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Presidential Documents

Title 3—

The President

Proclamation 6355 of October 11, 1991

National Children's Day, 1991

By the President of the United States of America

A Proclamation

Few joys here on earth can compare to that of a happy childhood. As we advance in years, we begin to recognize it as one of life's greatest blessings. Of course, the ideal childhood is more than a precious age of innocence or of long, carefree days at play. It is also an exciting time of learning and discovery that shapes our values and our sense of identity, equipping us for the challenges and opportunities of the future. Because the person who enjoys a healthy, happy childhood is most likely to become a healthy, well-adjusted adult, we do well to recall our obligation—as parents and as a Nation—to protect, nurture, and provide for our children.

Most parents are keenly aware of their responsibilities of providing food, shelter, clothing, and basic health care—the fundamental material support that is essential to every youngster's physical and emotional well-being. Yet parents also have a responsibility to nurture the spiritual and intellectual development of the child whom God has entrusted to their care.

Indeed, whether he or she is their biological, adoptive, or foster child, every youngster needs encouragement and discipline, as well as attention and affection. By word, deed, and example, parents must help their children recognize the meaning of love and respect—and the difference between right and wrong. Parents can and should help their children to recognize their own talent and potential, and instill in them an appreciation of the American traditions of freedom and tolerance. Finally, because the days of childhood can never be reclaimed, we must allow our children to *be* children, never rushing them in our constant attempts to educate and inspire.

Of course, meeting the responsibilities of parenting is not easy. For many families, putting food on the table and making ends meet is an enormous challenge in itself. Filling a child's emotional and spiritual needs and material demands requires faith, sacrifice, fortitude, and commitment—virtues that are the measure of love and the strength of families. Yet the importance of giving our children ample amounts of love, discipline, and guidance cannot be overstated; statistics on drug abuse, adolescent pregnancy, and other problems underscore the consequences of offering too little, too late. And we know that while government can and should assist parents in fulfilling their duties, it is no substitute for stable, loving family life.

Thus, as we honor America's youngest citizens on this National Children's Day, let us recall the essential ingredients of a healthy, happy, and secure childhood and reaffirm our commitment to helping every American youngster to enjoy the best possible start in life. As it is written in Scripture, "Train up a child in the way that he should go, and when he is old, he will not depart from it."

The Congress, by Senate Joint Resolution 126, has designated the second Sunday in October 1991 as "National Children's Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim Sunday, October 13, 1991, as National Children's Day. I call on the American people to observe that day with appropriate programs, ceremonies, and activities designed to honor children and to emphasize the importance of their physical and emotional well-being. I also urge all Americans to reflect on the importance of stable, loving families to children and to our Nation.

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

George Bush

[FR Doc. 91-21093
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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Docket No. FV-91-353]

Procedure in Administering Complaints Alleging Violations of the Perishable Agricultural Commodities Act Relating to Products Produced in Distinct Geographic Areas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action finalizes the establishment of the procedure for initiating complaints alleging violations of the PACA from the sale of perishable agricultural commodities improperly labeled or branded with a unique name or as having come from a distinct geographic area. The complaining party shall pay for the costs of the investigation. Agency officials will provide the complaining party an estimate of the costs of an investigation before a formal investigation commences.

Section 1309 of the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Act) makes it a violation of the PACA to use the unique name or geographical designation of a commodity to promote the sale of a similar commodity produced outside the distinct geographic area and provides that the complaining party shall bear the cost of investigating such violations. It is estimated that an average investigation will cost approximately $2,000.

EFFECTIVE DATE: November 15, 1991.

FOR FURTHER INFORMATION CONTACT: Floyd E. White, (202) 447-5073, Misbranding Officer, PACA Branch, room 2095 So., Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Washington, DC 20090-6456.

SUPPLEMENTARY INFORMATION:

Background

This rule has been determined to be a non-major rule under the criteria contained in Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq*, the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small business entities and has determined that this rule will not have a significant economic impact on a substantial number of small business entities. This rule pertains only to commodities which have a unique name or come from a distinct geographic area and are promoted pursuant to a federal marketing order under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*). This regulation would impact on only a limited number of firms that deal with these unique commodities and the regulation applies equally to both large and small firms. This rule will not alter the market share or competitive position of small businesses relative to large firms.

Section 1309(a) of the 1990 Act refers to any perishable agricultural commodity which is subject to a Federal marketing order, is traditionally identified as being produced in a distinct geographic area, State, or region, and whose unique identity based on its production in a distinct geographic area has been promoted with funds collected from producer contributions pursuant to such marketing order. According to section 1309 (b), it is a violation of paragraphs (4) and (5) of section 2 of the PACA for a person to use the unique name or geographic designation of such commodity to promote the sale of a similar commodity produced outside the distinct area, State, or region.

Section 1309(c) of the 1990 Act provides that a person bringing a complaint under this section shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of that section. Section 1309(d) specifically prohibits the Secretary from increasing the fees collected under the PACA to offset costs associated with the operation of this section. This rule provides a mechanism whereby funds can be collected in advance of the formal investigation of a complaint to ensure that fees currently collected under the Act will not be used to pay the costs of the investigation.

The rule requires that any person complaining that a commission merchant, dealer, or broker, as those terms are defined in the PACA, has used a unique name or distinct geographic area to promote the sale of a perishable agricultural commodity produced outside that area, file a written complaint with the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture. The complaint must set forth in detail all the essential particulars of the alleged violation and must be accompanied by a non-refundable $250.00 preliminary investigation fee. Upon receiving a written complaint accompanied by the fee, the Director will order a preliminary investigation of the complaint. If the preliminary investigation discloses no apparent violation, no further action will be taken and the complaining person will be so notified. If, however, as a result of the investigation, the Director finds reasonable cause for further investigation, he shall advise the complaining party of the estimate of the additional costs necessarily incurred by the further investigation, and the complaining person shall tender the requested fees and charges. The estimated fee shall be calculated on the basis of the hourly salary rates of a GS 5, Step 4, for clerical time and GS 13, Step 1, for professional time, plus benefits and other costs. At the conclusion of the investigation, the Director shall determine whether the evidence supports the filing of a formal administrative complaint alleging a violation of the Perishable Agricultural Commodities Act.

Discussion of Comments

On June 11, 1991, the U.S. Department of Agriculture (USDA) established an interim rule that amended 7 CFR part 46 of the Regulations under the Perishable Agricultural Commodities Act (PACA). This interim rule was published on the above date in the **Federal Register** (56FR 26759-26761). The 30-day period for written comments on the interim rule expired July 10, 1991. During the comment period, USDA received no written comments.

List of Subjects in 7 CFR Part 46

Administrative practices and procedures, Agricultural commodities, Brokers, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 46 is amended as follows:

PART 46 [AMENDED]

1. The authority citation for part 46 continues to read as follows:

Authority: Sec. 15, 46 Stat. 537; 7 U.S.C. 499o.

2. Section 46.48 is revised to read as follows:

§ 46.48 Procedure for investigating complaints involving commodities of a unique nature or coming from a distinct geographic area.

(a) *Scope:* This section provides for the payment of fees and the investigation of allegations of misrepresentation or misbranding in which the commodity which is misbranded or misrepresented is purported to be a commodity of a unique name or geographical designation which is defined as:

(1) A perishable agricultural commodity as that term is defined under the Perishable Agricultural Commodities Act, 1930;

(2) Subject to a federal marketing order under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*);

(3) Traditionally identified as being produced in a distinct geographic area, State, or region; and

(4) Of a unique identity, based on such distinct geographic area, which has been promoted with funds collected through producer contributions pursuant to such marketing order.

(b) *Filing complaints:* (1) Any person desiring to complain of a possible violation by any commission merchant, dealer, or broker as a result of misrepresentation or misbranding of any commodity subject to these regulations may file a complaint with the Secretary of Agriculture and request an investigation of the complaint by the Secretary.

(2) Complaints shall be made in writing setting forth all the essential details. including but not limited to:

(i) The name and address of each complaining person;

(ii) The name and address of each person against whom the complaint is made;

(iii) The commodity, approximate quantity of the commodity, and circumstances of alleged misrepresentation or misbranding;

(iv) The current location of the commodity;

(v) If shipped, the shipping and destination points of the commodity;

(vi) A statement of all other known material facts with respect to the complaint; and

(vii) Copies of any documents or evidence of any kind in the possession of the complainant regarding the alleged violation.

(3) The complaint shall be accompanied by a non-refundable $250.00 filing fee made payable to the Agricultural Marketing Service (see paragraph (e) of this section Collection of fees).

(4) The complaint, all supporting evidence, and fee should be mailed to: PACA Branch, room 2095 So., Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456.

(c) *Handling complaints.* (1) Upon receiving a written complaint, supporting evidence, and the $250.00 preliminary investigation fee from a complaining person, the Director, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture shall order a preliminary investigation to determine if the complaint can be substantiated. If the initial investigation discloses no violation of the Act, no further action shall be taken and the complaining person shall be informed of the finding. The $250.00 filing fee shall be considered full payment for the preliminary investigation.

(2) If the Director finds reasonable cause for further investigation, the complaining person shall be duly notified of the findings. Prior to any further investigation, the Director shall advise the complaining person of the estimated fees and charges which the complaining person must pay. In calculating the estimated fees, the Director shall use the hourly salary rate of a GS–5, Step 4, for clerical time and GS–13, Step 1, for professional time, plus benefits and other related expenses including travel associated with the investigation.

(3) At the conclusion of the investigation, the Department will inform the complaining person of the results, provided, however, that any findings, the release of which may jeopardize an ongoing formal disciplinary proceeding initiated under the PACA, may be withheld pending completion of the disciplinary case.

(d) *Investigative authority.* Investigation of a complaint of this Section shall be deemed to be an investigation under Section 6(b) of the Perishable Agricultural Commodities Act (7 U.S.C. 499f(b)).

(e) *Collection of fees.* (1) Any person bringing a complaint, alleging a violation of section 1309 of the Food, Agriculture, Conservation, and Trade Act of 1990 shall reimburse the Secretary of Agriculture for any and all costs associated with the enforcement of that section.

(2) A non-refundable $250.00 fee for the preliminary investigation shall accompany the written complaint.

(3) An estimate of fees and charges to conduct the further investigation calculated in accordance with paragraph (c)(2) of this section will be provided the complaining person.

(i) Payment of the fees and charges shall be collected in advance by the Secretary prior to continuation of investigation of a complaint.

(ii) Payment of fees and charges may be made by cash, check, or money order payable to the Agricultural Marketing Service.

(iii) In the event that the estimated fees and charges prove to be inadequate, the complaining person will be informed of the deficiency. Any complaining person that does not reimburse the Secretary full payment for fees and charges associated with a completed investigation shall be liable to be proceeded against in any court of competent jurisdiction in a suit by the United States to collect any monetary or other damages connected with the investigation.

(iv) The complaining person will be reimbursed by the Secretary for any overpayment of fees and charges, except for the $250.00 preliminary investigation fee which is nonrefundable.

Dated: October 9, 1991.

Daniel Haley,

Administrator.

[FR Doc. 91–24758 Filed 10–15–91; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 985

[Docket No. FV–91–264FR]

Spearmint Oil Produced in the Far West; Amendment of Rules and Regulations Regarding the Issuance of Additional Allotment Base to New Producers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the administrative rules and regulations of the spearmint oil marketing order regarding the issuance of additional allotment base to new producers. The

amendment will divide the production area into four regions for the purpose of distributing an equal portion of the additional allotment base to each of the four regions for each class of spearmint oil during a marketing year. It will provide a greater opportunity to new producers in some regions of the production area to receive allotment base. This action was unanimously recommended by the Spearmint Oil Administrative Committee (Committee), which is responsible for the local administration of the order.

EFFECTIVE DATE: October 16, 1991.

FOR FURTHER INFORMATION CONTACT: Christian D. Nissen, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2524–S, Washington, DC 20090–6456; telephone: (202) 447–5127.

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

This rule has been reviewed 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 nine handlers of spearmint oil produced in the Far West who are subject to regulation under the spearmint oil marketing order and approximately 253 producers of spearmint oil in the regulated area. Of the 253 producers, 160 hold Scotch (Class 1) spearmint oil allotment base and 136 producers hold Native (Class 3) spearmint oil allotment base. 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 spearmint oil producers and handlers may be classified as small entities.

The Committee unanimously recommended at its February 27, 1991, meeting that § 985.153 of the administrative rules and regulations of the spearmint oil marketing order be amended by dividing the production area into four regions for the purpose of distributing additional allotment base to new producers. This amendment is authorized under § 985.53(d)(3) of the spearmint oil marketing order which states that the Committee may establish rules and regulations to determine the distribution of additional allotment base.

The spearmint oil marketing order is a volume control program which authorizes the regulation of spearmint oil produced in the Far West through annual allotment percentages and salable quantities by class of spearmint oil. The salable quantity limits the quantity of each class of spearmint oil that may be marketed from each season's crop. Each producer is allotted a share of the salable quantity by applying the allotment percentage to that producer's allotment base for the applicable class of spearmint oil. Handlers may not purchase spearmint oil in excess of a producer's annual allotment, or from producers who have not been issued an allotment base under the spearmint oil marketing order.

Section 985.53(d)(1) of the spearmint oil marketing order provides that an amount representing no more than 1 percent of the total allotment base for each class of spearmint oil be issued annually and distributed equally as additional allotment base to both new and existing producers. Fifty percent of this additional allotment base is made available for existing producers and 50 percent is made available to new producers. A "new producer" is defined, under § 985.153(a)(1), as any individual who was never issued an allotment base by the Committee for a class of oil in any capacity either as an individual, or as a member of a partnership, corporation, or other business unit.

The Committee, under § 985.153(c)(1) of the spearmint oil marketing order, is authorized to place in a lot for drawing the names of all eligible new producers who have applied for additional allotment base. Each new producer whose name is drawn is issued an equal amount of the available additional allotment base.

Currently, most Far West spearmint oil is produced in portions of Washington, Idaho and Oregon. Knowledge of and interest in the production of spearmint oil by non-producers in these areas is higher than in areas containing fewer spearmint oil producers. More requests from new producers for allotment base are submitted from these areas than from other regions within the production area. Less opportunity is realized for the production of spearmint oil by potential new producers from other areas of production.

The Committee unanimously recommended that the production area be divided into four regions for the purpose of distributing additional allotment base to new producers. The production area, which includes the States of Washington, Idaho, Oregon, and portions of California, Nevada, Montana, and Utah, would be divided as follows: Region 1 would consist of those portions of Montana and Utah included in the production area; region 2 would consist of Oregon and those portions of Nevada and California included in the production area; region 3 would consist of Idaho; and region 4 would consist of Washington.

The Committee, after determining the amount of additional allotment base for each class of spearmint oil to be made available to new producers, will allocate each region one-fourth of the total additional allotment base for each class of oil. New producers in each of the four regions will submit requests for allotment base and the Committee will determine whether the new producers requesting allotment base have the ability to produce spearmint oil. Eligible producers will then be selected by lot from each region.

If a region does not have enough eligible applicants to use the available additional allotment base for that region, the undistributed quantity of additional allotment base will then be divided equally among the remaining regions.

This amendment makes an equal portion of the additional allotment base available to each of the four regions for each class of spearmint oil during a marketing year. It will provide a greater opportunity to new producers in some regions of the production area, such as portions of Montana, Utah, Nevada, Central Oregon, and California, to receive allotment base and undertake the production of spearmint oil.

Notice of this action was published in the **Federal Register** on May 31, 1991 (56 FR 24742). Written comments were

accepted through August 10, 1991. Five comments were received.

Of the five comments received, three did not address the substance of the proposed rule. These comments questioned Montana's inclusion in the marketing order and demanded Montana's release from it. The two remaining comments opposed changing the process for distributing new allotment base in the manner prescribed. One comment came from a grower, and the other was from the legal counsel for Jet Farms, a grower and handler under the order.

In the comment received from the grower, the commenter opposed the new process for distributing additional allotment base because it does not reflect the historical proportions of production in the various states. In response, the purpose of changing the process of distributing additional allotment base is to provide a greater opportunity to new producers in some regions of the production area. A new allotment distribution process based on historic proportions of production would reduce the opportunities of receiving base for these same producers.

As mentioned above, most Far West spearmint oil is produced in portions of Washington, Idaho and Oregon. Because of this fact, knowledge of and interest in the production of spearmint oil by non-producers in these areas is higher, and more requests from new producers for allotment base are submitted. Consequently, the number of applications from these areas is greater than from any of the other regions within the production area. Dividing the production area according to the historical proportions of production, or in a way reflecting historical proportions, would provide applicants from these areas with a greater chance of receiving new base, and would reduce the opportunities available to new producers from states which currently have little or no spearmint production. Thus, distributing new allotment base using historical proportions of production as recommended by the commenter would not effectuate the purpose of this rule.

The comment from the legal counsel for Jet Farms opposed the new process for distributing additional allotment base for several reasons. In his first point, the commenter stated that in proposing this rule the Department had violated section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). However, the Department maintains the proposed rule was issued within the requirements of the APA.

The commenter's second point was that the distribution of new producer base to geographic regions and the resulting restriction or enlargement of the new producer's opportunity to receive allotment base is not authorized by § 985.53 of the order. However, § 985.53(d)(3) authorizes the Committee, with the approval of the Secretary, to establish rules and regulations governing the distribution of additional allotment bases. This section of the order specifically instructs the Committee to consider the area where the oil will be produced when establishing such rules. This rule is within the authority provided under § 985.53.

In his third point, the commenter objects to the change in the methodology of allotting new base because he feels it is discriminatory in nature. The commenter provided an analysis to prove his point. However, one of the main premises of his analysis is invalid. The commenter based his conclusions on the assumption that most applications would come from persons who already have, or have access to, the equipment necessary for spearmint production, meaning peppermint growers and the families of existing spearmint growers. The commenter made this assumption because he believes the cost of distilling equipment would be a barrier to entry for new producers. However, this assumption is not supported by data concerning existing producers. Of existing producers of peppermint and existing producers of spearmint, less than 30 percent own their own oil extracting still.

In his analysis, the commenter attempted to define the number of potential growers in each region. This required the commenter to make subjective judgements weakening his analysis. The division of the production area into regions was not based on the number of potential spearmint producers, but on the number of actual producers.

As stated before, the purpose of this rule is to provide new producers in some areas a greater chance to receive additional allotment base pursuant to § 985.153 of the order's rules and regulations. Under the current system of allotting additional base, every applicant for new base has an equal chance of receiving an allotment. However, the chances of each region receiving base are not equal.

Most Far West spearmint oil is produced in portions of Washington, Idaho and Oregon. Of these states, Washington holds 82 percent of the allotment base. During the last 10 years, Washington has received 75 percent of the new allotment base, 80 percent in the last 5 years. With Washington receiving three or more of the four new allotment bases in most years, the chances of receiving a share of the new allotment base for other states in the production area have been small.

This amendment makes an equal portion of the additional base available to each of the four regions during a marketing year. Each region will have an equal opportunity to receive an allotment of new base. Thus, growers from regions currently under represented will have a greater opportunity to receive an allotment.

Based on an examination of the number of applications for additional allotment received in the past and the numbers received from each region, the new distribution process will improve the chances of new growers receiving base in each of the first three regions, and leaves the opportunities for potential growers in Region 4 virtually unchanged. In cases where a region does not have enough eligible applicants to use the available additional allotment base for that region, the undistributed quantity of additional allotment base will then be divided equally among the remaining regions. Therefore, it is the Department's position this action is not discriminatory in nature.

The commenter's last point alleges that the Committee intentionally drafted this rule to favor Montana producers in an effort to relieve political and other pressures on the marketing order. The Committee was examining the concept behind this rule long before some Montana growers began taking steps to be excluded from the order. The benefits of this rule extend further than just Montana, and it achieves its purpose by advancing the opportunities of potential new producers in several regions.

Therefore, for the reasons stated, no change has been made to the proposed rule in response to the comments received.

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

After consideration of all relevant material presented, including the Committee's recommendation, the comments received, and other available information, it is found that this action, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register**

because the drawings for new allotment base are scheduled for early October and prospective new producers should be provided the opportunity to benefit from the changed regulations. Therefore, this action should be expedited.

List of Subjects in 7 CFR Part 985

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

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

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

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

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601.674.

2. Section 985.153 is amended by revising paragraph (c)(1) to read as follows:

§ 985.153 Issuance of additional allotment base to new and existing producers.

(a) * * *

(b) * * *

(c) *Issuance*—(1) *New producers.* (i) Regions for the purpose of issuing additional allotment base to new producers, the production area is divided into the following regions:

(A) Region 1. Those portions of Montana and Utah included in the production area.

(B) Region 2. The State of Oregon and those portions of Nevada and California included in the production area.

(C) Region 3. The State of Idaho.

(D) Region 4. The State of Washington.

(ii) Each year, the Committee shall determine the size of the minimum economic enterprise required to produce each class of oil. The Committee shall thereafter calculate the number of new producers who will receive allotment base under this section for each class of oil. An equal number of grants of the additional allotment base for each class of oil that is available to new producers each marketing year shall be issued to producers within each region. The Committee shall include that information in its announcements to new producers in each region informing them when to submit requests for allotment base. The Committee shall determine whether the new producers requesting additional base have ability to produce spearmint oil. The names of all eligible new producers in each region shall be placed in a lot for drawing. A separate drawing shall be held for each region. If, in any marketing year, there are not enough requests from eligible new producers in a region to use all of the additional allotment base available for that region, such unused allotment base shall be divided equally among eligible new producers within the other regions receiving allotment base pursuant to this section. The Committee shall immediately notify each new producer whose name was drawn and issue that producer an allotment base in the appropriate amount.

* * * * *

Dated: October 9, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–24876 Filed 10–15–91; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 15 and 16

RIN 3150–AD44

Salary Offset Procedures for Collecting Debts Owed by Federal Employees to the Federal Government

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is establishing procedures to collect certain debts owed by Federal employees to the NRC and other Federal agencies by deduction(s) from their pay. This final rule, which establishes a new 10 CFR part 16, is necessary to conform NRC regulations to the Debt Collection Act of 1982 which requires each agency to establish a salary offset program for the collection of these debts. This rule also amends NRC's debt collection procedures to specify that these salary offset provisions apply to the collection of certain debts owed by Federal employees to the NRC and other agencies.

EFFECTIVE DATE: November 15, 1991.

FOR FURTHER INFORMATION CONTACT: Diane B. Dandois, Chief, License Fee and Debt Collection Branch, Division of Accounting and Finance, Office of the Controller, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7225.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97–365) requires each agency to establish a salary offset program for the collection of debts owed by Federal employees to the Federal Government.

The Office of Personnel Management (OPM) regulations governing the salary offset program establish certain minimum standards and procedures that must be incorporated into each agency's salary offset regulations (5 CFR 550.1104) and require each agency to submit proposed regulations to OPM for review and approval prior to their becoming final rules (5 CFR 550.1105). The NRC forwarded a copy of its proposed rule to OPM in order to comply with 5 CFR 550.1105. OPM approved NRC's proposed rule on salary offset. The NRC published the proposed rule for public comment on September 26, 1990 (55 FR 39285). No comments were received.

Therefore, the NRC is establishing a new part in 10 CFR Ch. I (part 16) that would contain the provisions necessary to meet the requirements of the Debt Collection Act of 1982. The new 10 CFR part 16 provides procedures for the NRC to collect debts owed to the Federal Government by administrative offset from a Federal employee's salary without his or her consent. This rule applies to all Federal employees who owe debts to the NRC and to current employees of the NRC who owe debts to other Federal agencies.

In addition, this final rule is making conforming amendments to 10 CFR part 15, Debt Collection Procedures. These amendments are necessary to specify that the salary offset provisions of 10 CFR part 16 apply to the collection of certain debts owed by Federal employees to the NRC and other agencies.

Finding of No Significant Environmental Impact

The Commission has determined, under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental statement is not required. Amending the procedures that the NRC uses to collect debts which are owed to it and other Federal agencies by Federal employees through salary offset will have no radiological environmental impact offsite and no impact on occupational radiation exposure onsite. The rule does not affect nonradiological plant effluents and has no other environmental impact.

The environmental assessment and finding of no significant impact, on which this determination is based, are available for inspection at the NRC

Public Document Room, 2120 L Street (Lower Level), NW., Washington, DC.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Analysis

This final rule will bring NRC procedures for collecting debts owed it and other Federal agencies by Federal employees into conformance with current statutory and regulatory guidance and requirements and, as such, does not have significant impact on state and local governments and geographical regions, health, safety, and the environment; nor does it represent substantial costs to licensees, the NRC, or other Federal agencies. This constitutes the regulatory analysis for this rule.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule does not have a significant economic impact on a substantial number of small entities since it does not cover debts owed the NRC by small entities. As a result, a regulatory flexibility analysis has not been prepared.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule and, therefore, that a backfit analysis is not required for this final rule because it does not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects

10 CFR Part 15

Administrative practice and procedure, Debt collection procedure.

10 CFR Part 16

Administrative practice and procedure, Debt collection.

For the reasons set out in the preamble and under authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; the Debt Collection Act of 1982, as amended; the Federal Claims Collection Act of 1966, as amended; 5 CFR 550.1101–1108, subpart K; and 5 U.S.C. 552 and 553, the NRC is adopting 10 CFR part 16 and the following amendments to 10 CFR part 15.

PART 15—[AMENDED]

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

Authority: Secs. 161, 186, 68 Stat. 948, 955, as amended (42 U.S.C. 2201, 2236); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 3, Pub. L. 89–508, 80 Stat. 308, as amended (31 U.S.C. 3711, 3717, 3718); sec. 1, Pub. L. 97–258, 96 Stat. 972 (31 U.S.C. 3713); sec. 5, Pub. L. 89–508, 80 Stat. 308, as amended (31 U.S.C. 3716); Pub. L. 97–365, 96 Stat. 1749 (31 U.S.C. 3701–3719); Federal Claims Collection Standards, 4 CFR parts 101–105.

2. Section 15.1 is amended by revising paragraph (b)(1) to read as follows:

§ 15.1 Application.

* * * * *

(b) * * *

(1) A claim against an employee for erroneous payment of pay and allowances subject to waiver under 5 U.S.C. 5584 are covered by the provisions of 10 CFR part 16.

* * * * *

3. Section 15.2 is amended by adding a new definition "salary offset" as follows:

§ 15.2 Definitions.

* * * * *

Salary offset means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his/her consent.

4. Section 15.5 is amended by revising paragraph (b)(6) to read as follows:

§ 15.5 Claims that are covered.

* * * * *

(b) * * *

(6) A claim once it becomes subject to salary offset under 5 U.S.C. 5514. These claims are subject to the provisions of 10 CFR part 16.

5. Section 15.21 is amended by revising paragraph (c) to read as follows:

§ 15.21 Written demands for payment.

* * * * *

(c) The NRC shall normally send only one written demand to a debtor who is a current NRC employee. The procedure described in § 15.33 and 10 CFR part 16 will be followed if full payment is not received either 30 days from the date the initial written demand was mailed or hand delivered. If the NRC cannot obtain full payment by following the procedures described in § 15.33 and 10 CFR part 16, the NRC may follow other collection procedures described in this subpart.

* * * * *

6. Section 15.27 is revised to read as follows:

§ 15.27 Contact with debtor's employing agency.

If the debtor is employed by the Federal government or is a member of the military establishment or the Coast Guard, collection by offset must be accomplished in accordance with 5 U.S.C. 5514 and the provisions of 10 CFR part 16.

7. Section 15.33 is amended by revising paragraphs (c) and (d)(4)(ii) to read as follows:

§ 15.33 Collection by administrative offset.

* * * * *

(c) Salary offset is governed by 5 U.S.C. 5514 and the provisions of 10 CFR part 16.

(d) * * *

(4) * * *

(ii) Debts once they become subject to the salary offset provisions of 5 U.S.C. 5514 and 10 CFR part 16; or

* * * * *

8. Section 15.35 is amended by revising the introductory text of paragraph (b) to read as follows:

§ 15.35 Payments.

