ukrainian famine of 1932-1933 and the policies of Russification to suppress Ukrainian identity.	$1.00
101-643	S.J. Res. 364	Nov. 28	4661	To designate the third week of February 1991 as "National Parents and Teachers Association Week".	$1.00
101-644	H.R. 2006	Nov. 29	4662	To expand the powers of the Indian Arts and Crafts Board, and for other purposes	$1.00
101-645	H.R. 3789	Nov. 29	4673	Stewart B. McKinney Homeless Assistance Amendments Act of 1990	$2.50
101-646	H.R. 5390	Nov. 29	4761	To prevent and control infestations of the coastal inland waters of the United States by the zebra mussel and other nonindigenous aquatic nuisance species, to reauthorize the National Sea Grant College Program, and for other purposes.	$1.00
101-647	S. 3266	Nov. 29	4789	Crime Control Act of 1990	5.00
101-648	S. 303	Nov. 29	4969	Negotiated Rulemaking Act of 1990	$1.00
101-649	S. 358	Nov. 29	4978	Immigration Act of 1990	3.00
101-650	H.R. 5316	Dec. 1	5089	Judicial Improvements Act of 1990	$1.50

NOTE: The text of laws may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-275-3030). Some slip laws may not yet be available for purchase.

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A cumulative list of Public Laws for the second session will be published in Part II of the **Federal Register** on December 10, 1990.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1989. The CFR volume issued January 1, 1987, should be retained.

[3] No amendments to this volume were promulgated during the period Apr. 1, 1989 to Mar. 30, 1990. The CFR volume issued April 1, 1989, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1990. The CFR volume issued July 1, 1989, should be retained.

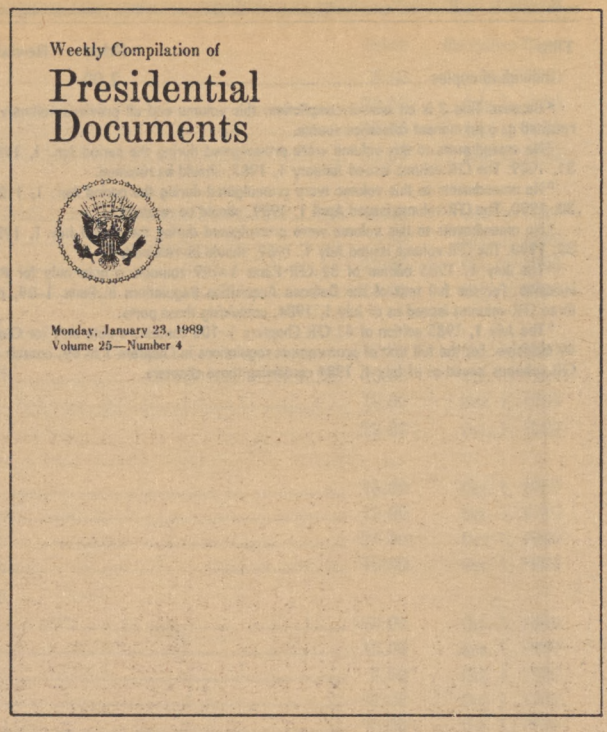