* * * * *

(b) *Payment in installments.* If a debtor furnishes satisfactory evidence of inability to pay a claim in one lump sum, payment in regular installments may be arranged. Evidence may consist of a financial statement or a signed statement that the debtor's application for a loan to enable the debtor to pay the claim in full was rejected. Except for a claim described in 5 U.S.C. 5514 and codified in 10 CFR part 16, all installment payment arrangements must be in writing and require the payment of interest, and administrative charges.

* * * * *

9. A new part 16 is added to 10 CFR Ch. I.

PART 16—SALARY OFFSET PROCEDURES FOR COLLECTING DEBTS OWED BY FEDERAL EMPLOYEES TO THE FEDERAL GOVERNMENT

Sec.

16.1 Purpose and scope.
16.3 Definitions.
16.5 Application.
16.7 Notice requirements.
16.9 Hearing.
16.11 Written decision.
16.13 Coordinating offset with another Federal agency.
16.15 Procedures for salary offset.
16.17 Refunds.
16.19 Statute of limitations.

Sec.
16.21 Non-waiver of rights.
16.23 Interest, penalties, and administrative charges.

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201), sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); sec. 3, Pub. L. 89–508, 80 Stat. 308, as amended (31 U.S.C. 3711, 3717, 3718); sec. 5, Pub. L. 89–508, 80 Stat. 308, as amended (31 U.S.C. 3716), Debt Collection Act of 1982, Pub. L. 97–365, 96 Stat. 1749–1758; Federal Claims Collection Standards, 4 CFR parts 101–105; 5 U.S.C. 5514, as amended; 5 CFR 550.1101–550.1108.

§ 16.1 Purpose and scope.

(a) This part provides procedures for the collection by administrative offset of a Federal employee's salary without his/her consent to satisfy certain debts owed to the Federal Government. This part applies to all Federal employees who owe debts to the Nuclear Regulatory Commission (NRC) and to current employees of the NRC who owe debts to other Federal agencies. This part does not apply when the employee consents to recovery from his/her current pay account.

(b) These procedures do not apply to debts or claims arising under:

(1) The Internal Revenue Code of 1954, as amended, 26 U.S.C. 1 *et seq.*;

(2) The Social Security Act, 42 U.S.C. 301 *et seq.*;

(3) The tariff laws of the United States; or

(4) Any case where a collection of a debt by salary offset is explicitly provided for or prohibited by another statute.

(c) These procedures do not apply to any adjustment to pay arising out of an employee's selection of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

(d) These procedures do not preclude the compromise, suspension, or termination of collection action where appropriate under the standards implementing the Federal Claims Collection Act, 31 U.S.C. 3711 et seq., 4 CFR parts 101–105.

(e) This part does not preclude an employee from requesting waiver of an overpayment under 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716 or in any way questioning the amount or validity of the debt by submitting a subsequent claim to the General Accounting Office. This part does not preclude an employee from requesting a waiver pursuant to other statutory provisions applicable to the particular debt being collected.

§ 16.3 Definitions.

For the purposes of this part, the following definitions apply:

Administrative charges are those amounts assessed by NRC to cover the costs of processing and handling delinquent debts due the Government.

Administrative offset means withholding money payable by the United States Government to, or held by the Government for, a person to satisfy a debt the person owes the United States Government.

Agency means an executive agency as is defined at 5 U.S.C. 105 including the U.S. Postal Service, the U.S. Postal Rate Commission, a military department as defined at 5 U.S.C. 102, an agency or court in the judicial branch, an agency of the legislative branch including the U.S. Senate and House of Representatives and other independent establishments that are entities of the Federal Government.

Creditor agency means the agency to which a debt is owed.

Debt means an amount that has been determined by an appropriate NRC official or an appropriate official of another agency to be owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interests, fines, forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

Disposable pay means the amount that remains from an employee's current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay after required deductions for social security; Federal, state or local income taxes; health insurance premiums; retirement contributions; life insurance premiums; Federal employment taxes; and any other deductions that are required to be withheld by law. Deductions described in 5 CFR 581.105 (b) through (f) are excluded when determining disposable pay subject to salary offset.

Employee means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

FCCS means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR parts 101–105.

Hearing official means an individual responsible for conducting any hearing with respect to the existence or amount of a debt claimed or the repayment schedule if not established by written agreement between the employee and the NRC, and who renders a decision on the basis of this hearing.

Paying agency means the agency that employs the individual who owes the debt and authorizes the payment of his/her current pay.

Salary offset means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

Waiver means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by 5 U.S.C. 5584, 10 U.S.C. 2774, 32 U.S.C. 716, 5 U.S.C. 8346(b), or any other law.

§ 16.5 Application.

The regulations in this part are to be followed when:

(a) The NRC is owed a debt by an individual currently employed by another Federal agency;

(b) The NRC is owed a debt by an individual who is a current employee of the NRC; or

(c) The NRC employs an individual who owes a debt to another Federal agency.

§ 16.7 Notice requirements.

(a) If the NRC is the creditor agency, deductions will not be made unless the NRC provides the employee with a signed written notice of the debt at least 30 days before salary offset commences. The notice will be delivered in person or by certified or registered mail, return receipt requested, with receipt returned as proof of delivery.

(b) The written notice must contain:

(1) A statement that the debt is owed and an explanation of its origin, nature, and amount;

(2) The NRC's intention to collect the debt by deducting from the employee's current disposable pay account;

(3) The amount, frequency, proposed beginning date, and duration of the intended deduction(s);

(4) An explanation of interest, penalties, and administrative charges, including a statement that these charges will be assessed unless excused in accordance with the Federal Claims Collection Standards at 4 CFR parts 101–105;

(5) The employee's right to inspect and copy government records pertaining to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of these records;

(6) If not previously provided, the opportunity (under terms agreeable to

the NRC) to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment of the debt in lieu of offset (4 CFR 102.2(e)). The agreement must be in writing, signed by both the employee and the NRC, and documented in the NRC's files;

(7) The employee's right to a hearing conducted by an official arranged for by the NRC (an administrative law judge, or alternatively, a hearing official not under the control of the head of the agency) if a petition is filed as prescribed in § 16.9;

(8) The methods and time period for petitioning for hearings;

(9) A statement that the timely filing of a petition for a hearing will stay the commencement of collection proceedings;

(10) A statement that a final decision on the hearing will be issued not later than 60 days after the filing of the petition requesting the hearing unless the employee requests and the hearing official grants a delay in the proceedings;

(11) A statement that knowingly false or frivolous statements, representations, or evidence may subject the employee to appropriate disciplinary procedures under chapter 75 of title 5, United States Code and 5 CFR part 752, penalties under the False Claims Act, sections 3729–3731 of title 31, United States Code or other applicable statutory authority, or criminal penalties under section 286, 287, 1001 and 1002 of title 18, United States Code or any other applicable statutory authority;

(12) A statement of other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(13) Unless there are contractual or statutory provisions to the contrary, a statement that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.

§ 16.9 Hearing.

(a) *Request for hearing.* (1) An employee shall file a petition for a hearing in accordance with the instructions outlined in the creditor agency's notice of offset.

(2) If the NRC is the creditor agency, a hearing may be requested by filing a written petition stating why the employee disputes the existence or amount of the debt or the repayment schedule if it was not established by written agreement between the employee and the NRC. The employee shall sign the petition and fully identify and explain with reasonable specificity all the facts, evidence, and witnesses, if any, which the employee believes support his or her position. The petition for a hearing must be received no later than fifteen (15) calendar days after receipt of the notice of offset unless the employee can show that the delay in meeting the deadline date was because of circumstances beyond his or her control or because of failure to receive notice of the time limit (unless otherwise aware of it).

(b) *Hearing procedures.* (1) The hearing will be presided over by a hearing official arranged by NRC (an administrative law judge or, alternatively, a hearing official not under the supervision or control of the head of the agency.)

(2) The hearing must conform to procedures contained in the Federal Claims Collection Standards 4 CFR 102.3(c). The burden is on the employee to demonstrate either that the existence or the amount of the debt is in error or that the terms of the repayment schedule would result in undue financial hardship or would be against equity and good conscience.

(3) An employee is entitled to representation of his or her choice at any stage of the proceeding. NRC attorneys may not be provided as representatives for the debtor. The NRC will not compensate the debtor for representation expenses, including hourly fees for attorneys, travel expenses, and costs for reproducing documents.

§ 16.11 Written decision.

(a) The hearing official will issue a written opinion no later than 60 days after the hearing.

(b) The written opinion must include:

(1) A statement of the facts presented to demonstrate the nature and origin of the alleged debt;

(2) The hearing official's analysis, findings, and conclusions;

(3) The amount and validity of the debt; and

(4) The repayment schedule, where appropriate.

§ 16.13 Coordinating offset with another Federal agency.

(a) *The NRC as the creditor agency.* When the NRC determines that an employee of another Federal agency owes a delinquent debt to the NRC, the NRC will, as appropriate:

(1) Arrange for a hearing upon the proper petitioning by the employee;

(2) Certify in writing that the employee owes the debt, the amount and basis of the debt, the date on which payment is due, the date the Government's right to collect the debt accrued, and that NRC procedures for salary offset implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management;

(3) If collection must be made in installments, the NRC must advise the paying agency of the amount or percentage of disposable pay to be collected in each installment;

(4) Advise the paying agency of the actions taken under 5 U.S.C. 5514(a) and provide the dates on which action was taken unless the employee has consented to salary offset in writing or signed a statement acknowledging receipt of procedures required by law. The written consent or acknowledgment must be sent to the paying agency;

(5) Except as otherwise provided in this paragraph, the NRC must submit a debt claim containing the information specified in paragraphs (a) (2) through (4) of this section and an installment agreement (or other instruction on the payment schedule), if applicable, to the employee's paying agency.

(6) Upon receipt of notification that the employee has transferred to another agency before the debt is collected in full, the NRC will submit a properly certified claim to the new paying agency so that collection can be resumed;

(7) If the employee is in the process of separating, the NRC will submit its debt claim to the paying agency as provided in paragraphs (a) (2) through (5) of this section. The paying agency will certify any amounts already collected, notify the employee, and send a copy of the certification and notice of the employee's separation to the NRC. If the paying agency is aware that the employee is entitled to Civil Service Retirement and Disability Fund or similar payments, it will certify to the agency responsible for making the payments that the employee owes a debt (including the amount) and that the provisions of this part have been followed. The NRC will submit a properly certified claim to the agency responsible for making such payments so collection can be made.

(8) If the employee has already separated and all payments due from the paying agency have been paid, the NRC may request, unless otherwise prohibited, that money payable to the employee from the Civil Service Retirement and Disability Fund or other similar funds be collected by administrative offset.

(b) *The NRC as the paying agency.* (1) Upon receipt of a properly certified debt claim from another agency, the NRC will schedule deductions to begin at the next

established pay interval. The employee must receive written notice indicating that the NRC has received a certified debt claim from the creditor agency, the amount of the debt, the date salary offset will begin, and the amount of the deduction(s). The NRC may not review the merits of the creditor agency's determination of the validity or the amount of the certified claim.

(2) Upon receipt of an incomplete debt claim from a creditor agency, the NRC will return the debt claim to the creditor agency with a notice that procedures under 5 U.S.C. 5514 and 5 CFR part 550, subpart K, must be followed and a properly certified debt claim received before action will be taken to collect from the employee's current pay account.

(3) If the employee transfers to another agency after the creditor agency has submitted its debt claim to the NRC and before the debt is collected completely, the NRC will certify the total amount collected. The NRC will furnish one copy of the certification to the employee. The NRC will furnish a copy to the creditor agency with notice of the employee's transfer.

§ 16.15 Procedures for salary offset.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the NRC's notice of intention to offset as provided in § 16.7. Debts will be collected in one lump sum where possible. If the employee is financially unable to pay in one lump sum, collection must be made in installments.

(b) Debts will be collected by deduction at officially established pay intervals from an employee's current pay account unless alternative arrangements for repayment are made.

(c) Installment deductions will be made over a period not greater than the anticipated period of employment. The size of installment deductions must bear a reasonable relationship to the size of the debt and the employee's ability to pay. The deduction for the pay intervals for any period may not exceed 15% of disposable pay unless the employee has agreed in writing to a deduction of a greater amount.

(d) Offset against any subsequent payment due an employee who retires or resigns or whose employment or period of active duty ends before collection of the debt is completed is provided for in accordance with 31 U.S.C. 3716. These payments include but are not limited to final salary payment or lump-sum leave due the employee from the paying agency as of the date of separation to the extent necessary to liquidate the debt.

§ 16.17 Refunds.

(a) The NRC will refund promptly any amounts deducted to satisfy debts owed to the NRC when the debt is waived, found not owed to the NRC, or when directed by an administrative or Judicial order.

(b) The creditor agency will promptly return any amounts deducted by NRC to satisfy debts owed to the creditor agency when the debt is waived, found not owed, or when directed by an administrative or judicial order.

(c) Unless required or permitted by law or contract, refunds under this section may not bear interest.

§ 16.19 Statute of limitations.

If a debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government's right to collect were not known and could not reasonably have been known by the NRC official or officials who were charged with the responsibility for discovery and collection of the debts.

§ 16.21 Non-waiver of rights.

An employee's involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that the employee may have under 5 U.S.C. 5514 or any other provision of contract or law, unless there are statutes or contract(s) to the contrary.

§ 16.23 Interest, penalties, and administrative charges.

Charges may be assessed for interest, penalties, and administrative charges in accordance with the Federal Claims Collection Standards, 4 CFR 102.13.

Dated at Rockville, Md., this 3rd day of October 1991.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 91-24880 Filed 10-15-91; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 771 and 774

[Docket No. 911049-1249]

Exports to Sweden: General License GCT and Permissive Reexports to COCOM Participating Countries

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule.

SUMMARY: As part of the Department of Commerce initiative to streamline export licensing requirements for exports to countries that are demonstrating increased ability to safeguard strategic goods and technology, the Bureau of Export Administration (BXA) is extending to Sweden additional export licensing benefits consistent with the provisions of section 5(k) of the Export Administration Act of 1979, as amended (EAA). This action will lessen the administrative burden on U.S. exporters and their foreign customers.

Specifically, BXA is:

- Amending General License GCT to authorize certain shipments of U.S.-origin commodities to Sweden; and
- Amending the permissive reexport provisions of § 774.2(k) to include Sweden.

EFFECTIVE DATE: This rule is effective October 16, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, U.S. Department of Commerce, Telephone: (202) 377-2440.

SUPPLEMENTARY INFORMATION:

Background

Although the provisions of the Export Administration Act (EAA) expired on September 30, 1990, the President invoked the International Emergency Economic Powers Act and continued in effect, to the extent permitted by law, the EAA and the Export Administration Regulations (EAR) in Executive Order 12730 of September 30, 1990.

Rulemaking Requirements

1. This rule complies with Executive Order 12291 and Executive Order 12661.

2. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These collections have been approved by the Office of Management and Budget under control numbers 0694-0005, 0694-0010, and 0694-0015. Licensing requirements will be reduced as a result of this rule, thereby reducing the paperwork burden on the public.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

4. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C.

553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

5. The provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a foreign and military affairs function of the United States. No other law requires that a notice of proposed rulemaking and a opportunity for public comment be given for this rule.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Parts 771 and 774

Exports, Reporting and recordkeeping requirements.

Accordingly, parts 771 and 774 of the Export Administration Regulations are amended as follows:

1. The authority citations for 15 CFR parts 771 and 774 are revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended; Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.*); Pub. L. 95–223, 91 Stat. 1626, (50 U.S.C. 1701 *et seq.*); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990); E.O. 12735 of November 16, 1990 (55 FR 48586, November 20, 1990); E.O. 12769 of July 10, 1991 (56 FR 31855, July 12, 1991).

PART 771—[AMENDED]

§ 771.25 [Amended]

2. Section 771.25 is amended:

a. By revising the phrase "Spain, Switzerland," to read "Spain, Sweden, Switzerland," in paragraph (b); and

b. By revising the phrase "Ireland, and Switzerland" to read "Ireland, Sweden, and Switzerland" in paragraph (f)(2) (two references).

PART 774—[AMENDED]

§ 774.2 [Amended]

3. In § 774.2, the introductory text of paragraph (k) is amended by revising the phrase "Ireland, and Switzerland" to read "Ireland, Sweden, and Switzerland." and paragraph (k)(2)(i) is amended by revising the phrase "Ireland, or Switzerland," to read "Ireland, Sweden, or Switzerland,".

Dated: October 10, 1991.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 91–24916 Filed 10–10–91; 3:13 pm]

BILLING CODE 3510–DT–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 888

[Docket No. N–91–3245; FR–3011–N–04]

Section 8 Housing Assistance Payments Program—Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program and Housing Voucher Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final fair market rents; Correction.

SUMMARY: On September 26, 1991 (56 FR 49024), the Department published the final FY 1992 Fair Market Rents (FMRs) for certain Section 8 Housing Assistance Payments programs. The purpose of this document is to correct the final FMR for four-bedroom units for the Spokane, WA MSA.

FOR FURTHER INFORMATION CONTACT: Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 708–0577; TDD (202) 708–0770. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Under section 8(c)(1) of the United States Housing Act of 1937, and the Department's regulations at 24 CFR part 888, on September 26, 1991 (56 FR 49024), the Department published the final FY 1992 Fair Market Rents (FMRs) for the Section 8 Existing Housing Certificate program (part 882, subparts A and B), including space rentals by owners of manufactured homes under the section 8 Existing Housing Certificate program (part 882, subpart F); the Section 8 Moderate Rehabilitation program (part 882, subparts D and E); and Section 8 Existing Housing assisted under part 886, subparts A and C (Loan Management and Property Disposition programs); and the payment standard schedules in the Housing Voucher program. The FMR for four-bedroom units for the Spokane, WA MSA were incorrect.

Accordingly, the following correction is being made in FR Doc. 91–23086, in the **Federal Register** issue of Thursday, September 26, 1991 (56 FR 49024), to read as follows:

On page 49075, in Schedule B, in the 23rd line down from the top of the page, under the heading "Metropolitan Statistical Areas" for the State of Washington, correct the FMR for a four bedroom unit from "625" to read "675".

Dated: October 9, 1991.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 91–24817 Filed 10–15–91; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 51

[Order No. 1536–91]

Procedures for the Administration of Section 5 of the Voting Rights Act of 1965; Provision of Data by Magnetic Media

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Attorney General finds it necessary to revise the Procedures for the Administration of section 5 of the Voting Rights Act, 28 CFR part 51. The revisions will allow submitting authorities to provide certain data on magnetic media in support of their preclearance requests. These revisions are prompted by the need for governmental units to prepare and adopt redistricting plans on the basis of the 1990 Census and by the computerization of the redistricting process. By enabling submitting authorities to provide data on magnetic media and by providing uniform procedures for such provision, the revisions will facilitate improved efficiency both for submitting authorities and for the Department of Justice.

EFFECTIVE DATE: October 16, 1991.

FOR FURTHER INFORMATION CONTACT: Robert S. Berman, 202–307–3100, or David H. Hunter, 202–307–2898, Attorneys, Voting Section, Civil Rights Division, Department of Justice.

SUPPLEMENTARY INFORMATION: Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, requires certain jurisdictions to obtain "preclearance" from either the United States District Court for the District of

Columbia or from the Attorney General of the United States before implementing any new standard, practice, or procedure that affects voting. The purpose of this preclearance is to prevent the implementation of discriminatory voting changes.

The release of the 1990 Census data in the Topically Integrated Geographic Encoding and Reference (TIGER) format combined with the increased accessibility of computer-assisted redistricting systems indicates that many submitting authorities either possess, or in the near future will possess, the capability of providing on magnetic media significant amounts of the data used by the Attorney General in reaching a determination on whether the submitted change has the proscribed discriminatory purpose or effect. The Department of Justice is prepared to analyze demographic data provided in a table of equivalencies, indicating the census geography to district assignment, and election-related data, such as precinct election returns and voter registration information, when such data are provided on magnetic media. These amendments to the Procedures focus solely on the technical aspects of the transmittal of these supporting data and make no substantive revisions.

Discussion of Comments

In response to the Notice of Proposed Rulemaking published in the **Federal Register** on March 11, 1991 (56 FR 10348), eleven comments were received. All comments received are available for inspection and copying at the offices of the Voting Section, Civil Rights Division, Department of Justice, 320 First Street NW., room 716, Washington, DC 20001 (mailing address: P.O. Box 66128, Washington, DC 20035–6128).

The comments were of great assistance, and the revised Procedures reflect our careful consideration of the comments as well as further consideration of sections or topics that were not the subject of comments.

The majority of the comments were directed at the proposed new § 51.28(h), Availability of Computerized Submissions, which would have requested the submitting authority to provide information demonstrating that data submitted on magnetic media were made available to be copied. The purpose of the proposed paragraph was to address two competing concerns with respect to our receiving data on magnetic media: (1) Some persons who would want to prepare a comment to the Attorney General on a proposed redistricting plan do not have access to a computer, and (2) persons who have computer capability would desire to use the computer-ready data to prepare their comment to the Attorney General without the necessity of reconverting the data into a machine-readable format.

It is important to note that under the revised Procedures, as was true of the proposed rule, the information a jurisdiction may provide to the Attorney General on magnetic media without also providing the information in written form is limited to a table of equivalences and election data. The purpose of the table is to expedite the entry of the plan into a computer system and the creation of an electronic map; the submitting authority remains obligated to provide a hard copy map of the proposed plan. Similarly, the purpose of allowing a jurisdiction to provide data showing the returns from past elections on magnetic media is to allow expedited analysis, by computer, of voting behavior within the jurisdiction.

Three of the commentors suggested that § 51.28(h) be expanded to apply to all data used during the entire redistricting process, and not just the information that is provided to the Attorney General for review under section 5. Four commentors supported the section as proposed. We received two comments that the section, as drafted, would result in a jurisdiction's being forced to train members of the general public in the use of the jurisdiction's computer system.

We concluded on the basis of the comments received that refinement of § 51.28 was necessary. The revised Procedures (at § 51.28(g)(2)) make it clear that the request that the submitting authority provide information as to the availability of magnetic media applies only to magnetic media that are part of the duplicate copy of the submission requested in § 51.28(g) (§ 51.28(g)(1) in the revised Procedures). The revised Procedures clarify the scope of the new provision governing public access to data on electronic media by incorporating it into § 51.28(g) of the revised Procedures rather than setting it out as a separate subsection. The revised Procedures also have been redrafted to make clear that when information contained on magnetic media is made available to a requestor, we are not seeking to impose a requirement that a submitting authority provide public access to its computer system.

As to the scope of access to magnetic media, there is no need to expand § 51.28(g)(2) (§ 51.28(h) in the proposed Procedures) to cover the entire redistricting process. Currently, § 51.57(c) provides that one of the factors the Attorney General will consider in making a decision under section 5 is "(t)he extent to which the jurisdiction afforded members of racial and language minority groups an opportunity to participate in the decision to make the change." That provision provides an incentive for a jurisdiction to provide public access to data, since the extent to which a legislative body provided access to data used in the redistricting process would be relevant to our Section 5 determination.

With respect to the nature of the public's access to information provided under Section 5 on magnetic media, the intent of § 51.28(g)(2) is not to dictate that access must be provided to the computer system or data base of the submitting authority, much less to require training on the system. Rather, the intent is to require the provision of information that will show whether the data were provided to the minority community in a format that they could use.

Those persons not using a computer will have no need for a computerized table of equivalences but will use a hard copy map to see where district boundaries are (and the need for the submission of a map is addressed in §§ 51.27(q) and 51.28(b)). If election data have been provided to the Attorney General on magnetic media, our Section 5 review will include consideration of whether persons who desired to inspect those data on hard copy were given access to the data and an effective opportunity to review them.

With respect to requests for information from submissions contained in our files, § 51.50(d) has been revised to make clear that the Attorney General will provide copies of the information that was received on magnetic media in section 5 submissions in the same form as the information was provided by the submitting authority.

The remainder of the comments discussed the technical aspects of providing data on magnetic media. With regard to the media that the Attorney General will accept, one commentor pointed out that the density of the diskettes had not been specified. Accordingly, § 51.20(b) of the revised Procedures specifies the density of the diskettes as 1.4 megabytes for 3½" MS–DOS formatted diskettes and 1.2 megabytes for 5¼" MS–DOS formatted floppy disks. In addition, ¼" and 8mm cartridge tape media were deleted from the list of acceptable media because of the inability to set a standard format for the receipt of data on those media. For the same reason, we chose not to expand, as had been suggested, the list of acceptable media. As a result, under

the revised Procedures the data provided on magnetic media are required to be in a generic format so that any computer software can calculate the census data by district. In this format, the data can also be used in a geographic information system to display the plan graphically. By the same token, the data contained in election returns, as supplied by the jurisdiction to the Attorney General, are required (by §§ 51.28(d)(7) and 51.20(b) through (e)) to be in a format that could be used by any statistical package.

As a result of our experience to date with our geographic information system, § 51.20(c), as it appears in the revised Procedures, requires that files that are not formatted as disk operating system (DOS) files should be of fixed record length, blocked in multiples of 80, and without carriage returns or line feeds. The section also clarifies the requirement that DOS files must have either line fees or carriage returns between records and specifies that line feeds and carriage returns must begin at position 80. One commentor suggested that we delete the provision that data may not be provided in compressed format. The basis for precluding compressed data is to establish a generic format for those data that can be produced, and replicated, by virtually any automated data processing equipment, and, accordingly, we declined to follow this suggestion.

Revised § 51.20(e) refines the information required on labels for nine-track tapes and now also requires that the label include the blocksize used for each file on the tape.

Section 51.28(a) establishes the format for tables of equivalencies. In response to a question posed by one commentor, we now specify (in § 51.28(a)(5)(i)) that census blocks with zero population be included in the table of equivalencies. The revised Procedures also clarify: that district assignments in the plan fields shall be blank filled if less than four characters (§ 51.28(a)(5)(ii)); that identification of state and county shall be by Federal Information Processing Standards (FIPS) code (§ 51.28(a)(5)(iv)); that census tracts and blocks shall be left justified, and that the field for census blocks of less than four characters shall be blank filled (§ 51.28(a)(5)(v)); that unused plan fields shall be blank filled (§ 51.28(a)(5)(vi)); and that submitting authorities may provide with their initial submission a listing of any alterations they make to the TIGER/line file (§ 51.28(a)(5)(vii)(F)).

Rulemaking Requirements

Under the definition of section 1(b) of Executive Order 12291, 3 CFR, 1981 Comp., p. 127, this amendment does not constitute a major rule. Accordingly, a regulatory impact analysis, pursuant to section 3 of Executive Order 12291, has not been prepared. Pursuant to section 3(c)(3) of Executive Order 12291, this amendment was submitted to the Director of the Office of Management and Budget more than 10 days prior to this publication. Issuance of this amendment does not constitute a major Federal action and will not significantly affect the human environment. Accordingly, neither an environmental impact assessment nor an environmental impact statement has been prepared. See 28 CFR part 61. Because this amendment is excepted under 5 U.S.C. 553(b)(A), a final regulatory flexibility analysis is not required under 5 U.S.C. 604. Accordingly, such an analysis has not been prepared. The collection of information requirements contained in the Section 5 Procedures have been submitted to and approved by the Director of the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. 3504(h)(1) and 5 CFR 1320.13. See § 51.26(g).

List of Subjects in 28 CFR Part 51

Administrative practice and procedure, Archives and records, Authority delegations (Government agencies), Civil rights, Elections, Political committees and parties, Reporting and recordkeeping requirements, Voting rights.

Accordingly, 28 CFR part 51 is amended as follows:

PART 51—[AMENDED]

1. The authority citation for part 51 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510; and 42 U.S.C. 1973c.

2. Section 51.20 is amended by designating the existing text as paragraph (a) and by adding new paragraphs (b) through (e) to read as follows:

§ 51.20 Form of submissions.

* * * * *

(b) The Attorney General will accept certain machine readable data in the following forms of magnetic media: 3½" 1.4 megabyte MS–DOS formatted diskettes; 5 ¼" 1.2 megabyte MS–DOS formatted floppy disks; nine-track tape (1600/6250 BPI). Unless requested by the Attorney General, data provided on magnetic media need not be provided in hard copy.

(c) All magnetic media shall be clearly labelled with the following information:

(1) Submitting authority.

(2) Name, address, title, and telephone number of contact person.

(3) Date of submission cover letter.

(4) Statement identifying the voting change(s) involved in the submission.

The label shall be affixed to each magnetic medium, and the information included on the label shall also be contained in a documentation file on the magnetic medium. If the information identified above is provided as a disk operating system (DOS) file, it shall be formatted in a standard American Standard Code for Information Interchange (ASCII) character code, with a line feed or carriage return control character starting in position 80. If the information identified above is provided other than as DOS files, it shall be formatted as ASCII text (or Extended Binary Coded Decimal Interchange Code (EBCDIC) if IBM standard labels are used), 80 byte fixed record length, blocked in a multiple of 80 with a blocksize no larger than 32 kilobytes, and with no carriage return or line feed.

(d) Each magnetic medium (floppy disk or tape) provided must be accompanied by a printed description of its contents, including an identification by name and/or location of each data file that is contained on the medium, a detailed record layout for each such file, a record count for each such file, and a full description of the magnetic medium format.

(e) All data files shall be provided in a fixed record-length format using alphanumeric ASCII values. The first 50 records of each such file shall be printed on hard copy and shall be attached to the printed description of the file. Proprietary and/or commercial software system data files (e.g. SAS, SPSS, dBase, Lotus 1–2–3) and data files containing compressed data or binary data fields will not be accepted. Nine-track tapes shall be clearly marked with printed labels to indicate their density, and manner of labelling (ANSI, IBM, or unlabelled). The printed label shall also include the record count, the record length, the blocksize, the dataset name (DSN) if it is a labelled tape, and the file number of each file on the tape.

3. Section 51.28 is amended by adding new paragraphs (a)(4), (a)(5), and (d)(7), by designating the existing text of paragraph (g) after the heading as paragraph (g)(1), and by adding a new paragraph (g)(2) to read as follows:

§ 51.28 Supplemental contents.

* * * * *

(a) * * *

(4) Demographic data provided on magnetic media shall be based upon the Bureau of the Census Public Law 94–171

file unique block identity code of state, county, tract, and block.

(5) Demographic data on magnetic media that are provided in conjunction with a redistricting shall be contained in a table of equivalencies giving the census block to district assignments in the following format:

(i) Each census block record (including those with zero population) will be followed by one or more additional fields indicating the district assignment for the census block in one or more plans.

(ii) All district assignments in the plan fields shall be right justified and blank filled if the assignment is less than four characters.

(iii) The file structure shall be as follows:

Field	PL 94-171 reference name	Length	Data type
State	STATEFP	2	Numeric.
County	CNTY	3	Numeric.
Tract	TRACT/BNA.	6	Alpha/Numeric.
Block	BLCK	4	Alpha/Numeric.
Plan 1 District.	User supplied.	4	Alpha/Numeric.
Plan 2 District.	User supplied.	4	Alpha/Numeric.
Plan 3 District, etc.			
Plan n District.	User supplied.	4	Alpha/Numeric.

(iv) State and county shall be identified using the Federal Information Processing Standards (FIPS-55) code.

(v) Census tracts shall be left justified, and census blocks shall be left justified and blank filled if less than four characters.

(vi) Unused plan fields shall be blank filled.

(vii) In addition to the information identified in § 51.20 (c) through (e), the documentation file accompanying the block level equivalency file shall contain the following information:

(A) The file structure.

(B) The total number of plans.

(C) For each plan field, an identification of the plan (e.g., state senate, congressional, county board, city council, school board) and its status or nature (e.g., plan currently in effect, adopted plan, alternative plan and sponsors).

(D) The number of districts in each plan field.

(E) Whether the plan field contains a complete or partial plan.

(F) Any additional information the jurisdiction deems relevant such as bill number, date of adoption, etc., and a listing of any modifications the submitting authority has made that alter the structure of the TIGER/line geographic file.

* * * * *

(d) * * *

(7) Election related data containing any of the information described above that are provided on magnetic media shall conform to the requirements of § 51.20 (b) through (e). Election related data that cannot be accurately presented in terms of census blocks may be identified by county and by precinct.

* * * * *

(g) *Availability of the submission.* (1) * * *

(2) Information demonstrating that the submitting authority, where a submission contains magnetic media, made the magnetic media available to be copied or, if so requested, made a hard copy of the data contained on the magnetic media available to be copied.

* * * * *

4. Section 51.50 is amended by revising paragraph (a), by revising the first sentence of paragraph (d), and by adding a new sentence immediately following the first sentence of paragraph (d) to read as follows:

§ 51.50 Records concerning submissions.

(a) Section 5 files: The Attorney General shall maintain a section 5 file for each submission, containing the submission, related written materials, correspondence, memoranda, investigative reports, data provided on magnetic media, notations concerning conferences with the submitting authority or any interested individual or group, and copies of letters from the Attorney General concerning the submission.

* * * * *

(d) The contents of the files in paper or microfiche form described in paragraphs (a) through (c) of this section shall be available for inspection and copying by the public during normal business hours at the Voting Section, Civil Rights Division, Department of Justice, Washington, DC. Those who desire to inspect information that has been provided on magnetic media will be provided a copy of that information in the same form as it was received. * * *

Dated: September 29, 1991

William P. Barr,

Acting Attorney General.

[FR Doc. 91-24143 Filed 10-15-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 330

Final Rule for Nationwide Permit Program

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

ACTION: Final rule.

SUMMARY: The Corps of Engineers is amending its nationwide permit program regulations to clarify the expiration date of the nationwide permits.

EFFECTIVE DATE: November 12, 1991

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson or Mr. John Studt, HQUSACE (ATTN: CECW-OR), Washington DC 20314-1000, (202) 272-1782.

SUPPLEMENTARY INFORMATION: On September 24, 1991, the Corps of Engineers proposed in the **Federal Register** (56 FR 48136) a change to its nationwide permit program regulations at 33 CFR 330.12 to clarify the expiration date of the nationwide permits. This change clarifies that the nationwide permits are effective for a period of five years from their effective date unless modified or revoked earlier.

There were three comment letters received on the proposed rule. One commenter supported the reissuance of the nationwide permits but did not comment on the proposal. The second commenter supported the proposal indicating that it would remove any confusion as to the expiration date of the nationwide permits. The third commenter also supported the proposal and indicated that it was important that the existing nationwide permits remain in effect until the new nationwide permits are issued.

As indicated in the preamble to the proposed rule on September 24, 1991, our original intent was expressed in the preamble of the November 13, 1986, Final Rule as published in the **Federal Register** (51 FR 14598). Thus the preamble noted that the nationwide permits "will be in effect for 5 years beginning with the effective date of this regulation." Our original position regarding the nationwide permits expiration date was further discussed in Regulatory Guidance Letter 90-1, which stated that the nationwide permits "will expire on 13 January 1992 unless they are modified or reissued." In contrast, the text of the November 13, 1986, final rule, codified at 33 CFR 330.12, provides that if a nationwide permit "is not

modified or reissued within five years of publication in the Federal Register, it automatically expires and becomes null and void." Therefore, we have decided to adopt this final rule which corrects that discrepancy and amends 33 CFR 330.12 to reflect our original intent.

The immediate effect of this final rule is that the current nationwide permits will expire at midnight on January 12, 1992, unless sooner revised, modified, or revoked.

This final rule is not intended to affect the ongoing rulemaking process involving nationwide permits that was published for public notice and comment on April 10, 1991.

The Department of the Army has determined that this document does not contain a major rule requiring a regulatory impact analysis under Executive Order 12291 because it will not result in an annual effect on the economy of $100 million or more and it will not result in a major increase in costs or prices.

I hereby certify that this matter will have no significant negative impact on a substantial number of small entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601.

List of Subjects in 33 CFR Part 330

Navigation, Water pollution control, Waterways.

Dated: October 10, 1991.

Hugh F. Boyd III,

Colonel, Corps of Engineers, Executive Director of Civil Works.

Accordingly, 33 CFR part 330 is amended as follows:

PART 330—NATIONWIDE PERMITS

1. The authority citation for part 330 continues to read as follows:

Authority: 33 U.S.C. 401 et seq.; 33 U.S.C. 1344; 33 U.S.C. 1413.

2. Section 330.12 is amended by revising the second sentence to read as follows:

§ 330.12 Expiration of nationwide permits.

* * * If a nationwide permit is not modified or reissued within five years of its effective date, it automatically expires and becomes null and void. * * *

[FR Doc. 91-24847 Filed 10-10-91; 11:43 am]

BILLING CODE 3710-08-M

POSTAL SERVICE

39 CFR Part 111

Physical Requirements for Automated Rate Eligibility

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule adopts, with revisions, parts of the proposed rule published in the Federal Register on June 25, 1991, 56 FR 29072, amending the regulations of the Postal Service governing the maximum allowable weight and the barcode clear zone requirements for letter-size mailpieces to qualify for ZIP+4 and ZIP+4 Barcoded rates. The remainder of the proposed rule will be addressed in a separate final rule. Specifically, this final rule modifies existing requirements for the following:

a. *Maximum Weight* of a mailpiece for automation-based rates. The maximum weight of pieces within ZIP+4 Barcoded rate mailings will remain at 3.0 ounces. The maximum weight for pieces within ZIP+4 rate mailings will revert to 2.5 ounces as previously announced.

b. *Print Reflectance Difference* (PRD) between barcodes and the backgrounds upon which they are printed. A PRD of 30 percent will be required between the background material of the mailpiece and the barcode to correct an error in the current terminology (print contrast ratio [PCR]) used to describe this difference.

c. *Clear Zone* for nonbarcoded pieces within ZIP+4 Barcoded mailings. Nonbarcoded mailpieces within a ZIP+4 Barcoded rate mailing will be required to meet reflectance requirements within a barcode clear zone in the lower right corner of the piece both for address block barcoded and lower right barcoded mailings.

d. *Dark Fibers and Background Patterns.* Regulations are rescinded that governed the maximum permissible "screening" or lines per inch of a printed pattern in the background upon which a barcode is printed.

EFFECTIVE DATE: The revisions adopted in this rule to Domestic Mail Manual sections 327, 328, 521, 551.41, 551.42, and 551.44 concerning the maximum weight of a mailpiece for automation-based rate eligibility and the print reflectance difference of 30% between a barcode and the background upon which it is printed (noted as a. and b. above) will take effect on December 15, 1991. However, as explained below, implementation of the requirement in 551.41 and 551.44 that nonbarcoded mailpieces within a ZIP+4 Barcode rate mailing must meet certain reflectance criteria in the lower right barcode clear zone (noted as c.) is being delayed to September 30, 1992, to provide an adequate transition period for mailers. The revision to section 551.44 relating to "screening" percentages within a barcode background (noted as d.) is effective October 16, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. George T. Hurst, (202) 268-5232.

SUPPLEMENTARY INFORMATION: The deadline for submitting comments on the proposed rule expired on August 9, 1991. All comments received or mailed by that date have been considered.

The Postal Service received a total of 14 comments from 8 different commenters on the parts of the proposed rule being addressed in this final rule, one from an industry trade association and the rest from corporations. On the basis of the comments received and further consideration of the proposals by the Postal Service, the Postal Service has decided to adopt the regulations as proposed with slight modifications.

Evaluation of Comments Received

A. Maximum Weight of a Mailpiece for Automation-Based Rates (2.5 oz. for ZIP+4 and 3.0 oz. for ZIP+4 Barcoded Rate Mailings)

Two commenters stated that the proposal is a good compromise. One association stated that since the 2.5-ounce limit would apply to less than 1 percent of third-class letters any slowdown of equipment that would result from extending the 3.0-ounce limit to ZIP+4 mailings would be negligible. Furthermore, the association stated that the weight limit proposals would result in a complicated rate schedule for third-class mail. One commenter wished to have the weight limit increased to 3 ounces for both ZIP+4 and ZIP+4 Barcoded rate mailings, while two commenters would like to see the weight limit increased to accommodate all mail up to the third-class piece-pound break point of 3.3067 ounces.

The Postal Service has established, through operational experience and specific studies, that 2.5 ounces is the threshold at which degradation of throughput is substantial enough to begin eroding the savings associated with processing mail on its automated sortation equipment. Thus a 2.5-ounce maximum weight was originally identified as a key factor to realizing the cost benefits the automated equipment was capable of producing. However, as stated in the proposed rule, reevaluation has led the Postal Service to conclude that a distinction should be made

between ZIP+4 rate mailings and ZIP+4 Barcoded rate mailings, since prebarcoded mail bypasses the optical character reader (OCR). Elimination of this step in processing makes the lower throughput associated with heavier pieces less of a problem for ZIP+4 barcoded pieces weighing up to 3 ounces.

While it is true that a small percentage of third-class letter-size mail volume exceeds 2.5 ounces per piece, extending the 3.0-ounce limit to ZIP+4 rate mailings or adopting a heavier weight limit for ZIP+4 Barcoded mailings would cause a substantial number of mailpieces to receive automation-based postage discounts even though they could not be efficiently processed on automated equipment and might even serve to encourage larger volumes of heavier weight mailpieces.

Therefore, raising the maximum weight for automation-compatibility to 3.0 ounces for ZIP+4 rate mailings or to more than 3.0 ounces for ZIP+4 Barcoded rate mailings for purposes of simplifying the rate schedule is not justified given the throughput needed to produce the savings reflected in automation-based postage rates.

One commenter stated the regulations need to state more clearly that even the 15 percent maximum allowance of nonbarcoded pieces that could be included as part of a barcoded rate mailing would be permitted to weigh 3.0 ounces. This is so stated in the regulations.

Moreover, the Postal Service has determined that those pieces within the nonbarcoded portion allowed in a barcoded rate mailing that weigh between 2.5 and 3.0 ounces may qualify for ZIP+4 rates as long as all other applicable eligibility requirements for the ZIP+4 rate are met. The Postal Service anticipates that only an extremely small number of mailpieces within ZIP+4 Barcoded rate mailings that do not bear a ZIP+4 barcode will bear a correct ZIP+4 code. We believe that this occurrence would only be due to some kind of mechanical or operational disruption or malfunction that could prevent the barcode from being sprayed on individual pieces during the barcoding process. Although ZIP+4 coded mailpieces in excess of 2.5 ounces do not process efficiently enough to allow a higher weight limit for ZIP+4 rate mailings, the very small number of pieces that weigh between 2.5 and 3.0 ounces that could be claimed at ZIP+4 rates within a ZIP+4 Barcoded rate mailing, due to mechanical or operational error, should not have a significant adverse impact on overall productivity on the automated equipment. Therefore, given the extremely rare occurrence and minimal volume this type of mail represents and the insignificant impact it will have on USPS automated mail processing operations, the Postal Service has determined that establishing a requirement to identify and document nonbarcoded mailpieces bearing correct ZIP+4 codes which are in excess of 2.5 ounces in a ZIP+4 Barcoded rate mailing would be an undue and unnecessary burden to impose upon mailers at this time.

One commenter stated that the adoption of the proposed weight restrictions will unfairly penalize mailers who barcode non-presorted First-Class Mail and currently can obtain only the non-presorted ZIP+4 rate, since this barcoded mail will be required to meet the 2.5 ounce weight limit as opposed to the 3.0 ounce weight limit.

To eliminate any potential unfairness, the final rule clarifies that if 85 percent of the pieces in such a mailing bear a correct ZIP+4 barcode, the mailing may be prepared under 328 and the 3.0 ounce maximum weight limit applies, even though the mailing qualifies for a ZIP+4 rate.

Finally, one commenter stated that mailers have delayed making firmware and software changes in case this **Federal Register** process resulted in allowing a uniform 3.0-ounce requirement. Therefore, this commenter proposed a 60-day implementation period from the publication date of the final rule to enable mailers to change their software and operations.

The Postal Service recognizes the need for a transition period on a final rule of this significance and therefore will delay the rule's adoption to an effective date of December 15, 1991, the date of the next regular issuance of the Domestic Mail Manual (Issue 41).

B. Print Reflectance Difference (PRD) Instead of Print Contrast Ratio (PCR)

Two commenters addressed the proposal to correct an error in the terminology used to describe the require relationship between the reflectance of the background of the mailpiece and the reflectance of the ink in the barcode, from a print contrast ratio (PCR) to a print reflectance difference (PRD). Both stated that they agreed with and supported this change.

To allow for an appropriate transition, the change is effective December 15, 1991. Until that date, either a PCR or a PRD meeting the requirements stated in the DMM will be acceptable.

C. Barcode Clear Zone Reflectance Requirements for Non-Barcoded Pieces in ZIP+4 Barcoded Rate Mailings

Three commenters stated one purpose of address block barcoding was to free mailers of restraints imposed by a clear space in the lower right corner of the mailpiece. These commenters indicated this regulation will preclude mailer use of bright and dark color envelopes (one commenter felt it will also curtail use of glossy paper stock) which will add cost or curtail creativity. Two commenters questioned the purpose of the regulation since they do not believe the Postal Service can add a ZIP+4 barcode where the mailer could not because both the Postal Service and mailers use the same ZIP+4 data base and similar address matching software. Three commenters implied that the actual outcome of this rule will be to mandate 100 percent barcoding (to avoid meeting the requirement). Another commenter expressed concern that adoption of this rule will not allow commingling of address block barcoded pieces with lower right barcoded pieces. And finally, one commenter indicated that September 1992 may be too soon to implement the requirement.

This requirement will be implemented as proposed. By requiring a fixed space in the lower right corner of the mailpiece to meet the reflectance requirements for barcoding, the Postal Service will establish the capability to automate the sortation of all letter-size mail entered into the automated mailstream as part of a barcoded rate mailing, while retaining mailer flexibility to have up to 15% non-barcoded pieces in such a mailing. The Postal Service updates its ZIP+4 data base and address matching software logic on a significantly more frequent basis than will be established for mailers (effective November 1, 1991) as a requirement for automation-based rate qualification. Because of this, the Postal Service will be able to apply ZIP+4 barcodes or delivery point barcodes in many instances where the mailer could not. The Postal Service is adopting this reflectance requirement to increase the volume of mail which it can process at a reduced cost to its customers. The Postal Service believes that the cost containment, efficiency, and accuracy of the automated equipment produces a significant enough advantage to warrant the adoption of this rule.

The Postal Service does not believe that the adoption of this regulation will unduly hinder the creativity of mailpiece design since a wide variety of colors and designs can be employed and still meet this requirement. In addition, the

Postal Service is not mandating the water-based barcode ink acceptance criteria, and therefore the use of coated or glossy stocks need not be curtailed.

This rule will not affect commingling of address block barcoded pieces with lower right barcoded pieces, since the rule applies equally to both types. In addition, although mailings which contain 100 percent ZIP+4 barcoded mailpieces do not have to comply with this lower right reflectance requirement, this rule was not proposed to eliminate nonbarcoded pieces from barcoded mailings. However, mailers will have the option of separating barcoded versus nonbarcoded mailpieces to avoid meeting this requirement if they choose to.

In establishing an effective date, the Postal Service has taken into careful consideration the mailing industry's need for a transition period to phase in these new requirements. The Postal Service has chosen an effective date of September 20, 1992, as the most appropriate date to meet the needs of both the Postal Service and the mailing public. This date is more than a year after the publication of the proposed rule and coincides with a planned issue date of the Domestic Mail Manual.

D. Dark Fibers and Background Patterns On a Mailpiece In the Area Containing the Barcode

The Postal Service also proposed to remove a provision from DMM 551.44 which detailed requirements when material on which a barcode is to appear is printed in "halftone screen." The only comment on this proposal stated that the removal of this language makes it easier to understand the reflectance requirements. The Postal Service is adopting this revision as proposed, effective immediately so that mailers may take advantage of the relaxed requirement.

In view of the considerations discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR 111.1).

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001, 3201–3219, 3403–3406, 3621, 5001.

* * * * *

PART 320—CLASSIFICATION

* * * * *

2. Revise section 327 and 328 of part 320 to read as follows:

327 NONPRESORTED ZIP+4 RATE MAIL

* * * * *

327.2 Eighty-Five Percent Requirement. [After current 327.2 add the following note:]

Note: If 85% of the pieces are ZIP+4 barcoded, mailings may be prepared in accordance with 328, except that the size and weight requirements of 327.31 apply instead of the requirements in 328.31.

* * * * *

328 NONPRESORTED ZIP+4 BARCODED RATE MAIL

* * * * *

PART 520—GENERAL REQUIREMENTS FOR ALL AUTOMATION-COMPATIBLE MAILPIECES

* * * * *

3. Revise section 521 to read as follows:

521 PHYSICAL CHARACTERISTICS

* * * * *

521.3 Weight

521.31 ZIP+4 Rate Mailings. The weight of each mailpiece in a ZIP+4 rate mailing must not exceed 2.5 ounces.

Exception: A 3-ounce maximum weight applies to nonpresorted ZIP+4 First-Class letter rate mailings which are prepared in accordance with 328, except that the size and weight requirements of 327.31 apply instead of the requirements in 328.31.

521.32 ZIP+4 Barcoded Rate Mailings. The weight of each mailpiece in a ZIP+4 Barcoded rate mailing must not exceed 3.0 ounces.

[Remove the Exception noted at the end of this section.]

* * * * *

PART 550—REQUIREMENTS FOR BARCODED PIECES

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551.4 Reflectance

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4. Revise section 551.41 to read as follows:

551.41 Background Reflectance

* * * * *

551.411 Pieces Barcoded in the Lower Right corner

a. Pieces Bearing a ZIP+4 or Delivery Point Barcode. The material (envelope, card, insert, or outermost sheet) in the barcode clear zone (see 551.22) must produce a background reflectance of at least 50% in the red and 45% in the green portions of the optical spectrum when measured with a USPS or USPS-licensed envelope reflectance meter. White and pastel colors generally satisfy this requirement.

b. Pieces Not Bearing a ZIP+4 or Delivery Point Barcode. It is strongly recommended that pieces included in any ZIP+4 Barcoded rate mailing that do not bear a ZIP+4 or delivery point barcode include a barcode clear zone in the lower right corner of the address side of the mailpieces as described in 551.22 that meets the background reflectance requirements of 551.411a. Effective September 20, 1992, all pieces in ZIP+4 Barcoded rate mailings that do not bear a ZIP+4 or delivery point barcode must contain a barcode clear zone as specified in 551.22 that meets the background reflectance requirements of 551.411a.

[Remove the Note at the end of this section.]

551.412 Pieces Barcoded in the Address Block

a. Pieces Bearing a ZIP+4 or Delivery Point Barcode. If the barcode is placed in the address block, the background reflectance of the area surrounding the address block barcode, and within 1/8 inch of the leftmost and rightmost bars and 1/25 inch above the below the barcode, must produce a background reflectance of at least 50% in the red and 45% in the green portions of the optical spectrum when measured with a USPS or USPS-licensed envelope reflectance meter.

b. Pieces Not Bearing a ZIP+4 or Delivery Point Barcode. It is strongly recommended that pieces included in address block barcoded ZIP+4 Barcoded rate mailings that do not bear a ZIP+4 or delivery point barcode include a barcode clear zone in the lower right corner of the address side of the mailpiece as specified in 551.22 that meets the background reflectance requirements of 551.411a. Effective September 20, 1992, all pieces in ZIP+4 Barcoded rate mailings that do not bear

a ZIP+4 or delivery point barcode must contain a barcode clear zone as specified in 551.22 that meets the reflectance requirements of 551.411a.

5. Revise section 551.42 to read as follows:

551.42 Print Reflectance Difference. A print reflectance difference (PRD) of at least 30% is required between the background material of the mailpiece and the barcode in both the red and the green portions of the optical spectrum. This requirement is generally satisfied by using black or dark blue ink on a white or pastel background. Other color combinations should be measured to ensure compliance with the minimum print reflectance difference. The PRD expressed as a percentage equals the reflectance of the background minus the reflectance of the ink, multiplied by 100. Reflectance measurements must be made with a USPS or USPS-licensed envelope reflectance meter.

[Remove the Note at the end of this section.]

* * * * *

6. Revise section 551.44 to read as follows:

551.44 Dark Fibers and Background Patterns

551.441 Pieces Bearing a ZIP+4 or Delivery Point Barcode. [Insert text of existing 551.44; delete the last sentence.]

551.442 Pieces Not Bearing a ZIP+4 or Delivery Point Barcode. It is strongly recommended that all pieces within a ZIP+4 Barcoded rate mailing that do not bear a ZIP+4 or delivery point barcode include a barcode clear zone as specified in 551.22 that meets the requirements for dark fibers and background patterns in 551.441. Effective September 20, 1992, all non-ZIP+4 or delivery point barcoded pieces in a ZIP+4 Barcoded rate mailing must include a barcode clear zone (see 551.22) that meets the requirements of 551.441.

* * * * *

A Transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and transmitted automatically to subscribers. Notice of issuance will be published in the **Federal Register** as provided by 39 CFR 111.3.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

[FR Doc. 91-24917 Filed 10-15-91; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[OPP-300227A; FRL-3893-6]

Chlordimeform; Revocation of Tolerances and Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document announces the following: (1) The revocation of tolerances listed at 40 CFR 180.285 for combined residues of the insecticide chlordimeform [*N*'-(4-chloro-*o*-tolyl)-*N*,*N*-dimethyl formamidine] and its metabolites containing the 4-chloro-*o*-toluidine moiety (calculated as the insecticide) from application of the insecticide as the free base or as the hydrochloride salt in or on various agricultural commodities, and (2) the revocation of the food additive regulation at 40 CFR 186.750 for residues in the animal feed cottonseed hulls, resulting from carryover and concentration of residues in this animal feed when present as a result of application of the insecticide to the growing crop cotton. The Agency designates food additive regulations for animal feeds as feed additive regulations. These actions are being taken by EPA to remove all remaining tolerances and the food additive regulation for residues of a pesticide for which all registered uses have been voluntarily cancelled by the registrants. EPA is revoking these tolerances and the food additive regulation, effective on December 31, 1991. EPA is implementing the December 31, 1991 effective date by amending the existing tolerances and food additive regulation to include an expiration date of December 31, 1991.

EFFECTIVE DATE: October 16, 1991.

ADDRESSES: Written objections and/or requests for a hearing, identified by the document control number, OPP-300227A, may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW.,Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Martha Lamont, Special Review and Reregistration Division (H7508W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number, Special Review Branch, rm. 1L3, Crystal Station 1, 2800 Crystal Drive, Arlington, VA, (703)-308-8033.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 3, 1991 (56 FR 13607), EPA proposed to revoke (1) the tolerances listed at 40 CFR 180.285 for combined residues of chlordimeform and its metabolites containing the 4-chloro-*o*-toluidine moiety in or on the following raw agricultural commodities: cottonseed, milk, eggs, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, and poultry; and (2) the food additive regulation listed at 40 CFR 186.750 for combined residues of chlordimeform in the animal feed cottonseed hulls. This action was proposed because chlordimeform is no longer registered for use on any food crop and because a tolerance is generally not necessary for a pesticide chemical which is not registered for the particular food use. Having received no comment on the proposed revocation, EPA is promulgating a final rule effectively revoking the above-listed tolerances and food additive regulation.

In the **Federal Register** of September 19, 1988 (53 FR 36422), the Agency proposed not to initiate a Special Review of Chlordimeform because chlordimeform registrations had been amended, at the registrants' request, to terminate on February 19, 1989. Both chlordimeform registrants, the Ciba-Geigy Corporation and the Nor-Am Chemical Company, also requested the immediate revocation of all tolerances listed in 40 CFR 180.285 except those associated with cotton; they requested the withdrawal of the cotton-related tolerances effective December 31, 1990. The Agency's order of cancellation of chlordimeform and final decision not to initiate a Special Review was published on February 8, 1989 (54 FR 6242). In this final order, in response to numerous comments from users, State officials and researchers, and after conducting a risk/benefit analysis of the use of existing stocks of chlordimeform for one more season and determining that such use did not pose unreasonable risks, the Agency decided to allow use of existing stocks of chlordimeform in the possession of end users until October 1, 1989. Sale or distribution of existing stocks in the possession of registrants, distributors, or retailers was prohibited after February 19, 1989. Registrants were required to recall those stocks in the hands of distributors and retailers.