[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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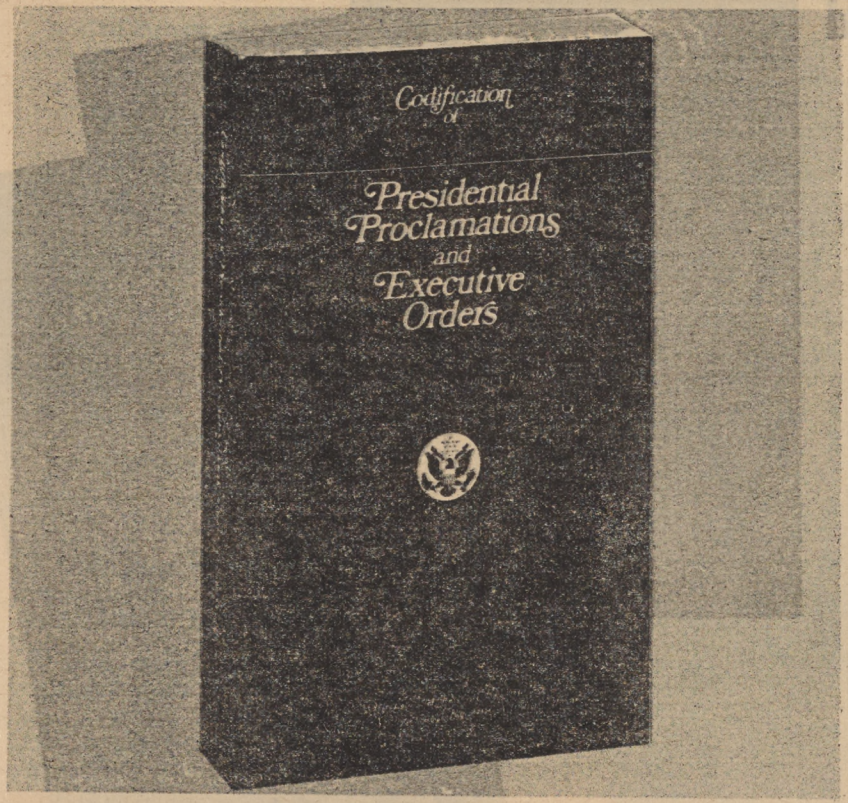
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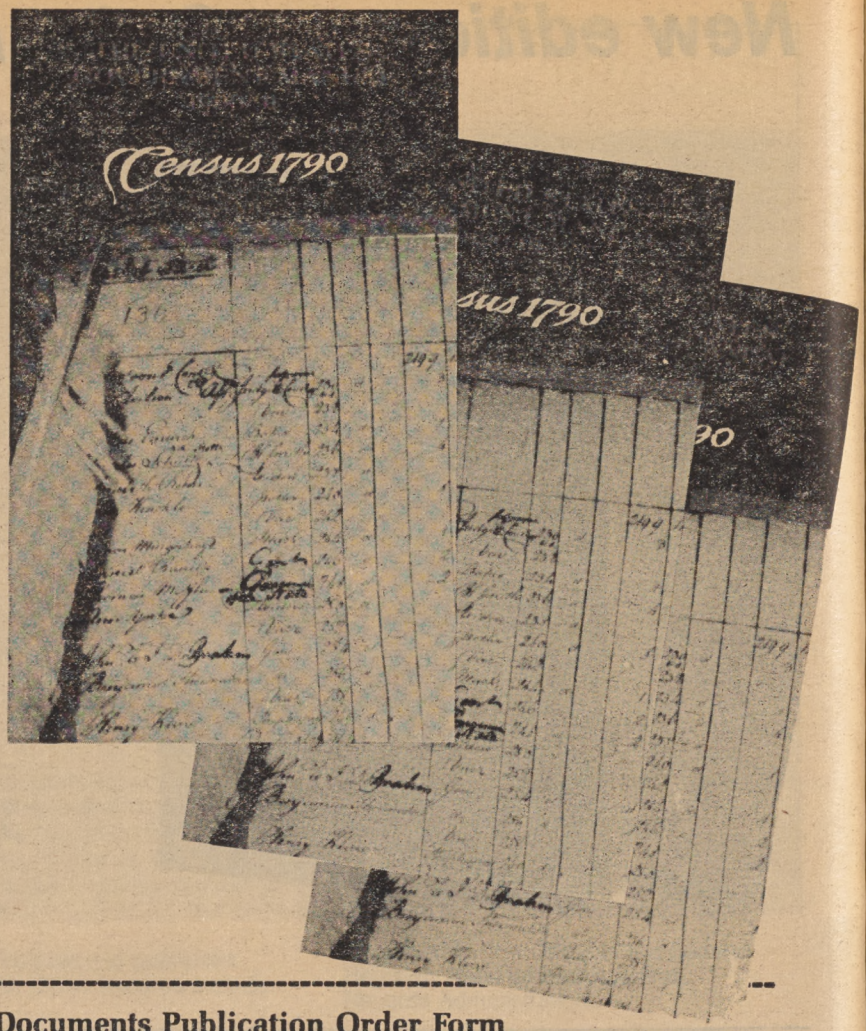
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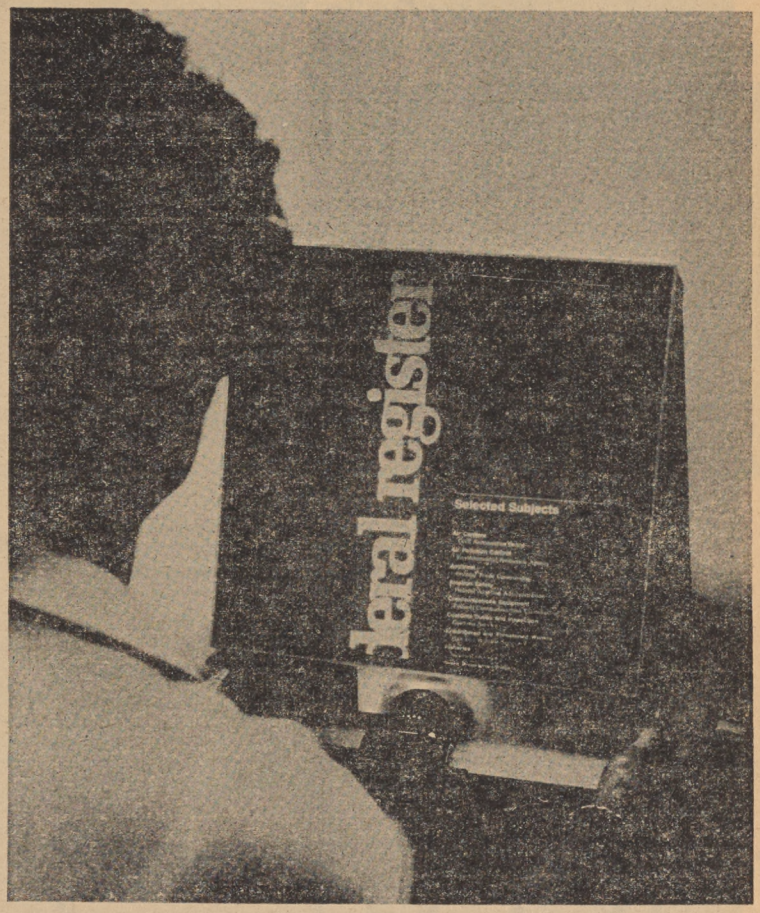
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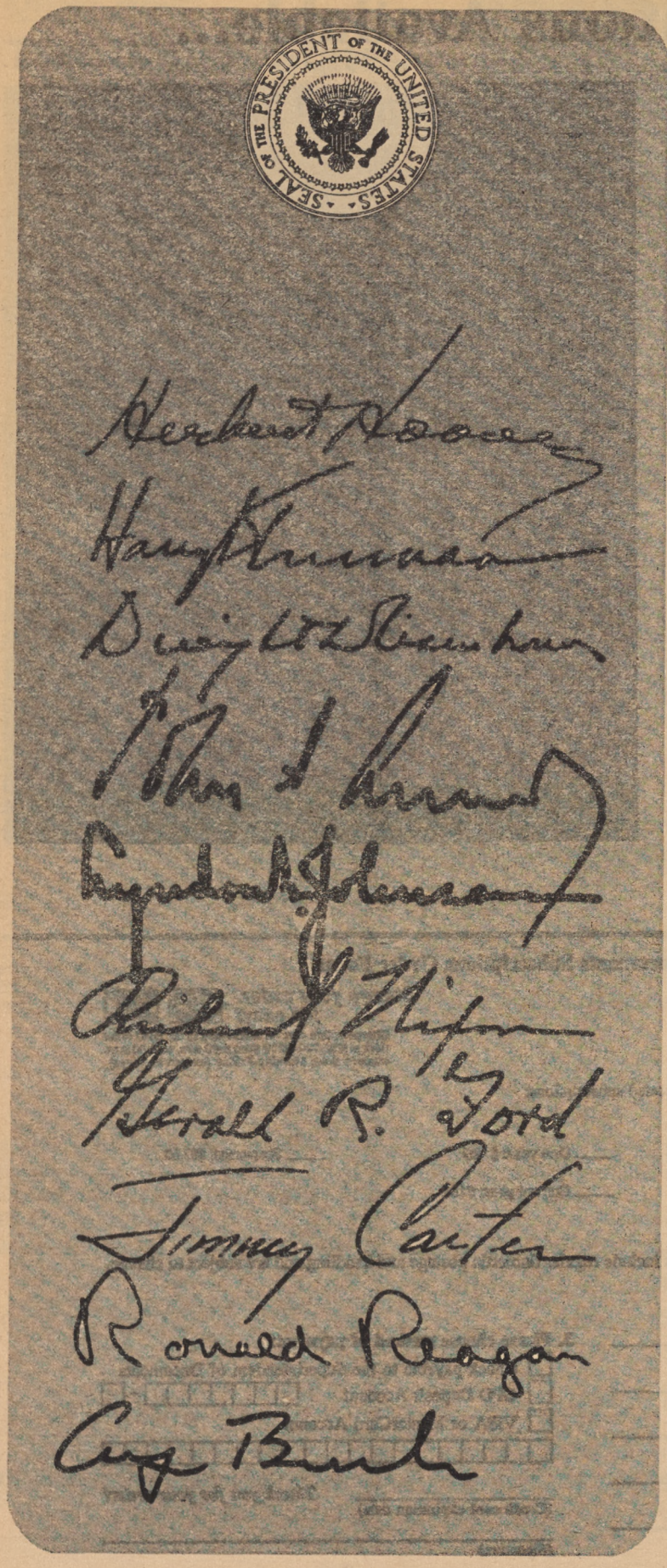
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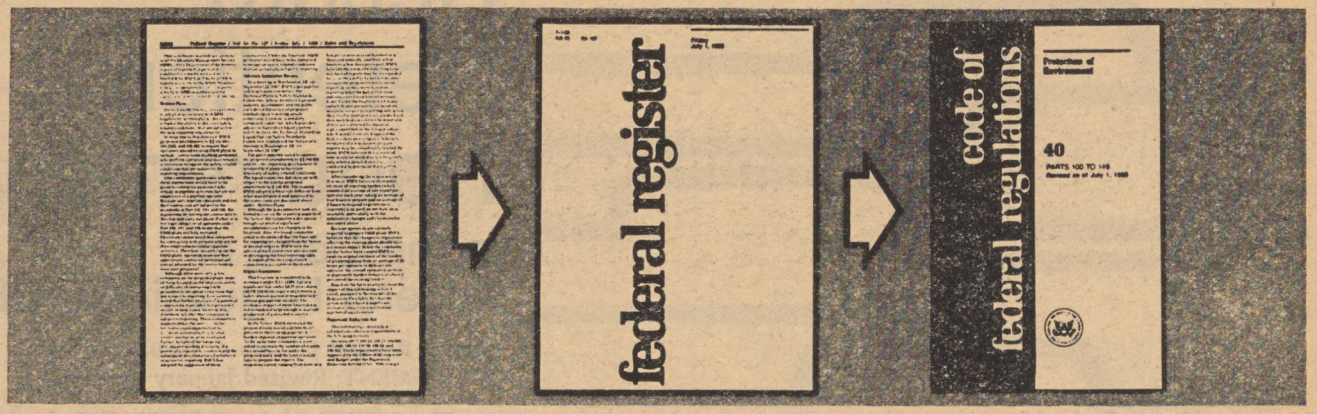
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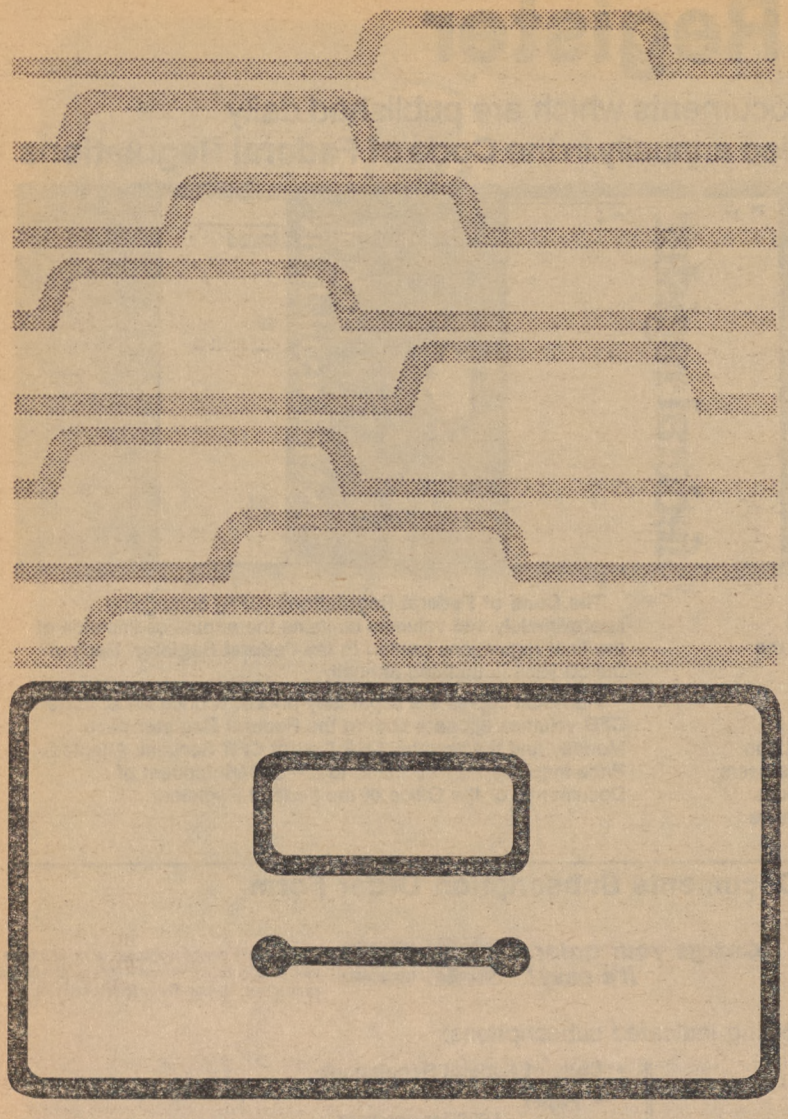
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