Information available to the Agency indicates that approximately 1 million acres of cotton were treated with chlordimeform in 1989 and that some of the cottonseed byproducts obtained from the treated cotton (e.g., meal and oil) may have been marketed in 1990 and may still be marketed in 1991. Therefore, in order not to disrupt the marketing of commodities which have

been legally treated (i.e., treated prior to October 1, 1989), the Agency is revoking these tolerances and the food additive regulation, effective on December 31, 1991. The Agency believes this period will allow sufficient time for treated commodities to clear channels of trade. EPA is implementing the December 31, 1991 revocation date by amending the existing tolerances and food additive regulation to include an expiration date of December 31, 1991. EPA's proposal on revocation proposed to delete existing tolerances and the food additive regulation effective December 31, 1991. In this final rule, EPA has chosen to amend the existing regulations to include an expiration date because this approach will provide better notice to the regulated community and will simplify enforcement of the revocation.

Since chlordimeform does not appear to be persistent in the environment, the Agency does not expect environmental contamination of untreated cotton crops planted after October 1989. Therefore, no levels of chlordimeform or its metabolites would be expected to appear in food or feed products once the cotton treated in 1989 has cleared the food supply.

Pursuant to sections 408(d) and 409(f) of FFDCA (21 U.S.C. 346a(d) and 348(f)) and 40 CFR 180.13, any person adversely affected by this regulation revoking the tolerances and the food additive regulation for chlordimeform may, within 30 days after the date of publication of this final rule in the **Federal Register**, file written objections and/or requests for a hearing with the Hearing Clerk, at the address given above. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested and the requestors' contentions on each such issue. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolutions of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

Executive Order 12291

As explained in the proposal of April 3, 1991 (56 FR 13608), EPA determined, pursuant to the requirements of E.O. 12291, that the revocation of these tolerances is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. This rule has been reviewed by the Office of Management and Budget as required under section 3 of E.O. 12291.

Regulatory Flexibility Act

This rule has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq.), and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in the August 15, 1990 proposal.

Accordingly, I certify that this rule does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

Paperwork Reduction Act

This regulatory action does not contain any information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. (section 408(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(m)).

List of Subjects in 40 CFR Parts 180 and 186

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Animal feeds, Reporting and recordkeeping requirements.

Dated: October 6, 1991.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR parts 180 and 186 are amended as follows:

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

b. In § 180.285, by revising the introductory text to read as follows:

§ 180.285 Chlordimeform; tolerances for residues.

Tolerances, to expire on December 31, 1991, are established for combined residues of the insecticide chlordimeform [*N*'-(4-chloro-*o*-tolyl)-*N,N*-dimethyl formamidine] and its metabolites containing the 4-chloro-*o*-toluidine moiety (calculated as the insecticide) from application of the insecticide as the free base or as the hydrochloride salt in or on the following raw agricultural commodities:

* * * * *

PART 186—[AMENDED]

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 348.

b. In § 186.750, by revising the introductory text to read as follows:

§ 186.750 Chlordimeform.

Tolerances, to expire on December 31, 1991, are established for combined residues of the insecticide chlordimeform [*N*'-(4-chloro-*o*-tolyl)-*N,N*-dimethyl formamidine] and its metabolites containing the 4-chloro-*o*-toluidine moiety (calculated as the insecticide) in or on the following processed animal feeds, resulting from carryover and concentration after application of the pesticide to the growing crops:

* * * * *

[FR Doc. 91-25041 Filed 10-15-91; 8:45 am]

BILLING CODE 6560-50-F

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Part 1160

Indemnities Under the Arts and Artifacts Indemnity Act; Correction

AGENCY: National Endowment for the Arts.

ACTION: Final rule; correction.

SUMMARY: The National Endowment for the Arts (NEA) is correcting a typographical error in the Indemnities Under the Arts and Artifacts Indemnity Act final rule which was published on October 2, 1991 (56 FR 49848).

EFFECTIVE DATE: November 1, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Alice Whelihan at (202) 682-5442.

In FR Doc. 91-23531, in the **Federal Register** of October 2, 1991 (56 FR 59848), make the following correction:

§ 1160.4 [Corrected]

On page 49849, second column, § 1160.4, paragraph (e) introductory text, in the fourth line, add "of" between the words "and" and "the".

Dated: October 10, 1991.

Alice Whelihan,

Indemnity Administrator.

[FR Doc. 91-24895 Filed 10-15-91; 8:45 am]

BILLING CODE 7537-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket Nos. 78-72, 91-213; FCC 91-250]

MTS and WATS Market Structure and Transport Rate Structure and Pricing

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission required local exchange carriers (LECs) to continue their current rate structure for transport, pending further agency action. In 1984, the Commission issued a Notice of Proposed Rulemaking, 49 FR 50413, December 28, 1984. The Commission concluded that the importance and complexity of transport issues, the potential for harm to small and medium interexchange carriers from precipitous action, and the administrative burdens associated with any change justify retention of the "equal charge" rate structure, pending further study of transport pricing.

EFFECTIVE DATE: September 1, 1991.

The Commission found good cause to make this requirement effective on less than thirty days' notice in order to avoid any possibility of sudden, temporary changes in access rates. See 5 U.S.C. 553(d)(3).

FOR FURTHER INFORMATION CONTACT: Melissa Newman, (202) 632-9342, or Suzanne Tetreault, (202) 632-6363, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket Nos. 78-72 and 91-213, adopted August 1, 1991, and released August 30, 1991. The full text of this decision is available for inspection and copying during normal business hours in the Dockets Reference Room (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1114 21st Street NW., suite 140, Washington, DC 20037, (202) 452-1422.

Summary of Order

The part 69 rules adopted in the Access Charge Order, 93 FCC 2d 241 (1983) required LECs to allocate transport costs between separate rate elements for "dedicated" and "common" transport, prescribing a flat, per-line rate structure for the dedicated transport element and a usage-sensitive rate structure for the common transport element. In 1982, the United States District Court for the District of Columbia adopted the Modification of Final Judgment (MFJ) in *United States* v. *AT&T*, 552 F. Supp. 131 (D.D.C. 1982), *affirmed sub nom., Maryland* v. *United States*, 460 U.S. 1001 (1983), which required that until September 1, 1991 "charges for delivery or receipt of traffic * * * between end offices and facilities of interexchange carriers within an exchange area," must be "equal, per unit of traffic delivered or received * * *." Subsequently, the Commission waived the part 69 common/dedicated transport rules, permitting the local exchange carriers to tariff transport charges that reflect a rate structure different from that required by the part 69 rules.

The Commission instituted proceedings to re-examine issues related to the Transport waiver in 1984. In January, 1990, the Commission asked parties to supplement the existing record.

After reviewing the comments, the Commission concluded that a decision on the rate structure and pricing of transport must balance three potentially conflicting objectives. These include promoting efficient use of transport facilities by allowing or requiring the LECs to price in a manner that best reflects the way costs are incurred, adopting transport rules conducive to full and fair interexchange competition, and avoiding the adoption of transport rules that would interfere with the development of interstate switched access competition.

The Commission required that all LECs maintain their current rate structure for transport service, pending futher agency action. By retaining the "equal charge" rate structure during the review of the record submitted in response to its proposal, the Commission ensured that small and medium interexchange carriers (IXCs) would not be adversely affected upon expiration of the MFJ requirement by unnecessary churn in rate structures and rate levels during the pendency of this proceeding, and avoided imposing potentially unnecessary burdens on the LECs, whose billing and administrative systems are not currently designed to record and bill for different kinds of transport offerings. While the Commission recognized that retaining the "equal charge" rate structure pending further action may not promote the most efficient use of the public switched network and could interfere with the growth of interstate access competition for transport, the Commission concluded that the importance and complexity of transport issues, the potential for harm to small and medium IXCs from precipitous action, and the administrative burdens associated with any change justify retention of the "equal charge" rate structure, pending further study of transport pricing.

Regulatory Flexibility Requirements

1. Pursuant to the Regulatory Flexibility Act, the Commission certifies that the rule adopted in this proceeding will not have a significant economic impact on a substantial number of small entities, and that the Regulatory Flexibility Act is, therefore, not applicable to this proceeding. LECs providing interstate transport services directly subject to the proposed rule changes do not qualify as small businesses since they are dominant in their field of operation.

Ordering Clauses

1. Accordingly, *It Is Ordered* That local exchange carriers are required to maintain their current rate structure for transport, pending further agency action, and that part 69 is *Amended* to reflect this requirement as shown below effective September 1, 1991.[1]

2. *It Is Further Ordered* That CC Docket No. 78-72 *Is Terminated.*[2]

List of Subjects in 47 CFR Part 69

Communications common carriers, Telephones.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Rule Change

Title 47 of the CFR, part 69 is amended as follows:

PART 69—ACCESS CHARGES

1. The authority citation for part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended 47 U.S.C. 154, 202, 203, 205, 218, 403, unless otherwise noted.

[1] We find good cause to make this requirement effective on less than thirty days' notice in order to avoid any possibility of sudden, temporary changes in access rates. See 5 U.S.C. 553 (d)(3).

[2] These actions are taken pursuant to Sections 1, 4 (i) and (j), 201-205, 218, 220, and 403 of the Communications Act as amended, 47 U.S.C. 151, 154 (i) and (j), 201-205, 218, 220, and 403.

2. New § 69.210 is added to subpart C to read as follows:

§ 69.210 Interim transport pricing.

The transport rate structure in effect August 1, 1991, shall be retained pending further Commission action.

[FR Doc. 91-24907 Filed 10-15-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-566; RM-7013, RM-7096]

Radio Broadcasting Services; Bostwick and Good Hope, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 222A to Bostwick, Georgia, as that community's first local FM service, at the request of Ronald A. Reeves (RM-7096). See 55 FR 52422, December 21, 1989. Channel 222A can be allotted to Bostwick in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.5 kilometers (2.2 miles) west of the community, in order to avoid a short-spacing to Station WWRK(FM), Channel 221A, Elberton, Georgia, and to Station WJGA(FM), Channel 221A, Jackson, Georgia. The coordinates for this allotment are North Latitude 33-45-00 and West Longitude 83-33-00. This document also denies a petition filed by Community Broadcasting Company, Inc., seeking the allotment of Channel 222A to Good Hope, Georgia, as that community's first local FM service (RM-7013). With this action, this proceeding is terminated.

EFFECTIVE DATE: November 25, 1991. The window period for filing applications will open on November 26, 1991, and close on December 26, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-566, adopted September 30, 1991, and released October 10, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73 [AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Channel 222A, Bostwick.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-24909 Filed 10-15-91; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-214; RM-7101, RM-7226]

Radio Broadcasting Services; Homerville, Lakeland and Statenville, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 254A to Statenville, Georgia, at the request of LaTaurus Production, Inc. (RM-7101). See 55 FR 18009, April 30, 1990. Channel 254A can be allotted to Statenville, Georgia, in compliance with the Commission's minimum distance separation requirements with a site restriction 12.9 kilometers (8.0 miles) northeast. The coordinates are North Latitude 30-47-05 and West Longitude 82-55-48. This document also denies a conflicting proposal to upgrade Station WHFE(FM), Lakeland, Georgia, from Channel 290A to Channel 290C3 and to substitute Channel 254A for Channel 288A at Homerville, Georgia (RM-7226). With this action, this proceeding is terminated.

EFFECTIVE DATE: November 25, 1991; the window period for filing applications will open on November 26, 1991, and close on December 26, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-214, adopted September 30, 1991, and released October 10, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73-[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Channel 254A, Statenville.

Federal Communications Commission

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-24910 Filed 10-15-91; 8:45 am]

BILLING CODE 6712-10-M

47 CFR Part 73

[MM Docket No. 89-418; RM-6879, RM-7252]

Radio Broadcasting Services; Milan, Metter, Swainsboro, and Wrens, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 245C3 for Channel 244A at Wrens, Georgia, and modifies the license for Station WRDW(FM) to specify operation on the higher class channel, at the request of Val-Tel, Inc. (RM-6879). In addition, this action also substitutes Channel 285C2 for Channel 285A at Milan, Georgia, modifies the license for Station WMCG(FM) to specify operation on Channel 285C2, substitutes Channel 279A for Channel 285A at Metter, Georgia, modifies the license for Station WHCG(FM) to specify operation on the new Class A channel, substitutes Channel 263A for Channel 280A at Swainsboro, Georgia, and modifies the license for Station WXRS(FM), Swainsboro, at the request of Tel-Dodge Broadcasting Company, Inc. (RM-7252). See 54 FR 40896, October 4, 1989, and Supplemental Information, *infra*.

EFFECTIVE DATE: November 25, 1991.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–418, adopted September 30, 1991, and released October 10, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Channel 245C3 can be allotted to Wrens in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.9 kilometers (5.6 miles) east. The coordinates for Channel 245C3 are North Latitude 33–13–20 and West Longitude 82–17–50. Channel 285C2 can be allotted to Milan in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.2 kilometers (11.9 miles) northwest, in order to avoid short-spacing to Channel 286C2, Blackshear, Georgia. The coordinates for Channel 285C2 are North Latitude 32–09–32 and West Longitude 83–10–55. Channel 279A can be allotted to Metter, Georgia, in compliance with the Commission's minimum distance separation requirements of the Rules, at its present transmitter site. The coordinates for Channel 279A are North Latitude 32–23–56 and West Longitude 82–02–16. Channel 263A can be allotted to Swainsboro, Georgia, in compliance with the Commission's minimum distance separation requirements at its present transmitter site. The coordinates for Channel 263A are North Latitude 32–34–52 and West Longitude 82–23–14. With this action, this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 285A and adding Channel 285C2 at Milan, by removing Channel 285A and adding Channel 279A at Metter, by removing Channel 280A and adding Channel 263A at Swainsboro, and by removing Channel 244A and adding Channel 245C3 at Wrens.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–24911 Filed 10–15–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–53; RM–6614]

Radio Broadcasting Services; Salem and Sioux Falls, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission denies the petition for reconsideration filed by Sioux Falls College of the Report and Order which substituted Channel 252A for Channel 216A at Sioux Falls, South Dakota, and modified its license for Station KCFS to specify operation on the alternate Class A channel in order to allot Channel 263C1 in lieu of Channel 263C2 to Salem, South Dakota, and modify the license of Station KIKN to specify operation on the higher powered channel. See 55 FR 7331, March 1, 1990. However, Station KCFS's license is modified to specify Channel 233A instead of Channel 252A to avoid the possibility of a second channel change for Station KCFS due to the pendency of a proposal for Channel 254C at Pipestone, Minnesota, which would require Station KCFS to move from Channel 252A. See 55 FR 45821, October 31, 1990. Channel 233A can be allotted to Sioux Falls in compliance with the Commission's minimum distance separation requirements at Station KCFS's licensed transmitter site, at coordinates 34–31–57 and 96–44–20. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 25, 1991.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Memorandum Opinion and Order, MM Docket No. 89–53, adopted September 30, 1991, and released October 10, 1991.

Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Dakota, is amended by removing Channel 252A and adding Channel 233A at Sioux Falls.

Federal Communications Commission.

Beverly McKittrick,

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

[FR Doc. 91–24912 Filed 10–15–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91–01; Notice 2]

RIN 2127–AD80

Federal Motor Vehicle Safety Standards; Controls and Displays

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

ACTION: Final rule.

SUMMARY: Federal Motor Vehicle Safety Standard No. 101, Controls and Displays, has long required the identification of certain controls and displays to be perceptually upright to the driver. One of the controls subject to this requirement is the cruise control. This notice amends the standard to provide that identification of cruise controls need be perceptually upright only when the steering wheel is centered.

DATES: *Effective Date:* The amendments made in this rule become effective on November 15, 1991. *Petitions for Reconsideration:* Petitions for reconsideration of this final rule must be received by the agency by November 15, 1991.

ADDRESSES: Petitions for reconsideration must refer to the docket and notice numbers set forth at the beginning of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Cavey, Office of Rulemaking,

National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Mr. Cavey's telephone number is (202) 366–5271.

SUPPLEMENTARY INFORMATION:

Background

Standard No. 101, Controls and Displays, specifies requirements for the accessibility, identification and illumination of controls and displays in passenger cars, multipurpose passenger vehicles, trucks and buses. The purpose of the standard is to ensure the accessibility and visibility of controls and displays to a driver and to facilitate their quick and proper identification and selection by a driver in order to reduce the safety hazards caused by diversion of the driver's attention from the driving task, and by mistakes in selecting controls.

Section S5.2.1 of the standard requires certain vehicle controls to be identified by specified symbols or words and for the identification to be placed on or adjacent to the control. That section also requires the identification to be visible to the driver and with certain exceptions, to "appear to the driver perceptually upright." The cruise control is one control subject to S5.2.1. The cruise control is also known as the automatic vehicle speed control.

On January 23, 1991, NHTSA published in the **Federal Register** (56 FR 2487) a notice of proposed rulemaking (NPRM) to amend Standard No. 101 to provide that identification of cruise controls need be perceptually upright only when the steering wheel is centered. As discussed in that notice, as a result of discussions with General Motors (GM), following the issuance of a June 6, 1990 interpretation letter addressed to Mr. J.A. Schurger, the agency determined that there has been confusion by a number of manufacturers concerning how the perceptually upright requirement applies to cruise controls. As a result, some manufacturers have placed cruise controls on steering wheels, even though the effect of such placement is such that these controls are not "perceptually upright" when the steering wheel is being turned. After considering arguments raised by GM in favor of placing cruise controls on steering wheels, NHTSA decided to initiate rulemaking to consider lessening restrictions on cruise controls and other controls or identifications on steering wheels.

The NPRM focused on the issue of whether there is a safety need to prohibit cruise controls from being placed on steering wheels. However, the agency noted that the issues raised were applicable to any other controls or displays that could be mounted on the steering wheel or steering column. NHTSA characterized the primary issue in the rulemaking not as whether steering wheel-mounted cruise controls necessarily result in safety benefits, but instead whether there is a safety need to prohibit them. The agency tentatively concluded that the safety benefits attributable to the "perceptually upright" requirement will be achieved so long as control identification located on the steering wheel is "perceptually upright" when the steering wheel is centered.

NHTSA also proposed, as an alternative, an amendment that would exclude steering wheel mounted cruise controls altogether from the "perceptually upright" requirement. The agency cited a previous example in which NHTSA decided to exclude horn controls entirely from the "perceptually upright" requirement.

The agency then noted that while the identification for most cruise controls located on steering wheels is upright when the steering wheel is centered, the identification for at least some cruise controls is at a slight angle. The agency stated that the designs at slight angles raise two issues. The first issue is whether identification which is at a slight angle should be considered "perceptually upright" and, if so, at what angle such identification would not be considered "perceptually upright." The agency did not limit this issue to cruise controls on steering wheels but sought comments on its relevancy to identification of controls and displays which are not located on the steering wheel.

The second issue relates to the fact that if identification of cruise controls is to be "perceptually upright" or close to "perceptually upright" to the driver at those times when it is reasonably anticipated that the driver will be observing that identification, it is necessary that the identification be upright or very close to upright when the steering wheel is centered. To the extent that cruise control identification is at an angle when the steering wheel is centered, that angle could be increased during gradual turns depending on the direction of the angle relative to the direction of the turn. NHTSA requested comments on whether identification of cruise controls located on steering wheels should be required to be upright when the steering wheel is centered or whether it should be permitted to be at a specified angle. The agency also asked whether, if the meaning of "perceptually upright" is clarified to expressly permit words as a whole to be placed at slight (specified) angles from the horizontal, a different requirement (e.g., one permitting lesser angles or no angle at all) is appropriate for cruise controls located on the steering wheel, given the fact that any angle will be altered during gradual turns (unlike the identification of controls and displays located on the instrument panel).

Finally, the agency noted that Standard No. 101's "perceptually upright" requirement applies to a number of specified controls and displays in addition to the cruise control. The agency requested comments whether any of these other controls or displays should also be permitted on the steering wheel.

Summary of Comments to Notice of Proposed Rulemaking

In response to its NPRM, the agency received five comments, all from manufacturers. The commenters were Chrysler, Ford, GM, Volkswagen, and Volvo. The manufacturers offered the following comments:

Each of the five commenters supported the agency's first proposal, that identification for steering wheel mounted cruise controls be "perceptually upright" only when the steering wheel is centered, i.e., the vehicle has its wheels positioned to travel straight forward.

Three commenters, Chrysler, Ford, and GM, opposed adopting the second alternative, to exclude steering wheel mounted cruise controls altogether from the "perceptually upright" requirement. Ford opposed this proposal because it was not aware of any data (similar to the case of the horn symbol) that "suggests a high degree of recognition for cruise control identification in all orientations." Chrysler made the same point as Ford, and added that "speed controls are normally multi-switch controls, whereas, the horn button is only one control and its location is usually on the steering wheel."

With respect to the issue of whether, when the steering wheel is centered, any identification which is at a slight angle should be considered perceptually upright and if so, at what angle such identification should not be considered "perceptually upright," only one manufacturer suggested a specific tolerance angle. In its comments, Volkswagen stated that the definition of "perceptually upright" should provide an angular tolerance range of 30 degrees. Volkswagen, however, did not explain the basis for its recommendation of 30 degrees as a tolerance angle. Volvo generally stated

its desire for a clearer definition of "perceptually upright" but did not provide any recommendations or guidelines.

Chrysler, Ford, and GM opposed a redefinition of "perceptually upright" that would specify an angular tolerance. Ford and Chrysler's opposition was based on their lack of data or studies that would suggest criteria that would determine the limits of what could be construed as "perceptually upright." GM opposed any attempt to clarify "perceptually upright" with reference to specified angle from horizontal, stating that this would "result in greater confusion and create unreasonable difficulties in design and compliance with no offsetting benefits to motor vehicle safety."

The only commenter on the question of whether angular tolerances should be permitted for cruise controls located on the steering wheel, Chrysler, stated that it did not believe regulating "perceptual uprightness" by specifying a maximum angular position from the horizontal of steering wheel controls will increase the safety of using these controls.

The last issue raised by the agency was whether, since Standard No. 101's "perceptually upright" requirement applies to a number of specified controls and displays, any other specified controls or displays (in addition to cruise controls) in Standard No. 101 should be permitted on the steering wheel.

Volkswagen, Ford and GM stated that it would be appropriate not to restrict controls and displays which may be considered for placement on steering wheels. GM also commented that it was not aware of information establishing that motor vehicle safety is compromised by "steering wheel-mounted control identifications which are not perceptually upright regardless of steering wheel orientation." GM noted however, that all hub mounted controls should be subject to the "perceptually upright" requirement when the steering wheel is centered.

In its comments, Chrysler suggested that other hand controls (e.g., lighting, windshield wiper, windshield wiper) regulated by Standard No. 101 be permitted on the steering wheel. Chrysler concluded that manufacturers should be allowed to decide the practicality of symbols to be located on steering wheels.

Agency Analysis of Issues and Adoption of Final Rule

All commenters favored the agency's proposal to require cruise controls on steering wheels to appear to the driver perceptually upright only when the steering wheel is centered. No commenters opposed this proposed amendment. Further, with respect to the alternative proposed amendment to exclude steering wheel mounted cruise controls altogether from the perceptually upright requirement, the agency agrees with the concern expressed by some commenters that cruise control identification might not be easily recognizable in all orientations. For the reasons discussed in the NPRM, the agency is adopting the proposed amendment to require cruise controls on steering wheels to appear to the driver perceptually upright only when the steering wheel is centered.

Another issue raised in the NPRM was whether this special provision for cruise controls should be extended to any other controls or displays. Currently, with certain exceptions, any identification for a control or display must appear to the driver "perceptually upright" at all times. The practical effect of requiring controls, displays, or identifications on a steering wheel to appear to the driver to be "perceptually upright" only when the steering wheel is centered would be that these other controls and displays could be placed on the steering wheel.

In addressing this issue, most of the public commenters stated that it would not be appropriate to restrict controls and displays which may be considered for placement on steering wheels. GM stated that it was not aware of any data showing that safety would be compromised by steering wheel mounted identifications which are not "perceptually upright" regardless of steering wheel orientation.

After considering this issue, the agency is concerned about the possible safety consequences of allowing all controls and displays on the rotating steering wheel. Some controls and displays, such as those for turn signals, appear to raise particular concerns. If the turn signal display were on the steering wheel, the relationship of the display to the side of the vehicle would be completely reversed when the steering wheel is turned 180 degrees. This could potentially confuse the driver in the midst of a critical driving maneuver. If the turn signal control were on the steering wheel, it would also be reversed during a turn.

Another concern for the agency is that even if a particular control on a steering wheel did not pose safety problems from the standpoint of its identification being confusing to the driver, multiple controls on a steering wheel may pose a problem. For example, if numerous controls are on the steering wheel, the headlamp or taillamp controls may be inadvertently turned off at night while the driver operates the radio or cruise controls.

In light of its safety concerns, NHTSA has decided not to extend the special provision for cruise controls to other controls and displays at this time. The agency believes that such action should not be taken without further study of the possible safety consequences, including possible human factors research in this area.

Another issue addressed in the NPRM was whether identification which is at a slight angle should be considered perceptually upright and, if so, at what angle such identification would not be considered perceptually upright. The agency requested comments on whether the meaning of perceptually upright should be clarified.

After considering the comments, the agency has decided that it is unnecessary to amend Standard No. 101 to clarify the meaning of "perceptually upright." First, the agency believes that the term is broad enough to permit identification at slight angles. NHTSA notes that persons reading a book or newspaper often hold it at a slight angle from the horizontal, yet perceive the writing to be upright. Thus, even though identification of controls or displays in a motor vehicle may be at a slight angle, a driver can perceive it to be upright.

While the agency considered establishing a specific angular limit, the agency agrees with GM that such a limit could be difficult to interpret in light of the fact that identification of controls may be located on surfaces made up of compound angles, surfaces that are curved, or surfaces that are in a horizontal plane. Hence, it could be difficult to devise an angular limit that is appropriate for all such surfaces. Moreover, while as discussed in the NPRM, certain control identification in some cars is at a slight angle, the agency is unaware of any cars where the degree of angle makes it questionable whether the driver could perceive the identification as upright. NHTSA notes that while it is not establishing a specific angular limit at this time, it could consider doing so in the future if later car designs or research indicated a need to do so.

Volvo requested that a clearer definition of "perceptually upright" be provided in order to avoid uncertainties in the design of identification for controls. However, with the exception of the question of how the term applies to controls located on the steering wheel, which NHTSA has resolved by interpretation and by this rulemaking, the agency is unaware of any evidence that the term has created difficulties for

manufacturers in ensuring that their vehicles comply with Standard No. 101. The agency agrees with GM that time has proven that this term has not been a cause of concern.

NHTSA has also decided not to establish any special angular limits for identification of cruise controls located on steering wheels. As discussed in the NPRM, any angle when the steering wheel is centered would be increased during turns. However, NHTSA believes that the steering wheel would be centered or almost centered when the driver will be observing cruise control identification.

NHTSA finds, for good cause shown, that an earlier effective date of 30 days (rather than 180 days) after publication of this final rule in the **Federal Register** is in the public interest. NHTSA's finding of good cause is based on the fact that the amendments to Standard No. 101 do not impose new requirements, but instead relax an existing requirement to provide additional flexibility.

Regulatory Impacts

1. Costs and Other Impacts

NHTSA has analyzed this rule and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of Department of Transportation regulatory policies and procedures. As already noted, the final rule relaxes an existing requirement. The agency has also concluded that the impacts are so minor as not to require a full regulatory evaluation.

2. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effect of this final rule on small entities. Based upon this evaluation, I certify that the proposed amendments would not have a significant economic impact on a substantial number of small entities. As indicated above, the final rule relaxes an existing requirement. Any cost impacts of the relaxation would be in the direction of cost savings, as a result of increased flexibility, and very minor. Therefore, small businesses, small organizations, and small governmental units would not be significantly affected by the amendments. Accordingly, no regulatory flexibility analysis has been prepared.

3. Federalism

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

4. Environmental Impacts

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

List of Subjects in 49 CFR Part 571

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

In consideration of the following, Federal Motor Vehicle Safety Standard No. 101, Controls and Displays (49 CFR 571.101), is amended to read as follows:

PART 571—[AMENDED]

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

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

2. In § 571.101, the last sentence of S5.2.1(a) is revised to read as follows:

§ 571.101 Standard No. 101; Controls and displays.

* * * * *

S5.2 * * *

S5.2.1 * * *

(a) * * * The identification shall, under the conditions of S6, be visible to the driver and, except as provided in S5.2.1.1, S5.2.1.2, and S5.2.1.3, appear to the driver perceptually upright.

* * * * *

§ 571.101 [Amended]

3. S5.2.1.3 is added to read as follows:

S5.2.1.3 The identification of an automatic vehicle speed control located on the steering wheel, including the steering wheel hub and spokes, need not appear to the driver perceptually upright except when the vehicle, aligned to the manufacturer's specifications, has its wheels positioned for the vehicle to travel in a straight forward direction.

* * * * *

Issued on: October 9, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91–24820 Filed 10–15–91; 8:45 am]

BILLING CODE 4910–59–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 901184–1042]

Groundfish of the Gulf of Alaska

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

ACTION: Notice of prohibition of retention of groundfish.

SUMMARY: The Secretary of Commerce (Secretary) is prohibiting further retention of sablefish by vessels using trawl gear in the West Yakutat District of the Eastern Regulatory Area of the Gulf of Alaska and is requiring that sablefish be treated in the same manner as a prohibited species by trawl vessels in that district. This action is necessary to prevent the trawl gear share of sablefish in this district from being exceeded. The intent of this action is to ensure optimum use of groundfish while conserving sablefish stocks.

EFFECTIVE DATES: 12 noon Alaska local time (A.l.t.), October 10, 1991, through midnight, A.l.t., December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, NMFS, 907–586–7229.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone within the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and was implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery, the total allowable catch (TAC), is defined at § 672.20(a)(2) and 672.20(c)(1). The final notice of 1991 initial specifications of groundfish established the TAC for sablefish in the West Yakutat District as 4,050 mt. This notice further established the trawl gear share of sablefish in that district as 200 mt (56 FR 8730; March 1, 1991).

Under § 672.24(c)(3)(ii), if the share of the sablefish TAC assigned to any type of gear for any year and any area or district is reached, further catches of sablefish must be treated as a prohibited species by persons using that type of gear for the remainder of the year.

The trawl gear share of sablefish TAC in the West Yakutat District soon will be reached. Therefore, the Secretary is

prohibiting further retention of sablefish in the West Yakutat District by vessels fishing with trawl gear for the remainder of the fishing year.

After the effective date of this closure, sablefish in the West Yakutat District harvested with trawl gear must be treated in the same manner as a prohibited species and discarded.

Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Recordkeeping and reporting requirements.

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

Dated: October 9, 1991.

David S. Crestin,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-24867 Filed 10-10-91, 12:09 pm]

BILLING CODE 3510-22-M

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50 CFR Part 685

[Docket No. 910800-1251]

RIN 0648-AD99

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 4 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). This rule would extend until April 1994 a moratorium on the issuance of new permits to participate in the Hawaii-based longline fishery for management unit species. This action is necessary to provide a period of stability for the fishery so that the Western Pacific Fishery Management Council (Council) and NMFS can complete a comprehensive, long-term management regime. The emergency moratorium now in place will expire on October 10, 1991, under the time limits set by the Magnuson Fishery Conservation and Management Act (Magnuson Act). This final rule will continue the requirements imposed by the emergency rule as modified.

EFFECTIVE DATE: This action becomes effective at 0000 hours local time October 10, 1991, and expires at 2400 hours local time on April 22, 1994, except for the requirements in § 685.15 (b)(2), (e)(5), and (f)(3) that documentation must be submitted together with limited entry permit and permit transfer applications. Paragraphs (b)(2), (e)(5), and (f)(3) of § 685.15 contain a collection-of-information requirement subject to the Paperwork Reduction Act; when approval from the Office of Management and Budget is obtained, an effective date for these paragraphs will be published in the **Federal Register.**

ADDRESSES: Copies of the amendment and environmental assessment are available from Kitty B. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813 (808-523-1368). Send comments on the proposed collection-of-information to the Director, Southwest Region, NMFS, 300 South Ferry Street, Terminal Island, CA 90731, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Paperwork Reduction Project 0648-0204, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California (213) 514-6660; or Alvin Katekaru, Pacific Area Office, Southwest Region, NMFS, Honolulu, Hawaii (808) 955-8831.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Council and approved and implemented by the Secretary of Commerce (Secretary) at a time when there were few problems in the domestic fisheries for management unit species (billfish and associated species). This is no longer the case. Due to rapid growth in the longline fishery in Hawaii, which targets on management unit species and tuna, there are serious concerns about the status of the stocks, the impact of increased longline catches on other fisheries, and interactions between longline fishing and protected species such as Hawaiian monk seals.

The Council has taken several actions to address these concerns. It established a control date for possible use in a limited entry program; adopted an FMP amendment establishing permit and logbook requirements for domestic longline and transshipping vessels using the fishery management area under the FMP (56 FR 24731, May 31, 1991); requested an emergency rule and approved an FMP amendment to close certain waters around the Northwestern Hawaiian Islands (NWHI) to longline fishing to protect Hawaiian monk seals; and requested an emergency rule imposing a moratorium on new entry into the longline fishery based in Hawaii. The reasons for these actions are described in considerable detail in the emergency rules published at 56 FR 14866 (April 12, 1991), 56 FR 15842 (April 18, 1991), 56 FR 28116 (June 19, 1991), 56 FR 28718 (June 24, 1991), and 56 FR 37300 (August 6, 1991), and in the proposed rule published at 56 FR 41643 (August 22, 1991) respectively, and will not be repeated here. Amendment 4, which this rule implements, continues the moratorium on new entry into the Hawaii-based longline fishery.

This amendment addresses three concerns: (1) That the dramatically increased level of longline fishing harvest from the portion of the exclusive economic zone (EEZ) around Hawaii may have an impact on the stocks of management unit species throughout their range; (2) that even if stocks are not affected on a stock-wide basis, the increased catches by U.S. longline vessels may adversely affect established commercial and recreational handline and troll fisheries; and (3) that the risk of adverse impacts on threatened and endangered species such as the Hawaiian monk seal will increase if the longline fleet grows. A moratorium on new entry will arrest the growth of the fleet, reduce the potential for increased catches that could affect stocks and local fisheries dependent on the availability of management unit species, and, in combination with the current area closures around the NWHI, minimize the risk of interactions with monk seals.

The extended moratorium (for a total of 3 years including the 6-month emergency moratorium period) is intended to provide a period of stability in the longline sector of the fishery while the Council and NMFS work with all fishery participants in developing a comprehensive, long-term management regime for the pelagic species fishery. The planning process includes substantial new data collection, supported by the general permit and logbook requirements now in place, and new data analyses to investigate the impacts of harvests upon the stocks and upon other fishery sectors. The long-range plan will be the subject of public hearings and Council meetings, and the Council will receive advice from its Plan Monitoring Team, Scientific and Statistical Committee, and Pelagics Advisory Subpanel.

The final rule reflects several changes from the proposed rule (56 FR 41643, August 22, 1991). The limited entry permit eligibility criteria discussed in the proposed rule are retained, but the final rule also reflects recent guidance from the Council concerning application and interpretation of the criteria. Permit eligibility criteria 7, 8, and 9 below are added as the result of this guidance.

Consequently, a limited entry permit (permit) will be issued to a person (including a partnership or corporation), for a particular vessel, who certifies and provides documentation to demonstrate that the person:

1. Owned the vessel when it made landings in Hawaii of longline-caught management unit species on or before December 5, 1990;

2. Owned the vessel when it engaged in transshipment of longline-caught management unit species in waters shoreward of the outer boundary of the EEZ around Hawaii on or before December 5, 1990;

3. Made a substantial financial commitment or investment (at least $25,000) on or before December 5, 1990, for gear to equip the vessel, owned by that person and located in Hawaii on or before December 5, 1990, so that the vessel could participate in the longline fishery;

4. Made a substantial commitment or investment (at least $25,000) on or before June 21, 1990, for the purchase or construction of a vessel for participation in the fishery, and intended at the time of the investment that the vessel would be used in the fishery;

5. Made a substantial financial commitment or investment (at least $25,000) on or before June 21, 1990, in the refitting of a vessel for participation in the fishery and intended at the time of the investment that the vessel would be used in the fishery; or

6. Owned the vessel, properly permitted under the western Pacific crustacean regulations (50 CFR part 681), when it made landings of lobster from the Northwestern Hawaiian Islands in 1990;

7. Obtained a replacement vessel for a vessel that sank or was declared unseaworthy within 12 months before the start of the emergency moratorium (April 23, 1991), and for which its owner would have qualified for a permit had the vessel remained functional, provided application for a permit is made within 30 days of the effective date of this rule.

8. Obtained from an immediate family member (parent, spouse, child, sibling, adopted child) the vessel, for which its previous owner would have qualified for a permit had the previous owner retained the vessel; or

9. Obtained between December 5, 1990, and April 23, 1991 (inclusive) a vessel, for which its previous owner would have qualified for a permit had the previous owner retained the vessel.

Limited entry and general permits are required for vessels in Hawaii that have fishing gear on board and that fish for, transship, possess, retain, or land management unit species. General permits are required for vessels that are categorized as receiving vessels (i.e., do not have fishing gear on board but have management unit species on board throughout the management area). The two types of permits are not interchangeable.

The rule provides that a person holding a limited entry permit under criteria 1–7 above may transfer the permit with the sale of the vessel one time during the 3-year moratorium period (April 1991 through April 1994). A person who obtains a permit through such a sale cannot re-transfer the permit with the vessel in this period. A person who obtains a permit through the purchase of a vessel must provide the same information to the Regional Director as if that person were an original permit applicant using the standard Southwest Region Federal Fisheries Permit Application Form, and the supplemental information sheet if a corporation or partnership owns the vessel. Permits obtained under criteria 8 and 9 are considered to have been obtained through exercise of the one-time transfer option in the rule. A person who obtains a permit under either of these criteria may not transfer that permit through transfer of the vessel during the moratorium period.

The rule provides that a permit may be held by a partnership or corporation for a vessel owned by the partnership or corporation, but that any change in 50 percent or more of the ownership of the holding partnership or corporation constitutes a transfer of the permit. Layering of corporations and partnerships will not prevent the application of this provision.

The rule provides that permits may be transferred with transfer of the ownership of the vessel in cases of extreme hardship such as death or terminal illness preventing the owner from participating in the fishery. The Regional Director determines whether an extreme hardship condition exists. A Pelagics Advisory Review Board established by the Council may be asked to recommend how the Council should advise the Regional Director in such situations.

Further, the holder of a permit may transfer the permit without limitation to a replacement vessel owned by that person as long as the Regional Director determines that the replacement vessel has a harvesting capacity that is comparable to the original vessel. Vessel length, range, hold capacity, gear limitations, and other factors will be considered in making determinations of comparability of different vessels' harvesting capacity.

A permit obtained through a transfer of ownership of the vessel will remain valid only if the new owner applies to the Pacific Area Office for a permit in the name of the transferee within 30 days of the recording of the ownership change on a Certificate of Documentation from the U.S. Coast Guard.

The rule requires a permit applicant to submit documentation with permit applications to establish that the applicant meets the eligibility criteria for permits. Documentation may include invoices and receipts for purchases of gear, contracts for refitting vessels, contracts for purchase or construction of vessels, lists of the owners of corporations or partnerships applying for permits and the share of the corporation or partnership that each individual person owns at the time of permit application, and evidence of vessel ownership by applicants. The specific information to be provided by each applicant (if any) cannot be determined in advance as each situation is likely to be different. This is necessary to ensure that permits are issued only to those who are owners meeting the permit eligibility criteria for the program.

Applicants must apply for permits within 90 days of the effective date of this rule, except for applicants under criterion 7 (for sunken/unseaworthy vessels), who must apply within 30 days. Applications submitted after these dates will not be considered. Persons holding permits under the current emergency rule will not be required to file applications for new permits under this rule.

Amendment 4 provides a framework by which the Council and NMFS can require that longline vessels, as a condition of obtaining permits or being exempted from permit requirements, must obtain, install, and make operational an automated vessel tracking system. This framework process would involve rulemaking procedures, including notice in the **Federal Register**, but would not require a separate FMP amendment.

The rule adds a definition of "fish dealer" and provides that fish dealers must make records of their transactions involving vessels regulated under this part available to authorized officers for inspection and copying. This is necessary to facilitate enforcement of the rule. Inspection and copying of records is often necessary to document unlawful fishing or landings by vessels without valid permits.

In addition, the rule eliminates paragraph (1) in § 685.5, which

prohibited vessel operators from failing to notify the Regional Director before fishing in the protected species zone. Because this zone is closed to longline fishing, this reference is outdated and needs to be removed from the regulatory text.

Public Comments Received and Responses

The only comments received from the public were from the Marine Mammal Commission, which supported implementation of the limited entry program and recommended completion of the test and analysis of the vessel tracking system.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that Amendment 4 to the FMP and its implementing rule are necessary for the conservation and management of the pelagic fishery resources of the western Pacific region and are consistent with the Magnuson Act and other applicable law.

An environmental assessment (EA) was prepared for the emergency rule that led to the FMP amendment. The EA concluded that the moratorium would not have a significant effect on the human environment and was the basis of a Finding of No Significant Impact. There is no new information that would result in a different conclusion at this time. The Assistant Administrator has concluded that this action qualifies for a categorical exclusion from the requirement to prepare an EA.

The Assistant Administrator has determined that this is not a "major rule" requiring a regulatory impact analysis under Executive Order (E.O.) 12291. The final rule will not have a cumulative effect on the economy of $100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. This determination is based on the regulatory impact review which is incorporated in the impact analysis in the amendment. The analysis demonstrates long-term benefits to the fishery under the proposed measures. The principal burden to industry is associated with the submission of information to support permit applications. The estimated burden is about 2 hours per vessel, or not more than $50, for compiling and submitting this information.

As described below, this rule will establish a new collection-of-information requirement subject to the Paperwork Reduction Act. This is a modification of the permit application system approved under OMB Control No. 0648–0204. This modification will require permit applicants to submit documentation to demonstrate that they meet one or more permit eligibility criteria. Under the emergency moratorium, applicants have not been required to submit such documentation. It has been up to NMFS to search records and make additional inquiries to resolve doubts in cases in which the applicant indicated having made investments above the minimum amount to qualify for permits but did not provide supporting documentation to demonstrate the amount of the investment or that the intent, when the investment was made, was to use the vessel in the Hawaii-based longline fishery. This has caused substantial difficulty for NMFS, as well as delays in processing permits. In addition, documentation to confirm ownership also has been difficult to trace in some cases. By requiring permit applicants to provide this documentation at the start of the process, it should be easier for NMFS to determine eligibility and issue permits, and applicants will face fewer delays in getting permits. The estimated burden under this collection is 2 hours per application to compile records, make copies where necessary, and submit them with applications. Some applications will require more time, while others will take less time.

In addition, this rule provides that a person holding a limited entry permit may transfer the permit (1) with the sale of the vessel one time during the combined 3-year moratorium period; (2) in cases of extreme hardship; or (3) to a replacement vessels owned by the same person(s) as long as the replacement vessel's harvesting capacity is comparable to the original vessel. Upon a change in vessel ownership, the transferee or partnership/corporation must apply to the Regional Director within 30 days after the date that the transfer provisions (§ 685.15 (e)(5) and (f)(3)) are made effective or 30 days after the date of the change in ownership, whichever is later, to have the permit issued in the transferee's name(s) and at that time provide documentation of any changes in ownership or vessel information. The estimated burden under this collection is about 2 hours per transfer to compile satisfactory documentation and records of the transfer, make copies where necessary, and submit them with the transfer request.

A request for approval of these collections has been submitted to OMB. These collections will not become effective until approved by OMB and a notice to that effect appears in the **Federal Register**. Comments on the collections of information and/or suggestions on how to reduce these burdens can be sent to the Regional Director, Southwest Region, NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (see **ADDRESSES**).

The Council determined that this rule would be implemented in a manner that is consistent, to the maximum extent practicable, with the approved coastal zone management program of the State of Hawaii. This determination was submitted for review by the responsible state agency under section 307 of the Coastal Zone Management Act. The State of Hawaii has concurred.

An informal consultation was conducted under section 7 of the Endangered Species Act (ESA) and it was determined that this action is not likely to adversely affect any endangered or threatened species listed under the ESA, nor will it adversely affect any critical habitat of any listed species.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

The Administrative Procedure Act (5 U.S.C. 553) requires that, generally, final rules be published not less than 30 days before they become effective. This 30-day period may be shortened or waived if the rulemaking agency published with the rule an explanation of what good cause justifies an earlier date. This rule, implementing Amendment 4 to the FMP, continues until April 22, 1994, the authority to require limited entry permits for longline fishing vessels in the longline fishery based in Hawaii implemented by emergency rule (56 FR 14866, April 12, 1991). However, the 30-day cooling-off period is being waived for good cause to ensure no lapse of regulations providing authority to require limited entry permits for longline fishing vessels in the longline fishery based in Hawaii.

List of Subjects in 50 CFR Part 685

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 9, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 685 is amended as follows:

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC

1. The authority citation for part 685 continues to read as follows:

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

2. In § 685.2, new definitions for "Fish dealer" and "Substantial financial investment" are added, in alphabetical order, to read as follows:

§ 685.2 Definitions.

* * * * *

Fish dealer means any person who: (1) Obtains, with the intention to resell, management unit species, or portions thereof, that were harvested or received by a vessel that holds a permit under this part or that is otherwise regulated under this part; or (2) provides recordkeeping, purchase, or sales assistance in obtaining or selling such management unit species (such as the services provided by a wholesale auction facility).

* * * * *

Substantial financial investment means documented expenditures, or a commitment (e.g., by contract), of at least $25,000.

* * * * *

3. In § 685.5, paragraph (l) is removed, paragraphs (m) and (n) are redesignated (l) and (m), and new paragraphs (n) through (q) are added, to read as follows:

§ 685.5 Prohibitions.

* * * * *

(n) Receive management unit species on board a receiving vessel that is shoreward of the outer boundary of the EEZ around Hawaii from a longline vessel that does not have a valid limited entry permit.

(o) Except for receiving vessels, fish for, possess, retain, transship, or land, shoreward of the outer boundary of the EEZ around Hawaii, management unit species that were taken by longline gear, unless the vessel has on board a valid limited entry permit required under § 685.15.

(p) Transfer a limited entry permit in violation of § 685.15.

(q) Refuse to make available to an authorized agent for inspection and copying any records that must be provided in accordance with § 685.17.

* * * * *

4. Section § 685.15 is added to subpart A to read as indicated below. The documentation requirements in paragraphs (b)(2), (e)(5), and (f)(3) will become effective upon approval by the Office of Management and Budget and publication of a notice to that effect in the **Federal Register**.

§ 685.15 Limited entry permits.

(a) Except for receiving vessels, any vessel of the United States shoreward of the outer boundary of the EEZ around Hawaii that uses longline gear to fish for management unit species, or that possesses, transships, or lands management unit species that were taken by longline gear, must have a limited entry permit under this section on board the vessel.

(b) *Application.* (1) Permit applications must be filed by January 14, 1992, except that an application for a permit under § 685.15(c)(7) must be submitted by November 15, 1991.

(2) A vessel owner, or an agent authorized in writing by a vessel owner to apply for a permit, must submit an application for a limited entry permit on a form provided by the Pacific Area Office at least 15 days before the desired effective date of the permit. The application must include documentation to:

(i) Identify the owner(s) of the vessel; and

(ii) Demonstrate that the vessel owner meets one or more of the eligibility criteria listed in paragraph (c) of this section.

(c) *Issuance.* The Regional Director will issue a limited entry permit under this section to a person for a specific vessel owned by that person if the Regional Director determines that the person: (1) Owned the vessel when the vessel landed longline-caught management unit species in Hawaii on or before December 5, 1990;

(2) Owned the vessel when it engaged in transshipment of longline-caught management unit species in waters shoreward of the outer boundary of the EEZ around Hawaii on or before December 5, 1990;

(3) Made a substantial financial investment on or before December 5, 1990, in longline gear for the vessel that was owned by that person and located in Hawaii on or before December 5, 1990;

(4) Made a substantial financial investment on or before June 21, 1990, for the construction or purchase of that specific new vessel and intended at the time of the investment that the vessel would be used in the longline fishery based in Hawaii upon completion of construction or delivery of a purchased vessel;

(5) Made a substantial financial investment on or before June 21, 1990, in the refitting of a vessel for participation in the fishery, and intended at the time of the investment that the vessel would be used in the fishery upon completion of the refitting;

(6) Owned the vessel, which held a permit for 1990 under § 681.4 of this chapter and which is 1990 landed in Hawaii lobsters that were harvested from the Northwestern Hawaiian Islands;

(7) Obtained a replacement vessel for a vessel that was sunk or declared unseaworthy in the twelve months prior to April 23, 1991, and for which its owner would have been eligible to obtain a limited entry permit had the vessel remained functional;

(8) Obtained through a transfer of ownership from an immediate family member (parent, spouse, child, sibling, or adopted child) a vessel for which the previous owner would have been eligible to obtain a limited entry permit; or,

(9) Obtained in the period December 5, 1990, through April 23, 1991, inclusive, a vessel from a person who would have been eligible for a limited entry permit under one or more of the criteria in paragraphs (c) (1) through (5) of this section.

(d) *Duration.* Permits issued under this section expire at 2400 hours local time on April 22, 1994, unless revoked, suspended, or modified under 15 CFR part 904.

(e) *Transfer.* (1) A limited entry permit is valid only for the vessel for which it is issued, except insofar as transferring a permit is allowed by this paragraph (e).

(2) A limited entry permit issued under § 685.15(c) (1) through (7) can be transferred with the sale of the vessel for which it was issued only once after April 23, 1991. A limited entry permit issued under § 685.15(c) (8) or (9) may not be transferred with the sale of the vessel for which it was issued.

(3) Notwithstanding the provisions of paragraphs (e)(2) of this section, the Regional Director, in consultation with the Council, may allow the transfer of a limited entry permit in cases of extreme hardship such as death or terminal illness preventing the vessel owner from participating in the fishery.

(4) A limited entry permit issued under this section may, without limitation as to frequency, be transferred by the permit holder to a replacement vessel owned by that

person, provided that the Regional Director determines that the replacement vessel has a harvesting capacity that is comparable to the original permitted vessel. Vessel length, range, hold capacity, gear limitations, and other factors shall be considered in making determinations of the comparability of vessels' harvesting capacity.

(5) If a new owner of a permitted vessel wishes to have a permit issued in the new owner's name, the new owner must apply to the Pacific Area Office within 30 days of the effective date of this paragraph, or within 30 days of the change in ownership of a permitted vessel, as documented on a Coast Guard Certificate of Documentation or on state vessel registration records for an undocumented vessel, whichever is later. The new owner must at that time provide documentation of any changes in ownership of the vessel. The transferred permit is not valid until this process is completed.

(f) *Partnership or Corporate Ownership and Transfer.*

In addition to the other requirements of this section, the following provisions apply to a limited entry permit owned by or transferred to a partnership or corporation. (1) An application for a limited entry permit filed by a partnership or corporation must identify each owner's respective percentage share of the partnership(s) or corporation(s).

(2) A change of 50 percent or more of the ownership of a partnership or corporation will be considered a transfer. Layerings of partnerships or corporations will not insulate a permit holder from application of this limitation.

(3) If a limited entry permit is transferred to a partnership or corporation, the transferee(s) must provide satisfactory documentation of the transfer, including the name of each new owner and respective ownership share for each owner of the corporation or partnership obtaining the permit. The transferred permit is not valid until this process is completed.

5. New § 685.16 is added to subpart A and reserved, to read as follows:

§ 685.16 Vessel position fixing device. [Reserved]

6. A new § 685.17 is added to subpart A, to read as follows:

§ 685.17 Availability of records for inspection.

Any fish dealer shall provide an authorized officer access for inspecting and copying all records of fish purchases, sales, or other transactions involving fish taken or handled by vessels that have permits issued under this part or are otherwise subject to this part, including but not limited to information concerning:

(a) The name of the vessel involved in each transaction and the owner or operator of the vessel;

(b) The amount, number, and size of each species fish involved in each transaction; and

(c) Prices paid by the buyer and proceeds to the seller in each transaction.

[FR Doc. 91–24795 Filed 10–9–91; 4:10 pm]
BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 56, No. 200
Wednesday, October 16, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

1 CFR Part 462, 12 CFR Chapter X, 24 CFR Part 81

[Docket No. R-91-1532; FR-2895-P-02]

RIN 2501-AA99

HUD Regulation of Federal National Mortgage Association and Federal Home Loan Mortgage Corporation

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule and request for comments; extension of comment period.

SUMMARY: The comment period announced in HUD's proposed rule published on August 16, 1991 (56 FR 41023) on HUD Regulation of Federal National Mortgage Association and Federal Home Loan Mortgage Corporation was to expire on October 15, 1991. This notice extends the comment period for the rule to November 14, 1991. This change is being made because various interested parties have expressed the view that more time is needed to develop comments on the rule.

DATES: Comment due date: November 14, 1991.

ADDRESSES: : Interested persons are invited to submit comments regarding the proposed rule to the Rules Docket Clerk, Office of the General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication received will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile (FAX) machine. The telephone number of the Fax receiver is (202) 708–4337. (This is not a toll-free number). Only public comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will not be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk (202) 708–2084.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Markison, Assistant General Counsel for Administrative Law, telephone (202) 708–3137 or Walter T. Cassidy, Senior Financial Institutions Regulation Attorney, telephone (202) 708–2088; Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. A telecommunications device for deaf persons (TDD) is available at (202) 708–9300. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: In accordance with section 309(h) of title III of the National Housing Act (the FNMA Charter Act), 12 U.S.C. 1723a(h), the Secretary of Housing and Urban Development has general regulatory power over the Federal National Mortgage Association (FNMA). HUD's regulations governing FNMA, at 24 CFR part 81, were last revised by a rule published on August 15, 1978 at 43 FR 36200, effective September 14, 1978. The Secretary has determined that substantial revisions are now needed to update the regulations to provide for detailed oversight and for the financial safety and soundness of FNMA. Under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Public Law 101–73, 103 Stat. 183, the Secretary also acquired general regulatory power over the Federal Home Loan Mortgage Corporation (FHLMC). Accordingly, the proposed rule amends and updates the Secretary's FNMA regulations, and establishes parallel regulations for FHLMC.

Various interested parties have requested that the Department extend the comment due date so that commenters would have sufficient time to provide comments. Because of the pressing need to assure adequate regulation of FNMA and to establish regulations for FHLMC, the Department does not want to delay this process unduly. The Department does want to provide a reasonable opportunity for public participation. Accordingly, the comment period is being extended for an additional thirty days. Comments received during the extended period will be considered, along with those previously submitted, in the development of the final rule.

Dated: October 8, 1991.

Alfred A. DelliBovi,

Deputy Secretary.

[FR Doc. 91–24815 Filed 10–15–91; 8:45 am]

BILLING CODE 4210–32–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 273

[Amendment No. 341]

Food Stamp Program: Establishment of Outcome-Based Performance Standards for the Employment and Training Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed Rule: Extension of comment period.

SUMMARY: On August 30, 1991, a rulemaking was published (56 FR 43152) that proposed the establishment of outcome-based performance standards for the Food Stamp Employment and Training (E&T) Program, as mandated by the Hunger Prevention Act of 1988 (Pub. L. 100–435). A 60-day comment period was scheduled. The Department is extending the comment period to end 90 days from August 30, 1991.

DATES: The deadline for receipt of comments is extended from October 29, 1991 to November 28, 1991.

FOR FURTHER INFORMATION CONTACT: Ellen Henigan, Supervisor, Work Program Section, Food Stamp Program, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 716, Alexandria, Virginia 22302, (703) 756–3762.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291 and Secretary's Memorandum 1512–1

This notice has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified by the Department as nonmajor. The annual effect of this notice on the economy would be less than $100 million. This action would not result in major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. It would not have significant adverse effects on competition, employment, investment, productivity and innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule and related notice to 7 CFR part 3015, subpart V, the E&T program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This Notice has also been reviewed with regard to the requirements of the Regulatory Flexibility Act, Public Law 96–354. Betty Jo Nelsen, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will primarily affect State and local welfare agencies and other entities interested in the administration of the Food Stamp E&T Program. This action will have a beneficial effect in that it allows more time for these entities to comment on the August 30, 1991 proposed rule (56 FR 43152).

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget.

Extension

On August 30, 1991, a rulemaking was published (56 FR 43152) that proposed the establishment of outcome-based performance standards for the Food Stamp E&T Program, as mandated by the Hunger Prevention Act of 1988. The rule specified a 60-day comment period. Due to the significance and complexity of this proposal, the Department is extending the comment period to 90 days. Comments must, therefore, be received on or before November 28, 1991 to be assured of consideration.

Dated: October 10, 1991.

Betty Jo Nelsen,

Administrator.

[FR Doc. 91–24826 Filed 10–15–91; 8:45 am]

BILLING CODE 3410–30–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[GL–720–88]

RIN 1545–AM72

Effect of Honoring Levy

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulatory amendment regarding the effect of honoring an Internal Revenue Service levy. The Technical and Miscellaneous Revenue Act of 1988 provides that any person who surrenders property subject to levy shall be discharged from any obligation or liability to the delinquent taxpayer or to any other person with respect to such property arising from such surrender. The proposed regulatory amendment would provide that where a taxpayer has an apparent interest in property in the possession of someone else, and the possessor makes a good faith determination that the property is properly subject to levy, the possessor who surrenders the property to the United States in response to a levy is relieved of liability to a third party that has an interest in the property, even if it is subsequently determined that the property is not properly subject to levy.

DATES: A public hearing will be held on November 21, 1991. Written comments and requests to speak (with an outline of oral comments) at the public hearing must be received by November 7, 1991. See Notice of Hearing published elsewhere in this issue of **Federal Register).**

ADDRESSES: Send comments and requests to speak (with an outline of oral comments) at the public hearing to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, attn: CC:CORP:T:R (GL–720–88), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Jerome D. Sekula, 202–566–4557 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 6332 of the Internal Revenue Code. The regulations reflect the amendment of section 6332 by section 1015(t)(1)(A)–(B) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100–647).

Explanation of Provisions

Section 1015(t)(1)(A)–(B) of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) (Pub. L. No. 100–647, 102 Stat. 3573) amended section 6332 of the Internal Revenue Code to provide that any person in possession of property subject to levy upon which a levy has been made, who surrenders such property to the Internal Revenue Service, shall be discharged from any obligation or liability not only to the delinquent taxpayer, but also to any other person. The proposed regulations conform the regulations to the changes in the statutory language.

The existing regulations under section 6332 provide that any person who mistakenly surrenders to the United States property or rights to property not properly subject to levy is not relieved from liability to a third party who owns the property. Frequently when the Internal Revenue Service serves a levy upon a person in possession of property which ostensibly belongs to a taxpayer, that possessor is faced with competing claims of ownership in the property and must make a determination, at his or her peril, whether the property is properly subject to levy under the provisions of the Internal Revenue Code and the provisions of state property law. The proposed regulations incorporate the principle of the amendment to section 6332 by providing that where a taxpayer has an apparent interest in property in the possession of someone else, a possessor who makes a good faith determination that such property is properly subject to a levy pertaining to the taxpayer and who surrenders such property to the United States in response to the levy is relieved of any liability or obligation to a third party who has an interest in the property even if it is subsequently determined that the property was not properly subject to levy. If, however, a person mistakenly surrenders property in which the taxpayer has no apparent interest and that property is not properly subject to levy, such person is not relieved of liability to a third party that owns the property. In any situation, the proposed

regulations clarify that the owners of surrendered property may seek to have the property returned through the administrative relief provided in section 6343(b) of the Internal Revenue Code, or may bring suit to recover the property under section 7426.

The proposed regulations set forth examples illustrating the effect of honoring a levy. This relief provision does not apply to any person who improperly surrenders property before the 21 day holding period in section 6332(c).

Section 6332 of the Code was further amended by the removal of language which provided that an insuring organization that satisfied a levy with respect to a life insurance or endowment contract was discharged from any obligation or liability to any beneficiary of such contract. The language pertaining to a discharge from liability in the case of insuring organizations was deleted because, in light of the more general protection from liability to third parties now provided with the enactment of TAMRA section 1015(t)(1)(A)(B), that language was superfluous. The proposed regulations would remove the corresponding language in the existing regulations to conform to the statutory amendment.

Effective Date

The amendment is proposed to be effective for levies issued after November 10, 1988.

Special Analyses

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

Comments and Requests to Appear at the Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be held. Notice of the date, time, and place for the hearing and other details relating thereto is published elsewhere in this issue of the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Anne P. Rosselot, Office of the Assistant Chief Counsel (General Litigation), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping, Statistics, Taxes.

Proposed Amendments to the Regulations

Accordingly, title 26, part 301 of the Code of Federal Regulations is proposed to be amended as follows:

PART 301—[AMENDED]

Paragraph 1. The authority citation for part 301 continues to read in part:

Authority: Sec. 7805 I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805 * * *

Par. 2. Section 301.6332–1 is amended as follows:

The heading of paragraph (c) is revised.

2. Paragraph (d) is redesignated as paragraph (e).

3. New paragraph (d) is added.

4. The revised and added provisions read as follows:

§ 301.6332–1 Surrender of property subject to levy.

* * * * *

(c) *Effect of honoring levy issued on or before November 10, 1988.* * * *

(d) *Effect of honoring levy issued after November 10, 1988*—(1) *In general.* Any person in possession of, or obligated with respect to, property or rights to property subject to levy and upon which a levy has been made who, upon demand by the district director, surrenders the property or rights to property, or discharges the obligation, to the district director, or who pays a liability described in paragraph (b)(1) of this section, is discharged from any obligation or liability to the delinquent taxpayer and any other person with respect to the property or rights to property arising from the surrender or payment.

(2) *Mistakenly surrendered property.* Any person who mistakenly surrenders to the United States property or rights to property not properly subject to levy in which the delinquent taxpayer has no apparent interest is not relieved of liability to a third party who has an interest in the property. However, where the delinquent taxpayer has an apparent interest in property or rights to property, a person who makes a good faith determination that such property or rights to property in his or her possession is properly subject to levy and who surrenders the property to the United States in response to a levy is relieved of liability to a third party who has an interest in the property or rights to property even if it is subsequently determined that the property was not properly subject to levy.

(3) *Remedy.* In situations described in paragraphs (d)(1) and (d)(2) of this section, third parties who have an interest in property surrendered in response to a levy may secure from the United States the administrative relief provided for in section 6343(b) or may bring suit to recover the property under section 7426.

(4) *Examples.* The provisions of this paragraph (d) may be illustrated by the following examples:

Example 1. M Bank is served with a notice of levy for an unpaid tax liability due from A in the amount of $2,000. M Bank holds $2,000 in a checking account in the names of A or B or C. Although all of the deposits into the account were made by B and C, A has an unrestricted right to withdraw the funds from the account. M Bank surrenders the entire account to the district director at the end of the holding period provided in section 6332(c). Under paragraph (c)(1) of this section, M Bank is not liable to B or C for any amount, even if B or C prove that the funds in the account did not belong to A, because A's unrestricted right to withdraw the funds is an interest which is subject to levy. B or C may, however, seek the return of the funds from the United States as provided in sections 6343(b) and 7426 of the Code.

Example 2. A is indebted to B for $400. Unbeknownst to A, B has assigned his right to receive payment to C. A is served with a notice of levy for an unpaid tax liability due from B for $400. A, acting with no knowledge of the assignment to C, surrenders $400 to the district director. A is discharged from his obligation to pay B, the taxpayer. Under paragraph (d)(2) of this section, because B had an apparent interest in the funds which A owed to B, and because A acted in good faith in surrendering the funds in response to the levy, A is also discharged from any liability to C, even though the money is not properly subject to levy. C may, however, seek return of the payment from the United

States as provided in sections 6343(b) and 7426 of the Code.

Example 3. M Bank is served with a notice of levy for an unpaid tax liability due from "John H. Smith, Sr." in the amount of $5,000. M Bank fails to read the notice of levy carefully. When searching its records, M Bank finds the name of "John H. Smith, Jr." and looks no further. M Bank surrenders $5,000 from John H. Smith, Jr.'s checking account to the district director. John H. Smith, Jr., may seek to recover the funds from the United States or from M Bank, because, under paragraph (c)(2) of this section, the delinquent taxpayer (John H. Smith, Sr.) had no apparent interest in the account of John H. Smith, Jr.

Example 4. M Bank is served with a notice of levy for an unpaid tax liability due from "Robert A. Jones" in the amount of $5,000. M Bank searches its records and identifies four separate accounts of $1,000 each in the name of "Robert A. Jones." All four accounts list different addresses and social security identification numbers. M Bank surrenders all four accounts totalling $4,000 in response to the levy. Notwithstanding any apparent interest of the taxpayer in any one of the accounts, M Bank could not in good faith have determined that all four accounts were properly subject to levy. M Bank is not discharged from liability to any of the non-taxpayer account holders.

* * * * *

Michael J. Murphy,

Acting Commissioner of Internal Revenue.

[FR Doc. 91-24660 Filed 10-15-91; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 301

[GL-175-89]

RIN 1545-AN48

Authority to Release Levy and Return Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains a proposed regulatory amendment regarding the authority to release a levy and to return property. The Technical and Miscellaneous Revenue Act of 1988 sets forth certain conditions under which the Internal Revenue Service shall release a levy. In addition, the Internal Revenue Code was amended in 1979 to provide for the payment of interest in certain circumstances in which wrongfully levied upon property is returned. The proposed regulatory amendment describes the conditions under which a levy shall be released and the procedures for obtaining such a release. The proposed regulatory amendment also conforms the existing regulations regarding the return of wrongfully levied upon property to provide for the payment of interest in certain circumstances.

DATES: A public hearing will be held on November 21, 1991. Written comments and requests to speak (with an outline of oral comments) at the public hearing must be received by November 7, 1991. See notice of hearing published elsewhere in this issue of the **Federal Register.**

ADDRESSES: Send comments and requests to speak (with an outline of oral comments) at the public hearing to: Internal Revenue Service, P.O. Box 7604 Ben Franklin Station, attn: CC:CORP:T:R (GL-0175-89), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Jerome D. Sekula, 202-566-3780 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed regulations amending the Procedure and Administration Regulations (26 CFR part 301) under section 6343 of the Internal Revenue Code. The regulations reflect the amendment of section 6343 by section 6236(f) of the Technical and Miscellaneous Revenue Act of 1988 (Pub. L. No. 100-647), section 4(a) of Act of Dec. 29, 1979 (pub. L. No. 96-167), and section 1511(c)(10) of the Tax Reform Act of 1986 (Pub. L. No. 99-514).

Explanation of Provisions

Section 6236(f) of the Technical and Miscellaneous Revenue Act of 1988 (TAMRA) (Pub. L. No. 100-647, 102 Stat. 3740) amended section 6343(a) of the Internal Revenue Code to provide certain conditions under which the Internal Revenue Service must release a levy, and to require the Service to notify persons upon whom a levy was made of such a release. Specifically, the Service must release a levy if (1) the liability for which the levy was made is satisfied or unenforceable, (2) the Service determines that release will facilitate the collection of a liability, (3) an installment payment agreement has been executed with respect to the liability, (4) the Service determines that the levy is creating an economic hardship due to the financial condition of an individual taxpayer, or (5) the fair market value of the property exceeds the liability and a partial release will not hinder collection of the tax and related costs owed to the United States. In addition, in the case of a levy upon tangible personal property essential in carrying on the taxpayer's trade or business, the Service must provide for an expedited determination of whether any of the conditions requiring release of a levy exist.

The proposed regulations set forth the conditions under which a levy must be released and describe how the Service shall make the determination whether any of the conditions exist. The proposed regulations also set forth procedures for a taxpayer to request that such a determination be made, and set forth procedures for obtaining an expedited determination in the case of a levy on tangible personal property essential in carrying on the taxpayer's trade or business.

Section 6343 of the Internal Revenue Code was also amended by section 4(a), Act of Dec. 29, 1979 (Pub. L. No. 96-167, 93 Stat. 1275), which added subsection (c) providing for the payment of interest in certain cases where the Service returns property that has been wrongfully levied upon. Subsection (c) of section 6343 was later amended by section 1511(c)(10) of the Tax Reform Act of 1986 (Pub. L. No. 99-514, 111 Stat. 2745) to provide that the interest would be payable at the overpayment rate established under section 6621 of the Internal Revenue Code. (This was a technical amendment which reflected the amendment of section 6621 by section 1511(a) of the Tax Reform Act of 1986 (Pub. L. No. 99-514, 111 Stat. 2744).) The proposed regulations contain conforming amendments to reflect the addition and the subsequent amendment of subsection (c) of section 6343.

Finally, the proposed regulations reorganize the structure of the existing regulations for the purpose of clarity. The proposed regulations contain separate sections concerning the authority to release a levy on the taxpayer's property, and the authority to return property to a third party where it is determined that a levy is wrongful. The proposed regulations pertaining to the return of wrongfully levied upon property contain no substantive changes; however, they do contain the conforming amendments discussed in the preceding paragraph and changes in the structure of the text which were made for clarity.

Effective Dates

Section 301.6343-1 is proposed to be effective with respect to levies made prior to July 1, 1989. Section 301.6343-2 is proposed to be effective for levies made on or after July 1, 1989. However, any reasonable request for release, or expedited determination with respect to business property, made on or after July 1, 1989, and before the date that is 30 days after publication of final regulations will be honored. Section

301.6343–3 is proposed to be effective as of January 1, 1955, except that the payment of interest provisions are effective with respect to levies made on or after December 29, 1979.

Special Analyses

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

Comments and Requests to Appear at the Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying in their entirety. A public hearing will be held. Notice of the time, place and date for the hearing and other details relating thereto is published elsewhere in this issue of the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Anne P. Rosselot, Office of the Assistant Chief Counsel (General Litigation), Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 301

Administrative practice and procedure, Alimony, Bankruptcy, Child support, Continental shelf, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Oil pollution, Penalties, Pensions, Reporting and recordkeeping requirements, Statistics, Taxes.

Proposed Amendments to the Regulations

Accordingly, title 26, part 301 of the Code of Federal Regulations is proposed to be amended as follows:

Paragraph 1. The authority for part 301 is amended by adding a new citation to read as follows:

Authority: Sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805 * * * Sections 301.6343–1, 301.6343–2 and 301.6343–3 are also issued under 26 U.S.C. 6343 * * * .

Par. 2. Section 301.6343–1 is amended by revising the section heading of § 301.6343–1 and the heading and text of paragraph (b) to read as follows:

§ 301.6343–1 Authority to release levy with respect to levies issued prior to July 1, 1989.

* * * * *

(b) *Applicability.* This section is applicable to levies issued prior to July 1, 1989.

Par. 3. Sections 301.6343–2 and 301.6343–3 are added to read as set forth below.

§ 301.6343–2 Requirement to release levy and notice of release with respect to levies issued on or after July 1, 1989.

(a) *In general.* The district director shall promptly release a levy upon all, or part of, property or rights to property levied upon and shall promptly notify the person upon whom the levy was made of such a release, if the district director determines that any of the conditions in paragraph (b) of this section (conditions requiring release) exist. The district director shall make a determination whether any of the conditions requiring release exist if a taxpayer submits a request for release of levy in accordance with paragraph (c) or (d) of this section; however, the district director may make such a determination based upon information received from a source other than the taxpayer. The district director may require any supporting documentation as is reasonably necessary to determine whether a condition requiring release exists.

(b) *Conditions requiring release.* The district director shall release the levy upon all or a part of the property or rights to property levied upon if he or she determines that one of the following conditions exists:

(1) *Liability satisfied or unenforceable.* The liability for which such levy was made is satisfied or the period of limitations provided in section 6502 (and any period during which such period of limitations is suspended as provided by law) has lapsed. A levy is considered made on the date on which the notice of seizure provided in section 6335(a) is given. A levy that is made within the period of limitations provided in section 6502 does not become unenforceable simply because the person who receives the levy does not surrender the subject property within the period of limitations. In such a case, the liability remains enforceable to the extent of the value of the levied upon property. However, a levy made outside the period of limitations (normally ten years without suspensions) must be released unless:

(i) The taxpayer agreed in writing to extend the period of limitations as provided in section 6502(a)(2) and § 302.6502–1; or

(ii) A proceeding in court to collect the liability has begun within the period of limitations. A continuing levy on salary or wages made under section 6331(e) shall be released at the end of the period of limitations in section 6502. However, a levy on a fixed and determinable right to payment which right includes payments to be made after the period of limitations expires does not become unenforceable upon the expiration of the period of limitations and will not be released under this condition unless the liability is satisfied.

(2) *Release will facilitate collection.* The release of the levy will facilitate collection of the liability.

(i) *Example.* A and B own adjoining parcels of real property. A owes delinquent federal taxes. A notice of federal tax lien is properly filed against all property or rights to property belonging to A. A's parcel of real estate is seized to satisfy A's delinquent tax liability. The fair market value of A's property is greater than the expenses of seizure and sale, but less than the amount of A's tax liability. A and B find a buyer who wants to buy both parcels of real property together, because one provides a right of way to the other. The buyer will only buy the parcels together. A's property has a greater value as part of the package than it does by itself. The larger value, as shown in the sale contract, is enough to pay A's tax liability in full. In such a situation a release of the levy will facilitate collection because the sale of both parcels can be completed and A's liability will be paid in full at the settlement, because of the tax lien on file against A's property.

(ii) *Compliance with other conditions.* The district director may find that collection will be facilitated by the taxpayer's compliance with conditions other than immediate payment, such as:

(A) The delinquent taxpayer delivers a satisfactory arrangement, which is accepted by the district director, for placing property in escrow to secure the payment of the liability (including the expenses of the levy) which is the basis of the levy.

(B) The delinquent taxpayer delivers an acceptable bond to the district director conditioned upon the payment of the liability (including the expenses of levy) which is the basis of the levy. Such bond shall be in the form provided in section 7101 and § 301.7101–1.

(C) There is paid to the district director an amount determined by the district director to be equal to the interest of the United States in the seized property or the part of the seized property to be released.

(D) The delinquent taxpayer executes an agreement to extend the statute of limitations in accordance with section 6502(a)(2) and § 30I.6502–1.

(iii) *Determination after seizure.* If the district director determines that the value of the United States' interest in the seized property does not exceed the expenses of sale of the property, a release of the levy will be deemed to facilitate collection of the liability even though the fair market value of property which has been seized exceeds the expenses of seizure and sale.

(3) *Installment agreement.* The taxpayer has entered into an agreement under section 6159 to satisfy the liability by means of installment payments, unless the agreement provides otherwise. However, the district director is not required to release the levy under this condition if a release of the levy will jeopardize the secured creditor status of the United States, *e.g.,* Where a notice of tax lien has not been filed.

(4) *Economic hardship.* The levy is creating an economic hardship due to the financial condition of an individual taxpayer. This condition applies if satisfaction of the levy in whole or in part will cause an individual taxpayer to be unable to pay his or her reasonable basic living expenses. The determination of a reasonable amount for basic living expenses shall be made by the district director and will vary according to the unique circumstances of the individual taxpayer. Unique circumstances, however, do not include the maintenance of an affluent or luxurious standard of living. In determining a reasonable amount for basic living expenses the district director shall consider any information provided by the taxpayer including:

(i) The taxpayer's age, employment history, ability to earn, number of dependents, and status as a dependent of someone else;

(ii) The amount reasonably necessary for food, clothing, housing (including utilities, home-owner insurance, home-owner dues, and the like), medical expenses (including health insurance), transportation, current tax payments (including federal, state, and local), alimony, child support, or other court-ordered payments, and expenses necessary to the taxpayer's production of income (such as dues for a trade union or professional organization, or child care payments which allow the taxpayer to be gainfully employed);

(iii) The cost of living in the geographic area in which the taxpayer resides;

(iv) The amount of property exempt from levy which is available to pay the taxpayer's expenses;

(v) Any extraordinary circumstances such as special education expenses, a medical catastrophe or natural disaster; and

(vi) Any other factor that the taxpayer claims bears on economic hardship and brings to the attention of the district director.

In addition, in order to obtain a release of a levy under this subparagraph, the taxpayer must act in good faith. Examples of failure to act in good faith include, but are not limited to, falsifying financial information, inflating actual expenses or costs, or failing to make full disclosure of assets.

(5) *Fair market value exceeds liability.* The fair market value of the property exceeds the liability for which the levy was made and release of the levy on a part of the property can be made without hindering the collection of the liability.

(c) *Request for release of levy*—(1) *Information to be submitted by taxpayer.* A taxpayer who wishes to obtain a release of a levy shall submit a request for release in writing or by telephone to the district director for the Internal Revenue district in which the levy was made. The taxpayer making the request shall provide the following information:

(i) The name, address, and taxpayer identification number of the taxpayer;

(ii) A description of the property levied upon;

(iii) The type of tax and the period for which the tax is due;

(iv) The date of the levy and the originating Internal Revenue district, if known; and

(v) A statement of the grounds upon which the request for release of the levy is based.

(2) *Time for submission.* Except in extraordinary circumstances, a request for release of a levy must be made more than five days prior to a scheduled sale of the property to which the levy relates.

(3) *Determination by district director.* The district director shall promptly make such determination, generally within 30 days.

(4) *Notification to taxpayer of determination.* The district director shall promptly notify the taxpayer if the levy is released. If the district director determines that none of the conditions requiring release of the levy exist, the district director shall promptly notify the taxpayer of the decision not to release the levy and the reason why the levy is not being released.

(d) *Expedited determination with respect to certain business property*—(1) *General procedure.* If a levy is made on essential business property as is described in paragraph (d)(2) of this section, the taxpayer may obtain an expedited determination of whether any of the conditions requiring release of the levy exist. In order to obtain such an expedited determination, the taxpayer must submit, within the time frame specified in paragraph (c)(2) of this section, the information required in paragraph (c)(1) of this section and include with the information an explanation of why the property levied upon qualifies for an expedited determination of whether a condition requiring release of the levy exists. The district director shall make such a determination by the later of 10 business days from the time the district director receives the request for release, or 10 business days from the time the district director receives any necessary supporting documentation.

(2) *Term defined.* For purposes of this section, the term "essential business property" means tangible personal property used in carrying on the trade or business of the taxpayer which when levied upon prevents the taxpayer from continuing to carry on the trade or business.

(3) *Seizure of perishable goods.* The provisions of this paragraph do not apply in the case of a seizure of perishable goods. Such seizures are governed by the provisions of section 6336 and § 301.6336–1.

(e) *Effect of a release of levy.* If property has not yet been surrendered to the district director in response to a levy, a release of the levy under section 6343(a) will relieve the possessor of any obligation to surrender the property. Otherwise, a release of a levy under section 6343(a) will cause the property to be returned to the custody of the person or persons legally entitled thereto. The release of a levy on any property under this section shall not prevent any subsequent levy on the property. Section 301.6343–3, dealing with return of wrongfully levied upon property, is subject to section 6402 which, in the absence of an overpayment, prohibits the Service from

refunding a payment of money that has been deposited in the Treasury and credited to the taxpayer's liability.

(f) *Effective date.* This section is effective with respect to levies made on or after July 1, 1989.

§ 301.6343–3 Return of wrongfully levied upon property.

(a) *General rule.* If the district director determines that property has been wrongfully levied upon, the district director may return:

(1) The specific property levied upon;

(2) An amount of money equal to the amount of money levied upon; or

(3) An amount of money equal to the amount of money received by the United States from a sale of the property. If the United States is in possession of specific property, the property may be returned at any time. An amount equal to the amount of money levied upon or received from a sale of the property may be returned at any time before the expiration of 9 months from the date of the levy. When a request described in paragraph (b) of this section is filed for the return of property before the expiration of 9 months from the date of levy, an amount of money may be returned after a reasonable period of time subsequent to the expiration of the 9-month period if necessary for the investigation and processing of such request. In cases where money is specifically identifiable, as in the case of a coin collection which may be worth substantially more than its face value, the money will be treated as specific property and, whenever possible, this specific property will be returned. For purposes of paragraph (a)(3) of this section, if property is declared purchased by the United States at a sale pursuant to section 6335(e), the United States is treated as having received an amount of money equal to the minimum price determined by the district director before the sale or, if larger, the amount received by the United States from the resale of the property.

(b) *Request for return of property.* A written request for the return of property wrongfully levied upon shall be addressed to the district director (marked for the attention of the Chief, Special Procedures Staff) for the Internal Revenue district in which the levy was made. The written request shall contain the following information:

(1) The name and address of the person submitting the request;

(2) A detailed description of the property levied upon;

(3) A description of the claimant's basis for claiming an interest in the property levied upon; and

(4) The name and address of the taxpayer, the originating Internal Revenue district, and the date of the levy as shown on the Notice of Levy, or Levy, or, in lieu thereof, a statement of the reasons why such information cannot be furnished.

(c) *Inadequate request.* A request for the return of property wrongfully levied upon shall not be considered adequate unless it is a written request containing the information required by paragraph (b) of this section. However, unless a notification is mailed by the district director to the claimant within 30 days of receipt of the request to inform the claimant of the inadequacies, any written request shall be considered adequate. If the district director timely notifies the claimant of the inadequacies of his request, the claimant shall have 30 days from the receipt of the notification of inadequacy to supply in writing any omitted information. Where the omitted information is so supplied within the 30-day period, the request shall be considered to be adequate from the time the original request was made for purposes of determining the applicable period of limitation upon suit under section 6532(c).

(d) *Payment of interest.* Interest shall only be allowed for levies made on or after December 29, 1979, and shall be paid at the rate established by section 6621 through December 31, 1986, and at the overpayment rate established under section 6621 for periods after December 31, 1986—

(1) In the case of money returned under paragraph (a)(2) of this section, from the date the district director received the money to a date (to be determined by the district director) preceding the date of return by not more than 30 days, or

(2) In the case of money returned under paragraph (a)(3) of this section, from the date of the sale of the property to a date (to be determined by the district director) preceding the date of return by not more than 30 days.

(e) *Effective date.* This section is effective as of January 1, 1955.

Michael J. Murphy,

Acting Commissioner of Internal Revenue.

[FR Doc. 91–24661 Filed 10–15–91; 8:45 am]

BILLING CODE 4830–01–M

26 CFR Part 301

[GL–720–88; GL–175–89]

RIN 1545–AM72; 1545–AN48

Effect of Honoring Levy; Authority to Release Levy and Return Property; Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the effect of honoring an Internal Revenue Service levy, and the authority to release a levy and to return property.

DATES: The public hearing will be held on Thursday, November 21, 1991, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Thursday, November 7, 1991.

ADDRESSES: The public hearing will be held in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. 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, (GL–720–88; and/or GL–175–89), room 5228, Washington, DC. 20044.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–377–9236 or (202) 566–3935 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations regarding the effect of honoring an Internal Revenue Service levy under section 6332; and the authority to release a levy and to return property under section 6343. The proposed regulations appear elsewhere in 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 Thursday, November 7, 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 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 Service 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. 91-24659 Filed 10-15-91; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 701 and 785

RIN 1029-AB45

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Definitions; Requirements for Permits and Permit Processing; Requirements for Permit for Special Categories of Mining; Coal Preparation Plants; Performance Standards

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the Department of the Interior (DOI) extends until November 25, 1991, the public comment period on the proposed rule published in the September 25, 1991, **Federal Register**. The proposed rule would amend OSM's permanent program regulations by revising the definition of "previously mined area" and by clarifying the requirements governing off-site coal preparation plants.

DATES: OSM will accept written comments on the proposed rule until 5 p.m. local time on November 25, 1991.

ADDRESSES: Written comments may be hand-delivered to: Office of Surface Mining Reclamation and Enforcement, Administrative Record, room 5131-L, 1100 L Street, NW., Washington, DC; or mailed to: Office of Surface Mining Reclamation and Enforcement, Administrative Record, Department of the Interior, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Suzanne Hudak, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 208-2700.

SUPPLEMENTARY INFORMATION: OSM published a proposed rule on September 25, 1991, that would amend its permanent program regulations by revising the definition of "previously mined area" and by clarifying the requirements governing off-site coal preparation plants (56 FR 48714). OSM took this action as a result of two U.S. District Court decisions affecting OSM's permanent program regulations. Specifically, OSM proposed to revise the definition of "previously mined area" at 30 CFR 701.5 to include only those lands affected by surface coal mining operations prior to August 3, 1977, the date of enactment of the Surface Mining Control and Reclamation Act (SMCRA), that have not been reclaimed to the performance standards of 30 CFR chapter VII. OSM also proposed to clarify that geographic proximity should not be the decisive factor in determining whether or not an off-site coal preparation plant operates in connection with a mine and is thus subject to regulation under SMCRA. OSM also sought public comment on the appropriateness of removing proximity as a factor in making such determinations.

The comment period for the proposed rule was scheduled to close on October 25, 1991. In response to a request for more time to submit public comments on this proposal, OSM is extending the comment period by 30 days. Comments will now be accepted until 5 p.m. local time on November 25, 1991.

Dated: October 9, 1991.

Brent Wahlquist,

Assistant Director, Reclamation and Regulatory Policy, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 91-24822 Filed 10-15-91; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AE46

Veterans Education; The Veterans Education and Employment Amendments of 1989 and Dependents' Educational Assistance

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Veterans Education and Employment Amendments of 1989 contain several provisions which affect Dependents' Educational Assistance. These include an increase in the amount of the monthly benefit and authorization for Dependents' Educational Assistance recipients to participate in the Department of Veterans Affairs (VA's) work-study program. In addition, there are several provisions which affect more than one of the other educational programs which VA administers. These include changes in the way a student's enrollment is measured and inclusion of flight training in both the Montgomery GI Bill—Active Duty and the Montgomery GI Bill—Selected Reserve. This proposal will acquaint the public with the way in which VA intends to implement these provisions of law.

DATES: Comments must be received on or before November 15, 1991. Comments will be available for public inspection until November 25, 1991. VA proposes making these amended regulations effective retroactively on the same date as the provisions of law they implement. Consequently, VA proposes to make the amendments to §§ 21.3045, 21.3046, 21.3333 and 21.4137 retroactively effective on January 1, 1990. VA proposes to make the new section, § 21.3145 retroactively effective on May 1, 1990. VA proposes to make the amendments to §§ 21.4201 and 21.4263 retroactively effective on September 30, 1990. VA proposes to make all other amendments to the regulations included in this proposal retroactively effective on December 18, 1989.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 170 of the above address between the

hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until November 25, 1991.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program Administration, Education Service, Veterans Benefits Administration, (202) 233–2092.

SUPPLEMENTARY INFORMATION: The Veterans Education and Employment Amendments of 1989 (Pub. L. 101–237) contain provisions which affect Dependents' Educational Assistance. These include an increase in recipients' monthly benefits and inclusion of work-study in this program. In addition, there are provisions which affect more than one program such as including flight training in the Montgomery GI Bill—Active Duty and the Montgomery GI Bill—Selected Reserve. Regulations must be amended so that they agree with the new provisions of law.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no 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.

The Secretary of Veterans Affairs has certified that these amended regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because most of the amendments to these regulations affect only individuals. The amendments to § 21.4263 will affect flight schools which wish to have their flight courses approved for VA training. Some flight schools would qualify as small entities. However, these amended regulations are required by amendments to the provisions of law upon which they are based. They will not, of themselves, have a significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

VA finds that good cause exists for making the amendments to §§ 21.3045, 21.3046 and 21.3333 and 21.4137, like the provision of law they implement, retroactively effective on January 1, 1990. VA finds that good cause exists for making the proposed new section § 21.3145, like the provisions of law it implements, retroactively effective on May 1, 1990. VA finds that good cause exists for making the amendments to §§ 21.4201 and 21.4263, like the provisions of law they implement, retroactively effective on September 30, 1990. VA finds that good cause exists for making the effective dates for all other amendments in this proposal, like the provisions of law they implement, retroactively effective on December 18, 1989. These provisions are intended to achieve a benefit for the individual. The maximum benefits intended in the legislation will be achieved through prompt implementation. Hence, a delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in the denial of a benefit to someone who is entitled to it.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.117, 64.124 and 12.609.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 3, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 21 is proposed to be amended as follows:

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

1. The authority citation for part 21, subpart C is revised to read as follows:

Authority: 38 U.S.C. 210, 1700–1766.

1A. In § 21.3022, paragraphs (g) and (h) are revised and paragraph (i) is added and the authority citation for the section is revised to read as follows:

§ 21.3022 Nonduplication—programs administered by VA.

* * * * *

(g) Section 903 of the Department of Defense Authorization Act, 1981,

(h) The Hostage Relief Act of 1980, and

(i) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(Authority: 38 U.S.C. 1781)

2. Section 21.3045 is amended by revising paragraphs (g)(7) and (8); paragraph (g)(9) is added to read as follows:

§ 21.3045 Entitlement charges.

* * * * *

(g) *Entitlement charge for correspondence courses.* * * *

(7) $342 paid after December 31, 1980, and before October 1, 1984,

(8) $376 paid after September 30, 1984 and before January 1, 1990, and

(9) $404 paid after December 31, 1989.

* * * * *

3. In § 21.3046 paragraph (d)(4)(ii) is revised to read as follows:

§ 21.3046 Periods of eligibility; spouses and surviving spouses.

* * * * *

(d) *Extension to ending date.* * * *

(4) * * *

(ii) The total additional amount of instruction that $1,131 will provide.

* * * * *

4. A center heading and § 21.3145 are added to read as follows:

Payments

§ 21.3145 Work-study allowance.

(a) *Eligibility.* An eligible person is eligible to receive a work-study allowance when—

(1) The eligible person is pursuing a program of education on at least a three-quarter-time basis,

(2) The eligible person is pursuing a program of education in a State, and

(3) The eligible person is not pursuing a program of special restorative training.

(Authority: 38 U.S.C. 1737)

(b) *Selection criteria.* When feasible VA will give priority in selection for this allowance to veterans with service-connected disabilities rated at 30 percent or more. VA shall consider the following additional selection criteria:

(1) Need of the eligible person to augment his or her dependents' educational assistance;

(2) Availability to the eligible person of transportation to the place where his or her services are to be performed;

(3) Motivation of the eligible person; and

(4) Compatibility of the work assignment to the eligible person's physical condition.

(Authority: 38 U.S.C. 1685, 1737)

(c) *Utilization.* Work-study services may be utilized in connection with—

(1) Outreach services programs as carried out under the supervision of a VA employee;

(2) Preparation and processing of necessary papers and other documents at educational institutions or regional offices or facilities of VA;

(3) Hospital and domiciliary care and medical treatment at VA facilities; and

(4) Any other appropriate activity of VA.

(Authority: 38 U.S.C. 1685, 1737)

(d) *Rate of payment.* (1) In return for the eligible person's agreement to perform services for VA totaling 25 hours times the number of weeks contained in the eligible person's enrollment period, VA will pay an allowance in an amount equal to the higher of—

(i) The hourly minimum wage in effect under section 6(a) of the Fair Labor Standards Act of 1938 times the number of hours the eligible person has agreed to work, or

(ii) The hourly minimum wage under comparable law of the State in which the services are to be performed times the number of hours the eligible person has agreed to work.

(2) VA will pay proportionately less to eligible persons who agree to perform a lesser number of hours of services.

(Authority: 38 U.S.C. 1685, 1737)

(e) *Payment in advance.* VA will pay in advance an amount equal to 40 percent of the total amount payable under the contract.

(Authority: 38 U.S.C. 1685, 1737)

(f) *Eligible person reduces rate of training.* In the event the eligible person reduces his or her training to less than three-quarter time before completing an agreement, the eligible person, with the approval of the Director of the VA field station, or designee, may be permitted to complete the portions of an agreement in the same or immediately following term, quarter or semester in which the eligible person ceases to be a three-quarter-time student.

(Authority: 38 U.S.C. 1685, 1737)

(g) *Eligible person terminates training.* (1) If the eligible person terminates all training before completing an agreement, the Director of the VA field station or designee—

(i) May permit him or her to complete the portion of the agreement represented by the money VA has advanced the eligible person for which he or she has performed no service, but

(ii) Will not permit him or her to complete that portion of an agreement for which no advance has been made.

(2) The eligible person must complete the portion of an agreement in the same or immediately following term, quarter or semester in which the eligible person terminates training.

(Authority: 38 U.S.C. 1685, 1737)

(h) *Indebtedness for unperformed service.* (1) If the eligible person has received an advance for hours of unperformed service, and VA has evidence that he or she does not intend to perform that service, the advance—

(i) Will be a debt due the United States, and

(ii) Will be subject to recovery the same as any other debt due the United States.

(2) The amount of indebtedness for each hour of unperformed service shall equal the hourly wage that formed the basis for the contract.

(Authority: 38 U.S.C. 1685, 1737)

(i) *Survey.* VA will conduct an annual survey of its regional offices to determine the number of eligible persons whose services can be utilized effectively.

(Authority: 38 U.S.C. 1635, 1737)

5. Section 21.3333 is amended by revising paragraph (a) and adding its authority citation, paragraph (b)(1) is revised to read as follows:

§ 21.3333 Rates.

(a) Rates. Special training allowance is payable at the following monthly rate effective January 1, 1990 except as provided in paragraph (c) of this section.

Course	Monthly rate	Accelerated charges
Special Restorative Training.	$404	If costs for tuition and fees average in excess of $127 per month, rate may be increased by such amount in excess of $127.

(Authority: 38 U.S.C. 1742)

(b) *Accelerated charges.* (1) Effective January 1, 1990 VA may pay the additional monthly rate if the parent or guardian concurs in having the eligible child's period of entitlement reduced by 1 day for each $13.46 that the special training allowance exceeds the basic monthly rate of $404.

* * * * *

6. The authority citation for part 21, subpart D continues to read as follows:

Authority: 38 U.S.C. 210.

6A. In § 21.4020 paragraphs (a) (6) and (7) are revised and paragraph (a)(8) is added to read as follows:

§ 21.4020 Two or more programs.

(a) *Limit on training under two or more programs.* * * *

(6) Section 903 of the Department of Defense Authorization Act, 1981,

(7) The Hostage Relief Act of 1980, and

(8) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

* * * * *

7. In § 21.4022 paragraphs (a)(7) through (a)(9) and the authority citation for paragraph (a) are revised to read as follows:

§ 21.4022 Nonduplication—programs administered by VA.

(a) *Election.* * * *

(7) Section 903 of the Department of Defense Authorization Act, 1981

(8) The Hostage Relief Act of 1980, or

(9) The Omnibus Diplomatic Security and Antiterrorism Act of 1986.

(Authority: 38 U.S.C. 1781)

* * * * *

8. In § 21.4135 paragraph (g) is revised, and its authority citation is added to read as follows:

§ 21.4135 Discontinuance dates.

* * * * *

(g) *Unsatisfactory progress, conduct or attendance § 21.4277.* The date the veteran's or eligible person's enrollment is discontinued by the school or the date determined under § 21.4277, whichever is earlier.

(Authority: 38 U.S.C. 1674, 1724)

* * * * *

9. In § 21.4136 paragraph (e) the introductory text is revised and its authority is added at the end of the table to read as follows:

§ 21.4136 Rates; educational assistance allowance; 38 U. S. C. chapter 34.

* * * * *

(e) *Excessive absences.* Other than for apprenticeships and on-job training, when enrollment is in a course which does not lead to a standard college degree, absences which occur before December 18, 1989, and which exceed the maximum number allowable will cause a reduction in the education assistance allowance payable for the month in which such absences occurred. The rate of reduction will be determined by the following table:

* * * * *

(Authority: 38 U.S.C. 1780(a))

* * * * *

10. In § 21.4137, paragraph (a) and the authority citation following its chart are revised to read as follows:

§ 21.4137 Rates; educational assistance allowance—38 U.S.C. chapter 35.

(a) *Rates.* Educational assistance allowance is payable at the following rates effective January 1, 1990.

Type of courses	Monthly rate
Institutional:	
Full time	$404.
¾ time	304.
½ time	202.
Less than ½ but more than ¼ time [3].	202.
¼ time or less [3]	101.
Cooperative (other than farm cooperative) (full time only).	327.
Apprentice or On-Job (full time only) [1] Payment designated Training Assistance Allowance:	
1st 6 months	294.
2nd 6 months	220.
3rd 6 months	146.
4th 6 months	73.
Farm Cooperative:	
Full time	327.
¾ time	245.
½ time	163.
Correspondence	55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and service by the school [2]—Allowance paid quarterly.

[1] See footnote 5 of § 21.4270(c) of this part for measurement of full time and paragraph (f) of this section for proportionate reduction in award for completion of less than 120 hours per month.

[2] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost for the eligible spouse or surviving spouse whichever is the lesser. Eligible spouses or surviving spouses who enroll before September 2, 1980 will receive 90 percent of the established charges, provided the student remains continuously enrolled in his or her program. Those spouses and surviving spouses who are not entitled to receive 90 percent of the established charges will receive 70 percent of the established charges for all lessons they complete and submit to the educational institution before October 1, 1981. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of lessons, (Pub. L. 97-35, section 2004(b)).

[3] If an eligible person under chapter 35 receiving benefits under paragraph (n) of this section completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $202 or $101 as appropriate, per month, if the maximum allowance is not initially authorized.

(Authority: 38 U.S.C. 1732, 1786)

* * * * *

11. In § 21.4200 paragraphs (g) (1) and (2) and the authority citation for paragraph (g) are revised to read as follows:

§ 21.4200 Definitions.

* * * * *

(g) *Standard class session.* * * *

(1) For enrollments and reenrollments which begin before May 20, 1988, a standard class session is not less than 1 hour (or 50-minute period) of academic instruction, 2 hours of laboratory instruction, or 3 hours (or, effective December 18, 1989, three 50-minute periods) of workshop training.

(2) For enrollments and reenrollments which begin after May 19, 1988, a standard class session is not less than 1 hour (or 50-minute period) of academic instruction, 2 hours (or two 50-minute periods) of laboratory instruction, or 3 hours (or, effective December 18, 1989, three 50-minute periods) of workshop training.

(Authority: 38 U.S.C. 1788(c))

* * * * *

12. In § 21.4201 paragraphs (e)(3)(ii) (B) and (C) are revised, and paragraphs (e)(3)(ii) (D) and (E) are added; the authority citation for paragraph (e) is added to read as follows:

§ 21.4201 Restrictions on enrollment; percentage of students receiving financial support.

* * * * *

(e) *Computing the 85–15 percent ratio.* * * *

(3) * * *

(ii) * * *

(B) For solo flying hours in all courses shall be excluded;

(C) For preflight briefings and postflight critiques which precede or follow solo flying hours shall be excluded;

(D) For students enrolled in courses approved under 14 CFR part 141, (the FAA regulations) shall be actual hours of logged instructional flight time or charges; and

(E) For students enrolled in courses not approved under 14 CFR part 141, such as in courses for navigator or flight engineer, shall include ground training time in addition to actual logged instructional flight time or charges.

(Authority: 38 U.S.C. 1673(d), 1434(d); 10 U.S.C. 2136(c))

* * * * *

13. In § 21.4203 the introductory text to paragraph (h) and its authority citation and paragraph (h)(2) and its authority citation are revised to read as follows:

§ 21.4203 Reports—requirements.

* * * * *

(h) *Unsatisfactory progress, conduct or attendance.* At times the unsatisfactory progress, conduct or attendance of a veteran or eligible person is caused by or results in his or her interruption or termination of training. If this occurs, the interruption or termination shall be reported in accordance with paragraph (d) of this section. If the veteran or eligible person continues in training despite unsatisfactory progress, conduct, or despite having failed to meet the regularly prescribed standards of attendance at the school, the school must report the fact of his or her unsatisfactory progress, conduct or attendance to VA within the time limit allowed by paragraphs (h)(1) and (2) of this section.

(Authority: 38 U.S.C. 1674, 1724)

* * * * *

(2) If the unsatisfactory progress, conduct or attendance of the veteran or eligible person is caused by any factors other than the grades which he or she receives, the school shall report the unsatisfactory progress, conduct or attendance to VA in time for VA to receive it within 30 days of the date on which the progress, conduct or attendance of the veteran or eligible person becomes unsatisfactory. See also § 21.4277.

(Authority: 38 U.S.C. 1674, 1724)

15. In § 21.4205 the introductory text is revised; paragraph (a) is revised and its authority citation is added; the introductory text to paragraph (b) is revised and its authority citation is added; paragraphs (c)(1) (i), (ii), (iii), and (iv) are revised, and an authority citation is added to the end of paragraph (c)(1) to read as follows:

§ 21.4205 Absences.

Absences which occur before December 18, 1989, must be reported on the monthly certification of pursuit of a course which does not lead to a standard college degree.

(a) *General.* Absence will be charged for a full day when the veteran or eligible person did not attend any scheduled class on any day that occurred before December 18, 1989. Tardiness will be charged when the veteran or eligible person was late for the start of the school day that occurred before December 18, 1989. A partial day of absence will charged for any period of absence during or at the end of a day which occurred before December 18, 1989.

(Authority: 38 U.S.C. 1780(a))

(b) *Maximum allowable absences.* VA will determine maximum allowable absences as provided in this paragraph only for all absences which occur before December 18, 1989. There is no limit on the number of absences which the veteran or eligible person may incur after December 17, 1989; however, he or she must meet the regularly prescribed

standards of attendance at the school he or she is attending.

(Authority: 38 U.S.C. 1780(a))

* * * * *

(c) *Reporting.* * * *

(1) * * *

(i) Each day of absence from scheduled attendance before December 18, 1989—including Saturday and Sunday if classes are normally scheduled for those days.

(ii) Days before December 18, 1989, when the school is closed for local and school holidays.

(iii) If reported enrollment is on an ordinary school year basis, intervals between terms, quarters or semesters (no interval or portion of an interval need be reported if it occurs after December 17, 1989), and

(iv) Days of nonattendance in a farm cooperative course which occur during the prescheduled classroom instruction and occur before December 18, 1989.

(Authority: 38 U.S.C. 1780(a))

* * * * *

15. In § 21.4251 paragraph (a)(6)(iii) is revised and its authority citation is added to read as follows:

§ 21.4251 Period of operation of course.

(a) *General.* * * *

(6) * * *

(iii) Available only to active duty military personnel or their dependents or both, and members of the Selected Reserve of the Ready Reserve eligible for educational assistance under chapter 106, title 10, U.S. Code, and

(Authority: 38 U.S.C. 1789(b)(6)(B))

* * * * *

16. In § 21.4263 the heading and paragraphs (a) and (b) are revised, authority citations for paragraphs (a) and (b) are added; paragraph (c) is removed; paragraph (d) is redesignated as paragraph (c) and it and its authority citation are revised; paragraph (e) is redesignated as paragraph (d), and newly redesignated paragraph (d)(3) and the authority citation to newly redesignated paragraph (d) are revised; paragraph (f) is redesignated as paragraph (e) and it and its authority citation are revised; paragraph (g) is redesignated as paragraph (f) and it and its authority citation are revised; paragraph (h) is redesignated as paragraph (g) and newly redesignated (g)(3)(vi) (A), (B), (C), (D), (E), (F) and the authority citation for newly redesignated paragraph (g) are revised; paragraph (i) is redesignated as paragraph (h) and it and its authority citation are revised; paragraph (j) is redesignated as paragraph (i) and the newly redesignated introductory paragraph, newly redesignated paragraphs (i) (3) and (4) are revised and their authority citations are added to newly redesignated (i) (3) and (4), and newly redesignated paragraph (i)(5) and its authority citation are removed; paragraph (k) is redesignated as paragraph (j) and it and its authority citation are revised; and paragraph (l) is redesignated as paragraph (k) to read as follows:

§ 21.4263 Flight training—38 U.S.C. chapter 30 and 10 U.S.C. chapter 106.

(a) *Eligibility.* Veterans, servicemembers and reservists who are basically eligible to receive educational assistance allowance under the provisions of either chapter 30, title 38 United States Code, or chapter 106, title 10, United States Code, may receive educational assistance for flight training provided that the individual also:

(1) Possesses a valid private pilot's certificate, except for flight training under paragraph (b)(2) of this section, but if the individual possesses a valid higher license, such as commercial pilot's license, he or she will be deemed to meet this requirement, and

(2) Meets the medical requirements of a commercial pilot's license, except the individual training in a course specified under paragraph (b)(2) of this section. A student pursuing an ATP (Airline Transport Pilot) course must have a first-class medical certificate. Students training in a course specified under paragraph (b)(2) of this section shall possess the medical certificate required by the educational institution granting the degree. In all other courses at least a second-class medical certificate is required. The certificate shall be approved by the FAA (Federal Aviation Administration) and a copy shall be maintained by the school. VA will consider any benefits paid during a period after a medical certificate expires to be an overpayment subject to recovery.

(Authority: 38 U.S.C. 1432(d), 10 U.S.C. 2136(c))

(b) *Objective—general.* Pursuit of flight training may be approved if the training is:

(1) Generally accepted as necessary for the attainment of a recognized vocational objective in the field of aviation, or

(2) Given by an educational institution of higher learning for credit toward a standard college degree which the individual is pursuing.

(Authority: 38 U.S.C. 1432(d); 10 U.S.C. 2136(c))

(c) *Optional ratings.* Educational assistance may be paid for glider, free balloon or aerobatic flight training leading to a vocational objective. If a veteran, reservist or servicemember requests a commercial pilot's program in gliders or free balloons in order to add one of those ratings to an existing commercial pilot's certificate or wishes to pursue an approved special curriculum in aerobatics, he or she must establish that the purpose in taking the course is vocational rather than recreational or avocational. Evidence submitted by the student may include, but is not limited to, statements from the flight school or from a prospective employer of the student.

(Authority: 38 U.S.C. 1432(d); 10 U.S.C. 2136(c))

(d) *Combined flight courses.* * * *

(3) If the school does not include all of the instrument training in the commercial pilot's course, the student, upon completion of the FAA practical tests, will receive a commercial pilot's certificate with cross-country and night-flight limitations. The separate instrument course of revised appendix C, title 14, CFR, part 141, may still be approved for veterans, reservists and servicemembers who completed the commercial pilot's course under old title 14, CFR, part 141 which was effective before November 1, 1974, or who received a limited commercial pilot's certificate under revised title 14, CFR, part 141.

(Authority: 38 U.S.C. 1432(d); 10 U.S.C. 2136(c))

(e) *Application.* An individual applying for a course of training consisting exclusively of flight training must include on the application all courses generally accepted as necessary to reach the objective of the student. Although more than one course may be included in a program, the courses may be taken sequentially only. The applicant must complete a commercial pilot's course before enrolling in any other flight course.

(Authority: 38 U.S.C. 1432(d), 10 U.S.C. 2136(c))

(f) *Prior training.* (1) A flight school must grant appropriate credit for all previous training and shorten the veteran's, reservist's or servicemember's flight course proportionately for VA purposes even when an FAA regulation indicates that it does not have to do so. The flight school to which the veteran, reservist or servicemember transfers will determine the amount of credit to be granted.

(2) Although the law does not define "appropriate credit," a pattern of not granting adequate credit is a violation of

38 U.S.C. 1775(b) or 1776(c)(4). If any school consistently abuses its discretion in this respect, VA will refer the matter to the appropriate State approving agency.

(3) An eligible veteran, reservist or servicemember holding a commercial pilot's certificate (rotorcraft) may pursue training to qualify for a general commercial pilot's certificate, including fixed-wing aircraft, by either enrolling in a regular commercial pilot's course (airplane) or in the special add-on course to qualify for an airplane rating. If he or she enrolls in a regular commercial pilot's course (airplane), the school must grant appropriate credit and shorten the course accordingly. Although credit is granted, this method usually requires more hours and is, therefore, more expensive than enrolling in a special add-on course for the rating. In a like manner, a person with a fixed-wing rating may pursue training to qualify for a rotorcraft rating. If a school offers an approved add-on course for commercial pilots in which an eligible veteran, servicemember or reservist may enroll to reach the objective, VA will pay educational assistance only for the less expensive alternative, either an enrollment in the add-on course or an enrollment in the regular course after credit is allowed for prior training.

(4) A former military pilot with the equivalent of a commercial pilot's certificate and instrument rating may obtain an FAA commercial pilot's certificate and instrument rating without flight examination within 12 months after release from active duty flying status. If he or she does not apply within the 12–month period, he or she may need refresher training before taking the flight examination. No VA benefits may be paid for any such refresher training taken within the 12 months immediately following discharge, since the person qualifies for the commercial pilot's certificate and instrument rating without a flight examination. However, such a person may be paid for refresher training if the refresher training takes place more than 12 months after discharge and meets the requirements of paragraph (f)(4)(ii) of this section.

(i) The FAA does not give instructor and ATP ratings on the basis of military experience only, but requires a flight examination. Therefore, former military pilots may be enrolled in approved flight instructor and ATP training courses, for such enrollment is not considered refresher training. Flight schools must grant appropriate credit to former military pilots.

(ii) A veteran or reservist who held an FAA certificate before or during active duty service (such certificate having been canceled or surrendered) may receive educational assistance for refresher training to again qualify for the same grade certificate. Such refresher training must meet the requirement of updating the veteran's or reservist's knowledge and skill in order to cope with technological advances while he or she was on active duty service, and must be necessary to enable the individual to pursue an approved program of education (See § 21.7020(b)(26)(ii)). The veteran or reservist may receive the equivalent of the number of months of educational assistance necessary for the veteran to complete the course which will qualify him or her for the same grade certificate. A reservist is not eligible for refresher training unless he or she has had prior active duty.

(Authority: 38 U.S.C. 1432(d))

(g) *Requirements for approval* * * *

(3) * * *

(vi) * * *

(A) A copy of the private pilot's license of each eligible veteran, servicemember or reservist,

(B) Evidence that each eligible veteran, servicemember or reservist has completed any prior training which may be a prerequisite for the course,

(C) A copy of the medical certificate required by paragraph (a)(2) of this section for the course being pursued by each eligible veteran, servicemember or reservist as well as copies of all medical certificates (expired or otherwise) needed to support all periods of prior instruction,

(D) Each eligible veteran's, servicemember's or reservist's daily flight log or copy thereof,

(E) Each eligible veteran's, servicemember's or reservist's permanent ground school record,

(F) A progress log for each eligible veteran, servicemember or reservist,

* * * * *

(Authority: 38 U.S.C. 1432(d); 10 U.S.C. 2136(c))

* * * * *

(h) *Hourly limitations.* A flight course approved pursuant to paragraph (g)(3) of this section shall be approved only for those hours of instruction generally considered necessary for a student to obtain an identified vocational objective. This requirement is met only if the number of hours approved does not exceed the maximum set forth in paragraphs (h) (1) through (3) of this section. Flight instruction may never be substituted for ground training.

(Authority: 38 U.S.C. 1402, 1652(b); 10 U.S.C. 2136(c))

(1) *Flight instruction.* (i) Except as provided in paragraphs (h)(1)(ii) and (h)(4) of this section, the maximum number of hours of flight instruction which may be approved for a flight course shall not exceed the lesser of—

(A) The number of hours in the course outline approved by the FAA exclusive of solo flying hours, or

(B) 120% of the minimum number of hours required for the course as established in 14 CFR part 141 exclusive of solo flying hours. No solo flying hours may be approved.

(ii) If a school has obtained from the FAA an exemption from the requirements of 14 CFR parts 61 and 141 for a course because the course requires the use of flight simulators, the number of hours of flight or flight simulator instruction which may be approved in the course may not exceed the number of hours in the course outline approved by the FAA exclusive of solo flying hours.

(Authority: 38 U.S.C. 1432(f); 10 U.S.C. 2131(g))

(2) *Ground school.* The ground training portion of a flight course may include two forms of ground training instruction, ground school and preflight briefings and postflight critiques. The minimum hours for ground training, as specified in 14 CFR part 141, appendixes C through H refer only to ground school and not to preflight briefings and postflight critiques. If the ground school training consists of units using kits containing audiovisual equipment, quizzes and examinations, the maximum number of units approved shall not exceed the number on the course outline approved by the FAA. For all other ground school training, the number of hours of training shall not exceed the number of hours on the course outline approved by the FAA.

(Authority: 38 U.S.C. 1434(d); 10 U.S.C. 2136(c))

(3) *Preflight briefings and postflight critiques.* Hours spent in preflight briefings and postflight critiques need not be approved by the FAA.

(i) If these hours are on the FAA-approved outline, the maximum number of hours of preflight briefings and postflight critiques which may be approved shall not exceed the number of hours on the outline exclusive of preflight briefings and postflight critiques attributable to solo flying hours.

(ii) If these hours are not on the FAA-approved outline, they may not be approved unless the State approving agency finds that the briefings and critiques are an integral part of the

course and do not precede or follow solo flying hours. The maximum number of hours of preflight briefings and postflight critiques which may be approved for these courses may not, when added together, exceed 25 percent of the approved hours of flight instruction.

(Authority: 38 U.S.C. 1402, 1652(b), 10 U.S.C. 2131)

(4) *Waiver of limitation in approvable course hours.* (i) Flight schools which wish to have a greater number of hours approved than are permitted by paragraph (h)(1) of this section, may seek an administrative review of their approval by the Director, Education Service. Requests for such a review should be made in writing to the Director of the VA facility having jurisdiction over the flight school. The request should—

(A) State the reasons why the flight school believes that the approval should extend to a greater number of hours, and

(B) Include any evidence tending to show that the greater number of hours should be approved.

(ii) The Director, Education Service shall base her or his decision upon the evidence submitted, the recommendation of the Director of the VA facility, and, if appropriate, the recommendation of the State approving agency having jurisdiction over the flight school.

(Authority: 38 U.S.C. 1432(f); 10 U.S.C. 2131(g))

(i) *Charges.* The appropriate State approving agency shall approve charges for tuition and fees for each flight course exclusive of charges for tuition and fees for solo flying hours and for preflight briefings and postflight critiques which precede or follow solo flying hours.

(Authority: 38 U.S.C. 1772)

* * * * *

(3) A veteran, servicemember or reservist or group (all or part of whom are veterans, servicemembers or reservists) owning an airplane may lease it to an approved flight school and have exclusive use of the aircraft for flight training. The aircraft should meet the requirements prescribed for all airplanes to be used in the course, and should be shown in the approval by the State approving agency. The leasing arrangement should not result in charges for flight instruction for those owning the airplane greater than charges made to others not leasing an aircraft to the school.

(Authority: 38 U.S.C. 1434(d); 10 U.S.C. 2136(c))

(4) If membership in a flight club entitles a veteran, servicemember or reservist to flight training at less than the standard rate, his or her educational allowance will be based on the reduced rate. No payments will be made for the cost of joining the flight club, since it is not a charge for the flight course.

(Authority: 38 U.S.C. 1434(d); 10 U.S.C. 2136(c))

(j) *Substitute aircraft.* Except for minor substitutions a veteran, servicemember or reservist enrolled in a flight course may train only in the aircraft approved for that course. If a particular aircraft is not available for some compelling reason, the veteran, servicemember or reservist may be permitted to train in an aircraft different from that approved for the particular course, provided the aircraft substituted will adequately meet the training requirements for this particular phase of the course. Substitutions should be explained on the monthly certifications of flight training. If this shows that the charge for the substituted aircraft is different from the charge approved for the regular aircraft, the reimbursement will be based on the lesser charge. When substitution becomes the practice rather than the exception, VA will suspend payments and notify the veterans, servicemembers, reservists and the school. VA will refer the matter to the State approving agency for appropriate action.

(Authority: 38 U.S.C. 1434(d); 10 U.S.C. 2136(c))

* * * * *

17. In § 21.4270, footnote 1 of the table and the authority citation for footnote 1 in paragraph (a) are revised; the heading for paragraph (b), paragraphs (b)(1)(ii), (2), (3), (4), (5) and the authority citation for paragraph (b) are revised; paragraphs (b) (6) and (7) are added to read as follows:

§ 21.4270 Measurement of courses.

(a) * * *

[1] An educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis as indicated for collegiate undergraduate courses in paragraph (c) of this section for an enrollment or reenrollment which begins before May 20, 1988, provided the academic portions of such courses require outside preparation and are measured on a minimum of 50 minutes net of instruction per week for each quarter or semester hour of credit; the laboratory portions of such courses are measured on a minimum of 2 hours of attendance per week for each quarter or semester hour of credit, and; the shop portions of such courses are measured on a minimum of 3 hours or, after December 17, 1989, three 50-minute periods of attendance per week for each quarter or semester hour of credit. An educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis as indicated for collegiate undergraduate courses in paragraph (c) of this section for an enrollment or reenrollment which begins after May 19, 1988, provided the academic portions of such courses require outside preparation and are measured on a minimum of 50 minutes net of instruction per week for each quarter or semester hour of credit; the laboratory portions of such courses are measured on a minimum of 2 hours (or two 50-minute periods) of attendance per week for each quarter or semester hour of credit, and; the shop portions of such courses are measured on a minimum of 3 hours (or three 50-minute hours) of attendance per week for each quarter or semester hour of credit. In no event shall such courses be considered a full-time course when less than 22 hours per week of attendance is required. Not more than 2 hours rest period shall be allowed per week for courses in which shop practice is an integral part of full time courses; 1 1/2 hours for three-quarter-time courses of 16–21 clock hours; 1 hour for one-half-time courses of 11–15 clock hours; or 1/2 hour for less than half-time courses of 6–10 clock hours; no rest period shall be allowed for courses of less than 6 clock hours of attendance.

(Authority: 38 U.S.C. 1788)

* * * * *

(b) *Mixed credit-hour and clock-hour measurement conversion to equivalent clock hours.*

(1) * * *

(ii) The institution of higher learning requires as part of the veteran's or eligible person's program of education one or more unit subjects for which credit is granted toward a standard college degree.

(2) When measuring a veteran's or eligible person's enrollment during a semester or quarter when he or she is pursuing one or more courses which the educational institution measures on a credit-hour basis, VA will convert the credit hours to equivalent clock hours as provided in paragraph (b)(3) of this section.

(3) VA shall—

(i) Determine the equivalent clock hour factor by dividing the number of clock hours which constitute full time for the enrollment as stated in paragraph (a) of this section by the number of credit hours which constitute a full time undergraduate enrollment at the educational institution as stated in paragraph (c) of this section, and

(ii) Except as provided in paragraphs (b)(5) and (b)(6) of this section, multiply the number of credit hours in which the veteran or eligible person is enrolled by the equivalent clock hour factor as determined by paragraph (b)(3)(i) of this section. This will result in the number of equivalent clock hours in which the veteran or eligible person is enrolled.

(4) VA will add the number of clock hours in which the veteran or eligible person is enrolled to the number of equivalent clock hours in which he or she is enrolled. The result will be compared to paragraph (a) of this section to determine the veteran's or eligible person's training time.

(5) When the number of class sessions per credit hour is so low that § 21.4272(f)(2)(ii) or (3) would control the way in which VA would measure those credit hours, VA will make the calculations required by paragraph (b)(3)(ii) of this section by multiplying the number of class sessions determined by § 21.4272(f)(2) by the equivalent clock hour factor.

(6) When the veteran or eligible person is attending a nonstandard term, VA will make the calculations required by paragraph (b)(3)(ii) of this section by determining the equivalent credit hours in which the veteran or eligible person is enrolled as provided in § 21.4272(g), and multiplying the equivalent credit hours by the equivalent clock hour factor.

(7) In calculations required by this paragraph, fractions of an equivalent clock hour will be dropped.

(Authority: 38 U.S.C. 1788(e))

* * * * *

18. In § 21.4277 the heading is revised and paragraph (c) is added before the authority citation to read as follows:

§ 21.4277 Discontinuance: unsatisfactory progress, conduct and attendance.

* * * * *

(c) *Satisfactory attendance.* Entitlement to benefits for a program of education is subject to the requirement that the veteran or eligible person, having commenced the pursuit of such program, continues to maintain satisfactory attendance in accordance with the regularly prescribed standards and practices of the institution in which he or she is enrolled. If the veteran or eligible person will no longer be retained as a student or will not be readmitted as a student by the institution in which he or she is enrolled, educational benefits will be discontinued.

* * * * *

19. In § 21.4278 paragraph (a) is revised and its authority citation is added to read as follows:

§ 21.4278 Reentrance after discontinuance.

(a) *Conditions permitting reentrance after discontinuance.* A veteran or eligible person may be reentered following discontinuance because of unsatisfactory conduct, progress or attendance only when either of the following sets of conditions exist:

(1) The veteran or eligible person is resuming enrollment at the same educational institution in the same program of education and the educational institution has—

(i) Approved the veteran's or eligible person's reenrollment, and

(ii) Certified it to the Department of Veterans Affairs; or

(2) All of the following exist:

(i) The cause of unsatisfactory conduct, progress or attendance has been removed,

(ii) VA determines that the program which the veteran or eligible person now proposes to pursue is suitable to his or her aptitudes, interests and abilities, and

(iii) If a proposed change of program is involved, the change meets the requirements for approval under §§ 21.4234, 21.5232, 21.7114 and 21.7614 of this part.

(Authority: 38 U.S.C. 1674 and 1724)

* * * * *

[FR Doc. 91-24268 Filed 10-15-91; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Chapter II

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Chapter VI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Chapters I and IV

1989 "Federal Manual for Identifying and Delineating Jurisdictional Wetlands"; Proposed Revisions

AGENCIES: Environmental Protection Agency; Corps of Engineers, Department of the Army, DOD; Soil Conservation Service, Agriculture; and Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: As a result of numerous requests and to ensure the public has adequate opportunity to provide comments, the initial 60 day public comment period on the proposed revisions to the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" (1989 Manual), which was published in the **Federal Register** on August 14, 1991 (56 FR 40446), is hereby extended an additional 60 days. The comment period will close on December 14, 1991. At least 30 days prior to the closing of the extended comment period, proposed regulatory language consistent with the proposed revisions to the 1989 Manual will be published in the **Federal Register** for comment. The end of the comment period for the proposed legislative rule will coincide with the end of the extended comment period for the proposed revisions to the 1989 Manual.

DATES: Written comments must be submitted on or before December 14, 1991.

ADDRESSES: Comments should be submitted in writing to: Mr. Gregory Peck, Chief, Wetlands and Aquatic Resources Branch, mail Code (A-104F), U.S. EPA, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Specific details are available from Mr. Michael Fritz (EPA) at (202) 260-6013; Ms. Karen Kochenbach (CE) at (202) 272-0817; Mr. Billy Teels (SCS) at (202) 447-5991; or Mr. Tom Muir (FWS) at (703) 358-2183.

Dated: October 10, 1991.

Suzanne Schwartz,

Deputy Director, Wetlands Division, U.S. Environmental Protection Agency.

Dated: October 10, 1991.

Michael L. Davis,

Assistant for Regulatory Affairs, Office of the Assistant Secretary of the Army (Civil Works).

Dated: October 10, 1991.

Robert R. Shaw,

Deputy Chief for Technology, U.S. Soil Conservation Service.

Dated: October 10, 1991.

Bruce Blanchard,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 91-24955 Filed 10-11-91; 11:38 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket Nos. 78-72, 91-213; FCC 91-250]

MTS and WATS Market Structure and Transport Rate Structure and Pricing

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission initiated a Further Notice of Proposed Rulemaking on transport rate structure and pricing issues in response to an earlier Notice of Proposed Rulemaking, 49 FR 50413, December 28, 1984. The Commission proposed to adopt a new rate structure for transport, consisting of three elements: (1) A dedicated transport charge; (2) a common transport charge; and (3) a residual interconnection charge. The Commission tentatively concluded that the proposed rate structure for transport more fully reflects its goals in this proceeding, which include promoting the efficient use of transport facilities, adopting transport rules conducive to full and fair interexchange competition, and avoiding the adoption of transport rules that would interfere with the development of interstate switched access competition

DATES: Comments are to be filed by October 29, 1991, and replies are to be filed by November 28, 1991.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Melissa Newman, (202) 632-9342, or Suzanne Tetreault, (202) 632-6363, Policy and Program Planning Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking in CC Docket Nos. 78-72 and 91-213, adopted August 1, 1991, and released August 30, 1991. Parties should file comments in response to the Further Notice of Proposed Rulemaking in CC Docket No. 91-213. The full text of this decision is available for inspection and copying during normal business hours in the Dockets Reference Room (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1114 21st Street NW., suite 140, Washington, DC 20037, (202) 452-1422.

Summary of Further Notice of Proposed Rulemaking

The part 69 rules adopted in the Access Charge Order, 93 FCC 2d 241 (1983), required LECs to allocate transport costs between separate rate elements for "dedicated" and "common" transport, prescribing a flat, per-line rate structure for the dedicated transport element and a usage-sensitive rate structure for the common transport element. In 1982, the United States District Court for the District of Columbia adopted the Modification of Final Judgment (MFJ) in *United States* v. *AT&T*, 552 F. Supp. 131 (D.D.C. 1982), *affirmed sub nom., Maryland* v. *United States*, 460 U.S. 1001 (1983), which required that until September 1, 1991 "charges for delivery or receipt of traffic * * * between end offices and facilities of interexchange carriers within an exchange area," must be "equal, per unit of traffic delivered or received * * *." Subsequently, the Commission waived the part 69 common/dedicated transport rules, permitting the local exchange carriers to tariff transport charges that reflect a rate structure different from that required by the part 69 rules.

The Commission instituted proceedings to re-examine issues related to the Transport waiver in 1984. In January, 1990, the Commission asked parties to supplement the existing record.

After reviewing the comments, the Commission concluded that a decision on the rate structure and pricing of transport must balance three potentially conflicting objectives. These include promoting efficient use of transport facilities by allowing or requiring the LECs to price in a manner that best reflects the way costs are incurred, adopting transport rules conducive to full and fair interexchange competition, and avoiding the adoption of transport rules that would interfere with the development of interstate switched access competition.

The Commission tentatively concluded that it should adopt a new transport rate structure. The Commission proposed to adopt a new rate structure for transport, consisting of three elements: (1) A dedicated transport charge, priced on a flat-rate basis and applied to the use of transport facilities dedicated to the use of a single IXC; (2) a common transport charge, priced on a per-minute basis and applied to the use of transport facilities used by multiple IXCs; and (3) a residual interconnection charge, priced on a per-minute basis, applied to all LEC switched access customers and all parties, including competitive access providers, interconnecting with the LEC access network pursuant to provisions for expanded interconnection for the provision of switched services. The Commission tentatively concluded that the proposed rate structure for transport more fully reflects its goals in this proceeding than the current structure. The Commission also asked for comment on the extent to which these proposed rate elements should be distance sensitive.

The Commission set forth and asked for comment on various alternatives for setting the initial rates for common and dedicated transport, as well as the interconnection charge, for both price cap and rate of return LECs. The Commission also asked for comment on whether it should amend any particular part 69 cost allocation rules or should refer specific separations issues to a Federal/State Joint Board.

The Commission tentatively concluded that given the importance of the rate levels for each of the three elements to achievement of its three goals, the proposed changes in the current transport rate structure warrant special scrutiny. Thus, the Commission proposed to adopt specific pricing requirements for the initial rate levels for dedicated and common transport, rather than grant the price cap LECs the degree of flexibility generally permitted under the price cap rules for restructured services. Under the Commission's proposal, the pricing requirements for dedicated and common transport would also apply to rate of return LECs. However, for the interconnection charge, the Commission tentatively concluded that price cap LECs need only comply with the price cap rate restructure requirements. For rate of return LECs, the interconnection charge would be computed by subtracting projected dedicated and common transport revenues from a revenue requirement computed in accordance with the part 69 rules. This residual revenue requirement would be divided by the relevant projected total minutes.

The Commission tentatively concluded that subsequent rate revisions by price cap LECs should be governed by a modified set of price cap rules. Specifically, the commission proposed to treat common transport, dedicated transport, and the interconnection access element as separate service categories, subject to individual banding requirements for purposes of the price cap rules. For the dedicated and common transport service categories, the Commission proposed to apply the general banding

requirements set forth in the price cap rules, thus allowing increases and decreases on a streamlined basis of up to five percent annually in the rates for both common and dedicated transport when adjusted for changes in the price cap. The Commission did not, however, propose to allow streamlined price cap review for increases in the interconnection charge over and above any increase permitted by the price cap index for the traffic sensitive basket. The Commission also asked for comment on the requirements that should apply to subsequent changes in the transport rates for rate of return LECs.

The Commission also recognized the existence and importance of certain longer-term questions related to transport, noting that it had begun exploring these matters by considering, with the Federal/State Joint Board members, the need for a comprehensive re-examination of the FCC jurisdictional separations rules. The Commission, however, tentatively concluded that it can, and should, implement the transport rate structure proposed in the Notice before completing a comprehensive re-evaluation of the jurisdictional separations and access charge rules.

The Commission has terminated CC Docket No. 78–72. All outstanding issues in the dual-captioned CC Docket Nos. 78–72 and 80–286 will be resolved in CC Docket No. 80–286, and any additional filings relating to those issues should be filed in that docket. Comments filed in response to this Further Notice of Proposed Rulemaking should be filed in CC Docket No. 91–213.

Ex Parte Rules

1. This is a non-restricted notice and comment rulemaking proceeding. See generally §§ 1.1202, 1.1203 and 1.1206(a) of the Commission's Rules, 47 CFR 1.1202, 1.1203 and 1.1206(a), for rules governing permissible *ex parte* contacts.

Regulatory Flexibility Requirements

2. Pursuant to the Regulatory Flexibility Act, the Commission certifies that the proposals made in this proceeding will not have a significant economic impact on a substantial number of small entities, and that the Regulatory Flexibility Act is, therefore, not applicable to this proceeding. LECs providing interstate transport services directly subject to the proposed rule changes do not qualify as small businesses since they are dominant in their field of operation. The Commission will, however, take appropriate steps to ensure that the special circumstances of smaller LECs are considered.

Ordering Clauses

1. Accordingly, *It Is Ordered That Notice is Hereby Given Of* the proposed changes in the rate structure and pricing of transport. *Comment Is Invited On* these proposals.[1]

3. *It Is Further Ordered* That CC Docket No. 78–72 *Is Terminated.*

List of Subjects in 47 CFR Part 69

Communications common carriers, Telephones.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91–24908 Filed 10–15–91; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 91–298, RM–7803]

Radio Broadcasting Services; Lake George, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by William H. Walker, III, seeking the allotment of channel 253A to Lake George, New York, as the community's first local FM service. Channel 253A can be allotted to Lake George in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates North Longitude 43–25–42 and West Latitude 73–42–48. Although the allotment would be short-spaced to station CIEL-FM, Channel 253C1, Longueuille, Quebec, Canada, at both is licensed and proposed antenna sites, we have determined that no prohibited interference would be caused by the Lake George allotment. Canadian concurrence in the allotment as a specially negotiated allotment has been requested because Lake George is located within t320 kilometers (200 miles) of the U.S.-Canadian border.

DATES: Comments must be filed on or before December 2, 1991, and reply comments on or before December 17, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William H. Walker, III, 1151 route 44–55, Clintondale, New York 12515–9702 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the comission's Notice of Proposed Rule Making, MM Docket No. 91–298, adopted September 30, 1991, and released October 10, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may a.so be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch; Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–24913 Filed 10–15–91; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATION COMMISSION

47 CFR Part 73

[MM Docket No. 91–297, RM–7709]

Television Broadcasting Services; Snyder, TX

AGENCY: Federal Communication Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Ramar Communications, Inc., proposing the reallotment of vacant Television Channel 22 from Wolfforth to Synder, Texas. Although Ramar Communications proposed the

[1] These actions are taken pursuant to sections 1, 4(i) and (j), 201–205, 218, 220, and 403 of the Communications Act as amended, 47 U.S.C. 151, 154(i) and (j), 201–205, 218, 220, and 403.

reallotment of UHF Channel 22, a Commission engineering analysis indicates the availability of UHF Channel 17, for use at Snyder. Channel 17 can be allotted to Snyder consistent with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules without the imposition of a site restriction. The coordinates for UHF Channel 17 at Synder are 32–43–36 and 100–54–42. The proposed allotment at Snyder is not affected by the temporary freeze on new television allotments in certain metropolitan areas.

DATES: Comments must be filed on or before December 2, 1991, and reply comments on or before December 17, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard R. Zaragoza, Esq., Scott R. Flick, Esq., Lauren Ann Lynch, Esq., Fisher, Wayland, Cooper & Leader, 1255 23rd Street, NW., suite 800, Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–297, adopted September 30, 1991, and release October 10, 1991. The full text of this Commission decision in available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television broadcasting

Federal Communication Commission.

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–24914 Filed 10–15–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 544

[Docket No. 91–53; Notice 1]

RIN 2127–AE23

Insurer Reporting Requirements; List of Insurers Required to File Reports

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

ACTION: Notice of proposed rulemaking.

SUMMARY: Title VI of the Motor Vehicle Information and Cost Savings Act requires certain passenger motor vehicle insurers to file annual reports with NHTSA regarding motor vehicle thefts and recoveries unless the agency exempts them from filing such reports. The law stipulates that NHTSA can only exempt those insurance companies whose market share is below certain percentages for the nation as a whole and in each individual State, and those companies for which NHTSA determines that: (1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer; and (2) the insurer's report will not significantly contribute to carrying out the purposes of title VI.

To carry out these statutory provisions, NHTSA has exempted all those companies that are statutorily eligible to be exempted and published a listing of those companies that are required to file annual reports. This notice proposes to update the listing of companies subject to the reporting requirements, to reflect changing market conditions.

DATES: Comments on this notice must be received by this agency not later than December 2, 1991. The proposed amendments would become effective 30 days after publication of a final rule in the **Federal Register.** Companies added to the appendices would be required to submit reports beginning with the one due October 25, 1992.

ADDRESSES: Comments on this notice must refer to the docket number and notice number of this notice and must be submitted to: Docket Section, NHTSA, room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Gray, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Ms. Gray's telephone number is (202) 366–1740.

SUPPLEMENTARY INFORMATION:

Background

Section 612 of the Motor Vehicle Information and Cost Savings Act (the Act) (15 U.S.C. 2032) requires certain passenger motor vehicle insurers to file an annual report with NHTSA unless the agency exempts them from filing such reports. The reports include information about thefts and recoveries of motor vehicles, the rating rules used by the insurers to establish premiums for comprehensive coverage, the actions taken by insurers to reduce such premiums, and the actions taken by insurers to reduce or deter theft.

Under the Act, the following insurers are subject to the reporting requirements: (1) Those issuers of motor vehicle insurance policies whose total premiums account for one percent or more of the total premiums of motor vehicle insurance issued within the United States; (2) those issuers of motor vehicle insurance policies whose premiums account for 10 percent or more of total premiums written within any one State; (3) rental or leasing companies with a fleet of 20 or more vehicles not covered by theft insurance policies issued by insurers of motor vehicles, other than any governmental entity. As discussed in the following sections, the agency may, by regulation, exempt certain insurers from the reporting requirements.

A. Insurers of Passenger Motor Vehicles

Although issuers of motor vehicle insurance policies are subject to reporting requirements, section 612(a)(5) provides that the agency shall exempt small insurers from the reporting requirements if NHTSA finds that such exemptions will not significantly affect the validity or usefulness of the information collected and compiled in the reports, either nationally or on a State-by-State basis. The term "small insurer" is defined in section 612(a)(5)(C) as an insurer whose premiums account for less than 1 percent of the total premiums for all forms of motor vehicle insurance issued by insurers within the United States. However, that section also stipulates that if an insurance company satisfies this definition of a "small insurer," but accounts for 10 percent or more of the

total premiums for all forms of motor vehicle insurance issued by insurers within a particular State, such an insurer must report the required information about its operations in that State.

As described in the final rule establishing the requirement for insurer reports (52 FR 59, January 2, 1987), appendix A lists companies which must report based on the fact that each insurer had at least one percent of the national market for motor vehicle insurance premiums, and appendix B lists those insurers that are required to report for particular states because each insurer had a 10 percent or greater market share of motor vehicle premiums in those States. In the January 2, 1987, notice, the agency stated that these appendices will be updated annually. It has been NHTSA's practice to update the appendices based on data voluntarily provided by insurance companies to A. M. Best, and made available to the agency each spring. The agency uses the data to determine the insurers' market shares nationally and in each state.

B. Self-Insured Rental and Leasing Companies

In addition to companies that issue insurance policies, the term "insurers" is defined in section 612 of the Act to include certain self-insurers, i.e., any person who has a fleet of 20 or more motor vehicles (other than any governmental entity) which are used primarily for rental or lease and which are not covered by theft insurance policies issued by insurers of passenger motor vehicles. (Section 612(a)(3).) Section 612(a)(4) of the Act authorizes the agency to exempt certain insurers from submitting the reports, if the agency determines that:

(1) The cost of preparing and furnishing such reports is excessive in relation to the size of the business of the insurer, and

(2) The insurer's report will not significantly contribute to carrying out the purposes of title VI.

In a final rule dated June 22, 1990 (55 FR 25606), the agency in effect granted a class exemption to all companies that rent or lease fewer than 50,000 vehicles. The agency made this exemption because it believed that reports from a representative sample of rental and leasing companies will provide the agency with the necessary information to allow it to fulfill all its obligations under title VI of the Cost Savings Act. NHTSA concluded that reports by many smaller rental and leasing companies do not significantly contribute to carrying out title VI, and that exempting such companies will relieve an unnecessary burden on the vast majority of the companies presently subject to the reporting requirements. The final rule added a new appendix C, which consists of an annually updated listing of the rental and leasing companies that are subject to the reporting requirements in part 544. It has been NHTSA's practice to update appendix C based primarily on information contained in Automotive Fleet Magazine and Travel Business Travel News.

C. March 1991 Update of Appendices A, B, C

As indicated above, it has been NHTSA's practice to update the lists of companies subject to the reporting requirements on an annual basis. The agency's most recent updating of the lists was in a final rule published in the **Federal Register** (56 FR 12460) on March 26, 1991. In that notice, NHTSA noted that section 612 of the Cost Savings Act imposed a statutory duty on insurers that were not exempted from the reporting requirements to file a report for the 1989 calendar year no later than October 25, 1990. Most of the companies included in the updated lists had previously been listed and were therefore subject to that requirement. However, since the agency's annual update was published after October 25, 1990, the agency indicated that, for previously listed insurers, it would accept as timely insurer reports for the 1989 calendar year that were filed within 30 days of the final rule. The agency also indicated that companies added to the list were not required to file a report for the 1989 calendar year, but were instead required to begin filing reports starting with the one for calendar year 1990 (due October 25, 1991). Finally, the agency stated that those companies removed from the list were not required to file a report for the 1989 calendar year.

Agency Approach to Annual Updates

As discussed below, this notice proposes to make several changes to the lists of insurance companies in appendices A, B and C. Certain companies would be added and deleted from the lists, based on 1989 calendar year data supplied by the insurance companies to A. M. Best and on information in Automotive Fleet Magazine and Travel Trade Business Travel News for 1989. These sources represent the latest information available to the agency.

Based on its experience in its last update of the appendices, NHTSA has reviewed its approach to updating appendices and has tentatively concluded that the approach should be revised.

For companies listed on the previous list, NHTSA's last update focused on the reports for calendar year 1989, due October 25, 1990. Any company removed from the lists was not required to file a report. However, since the agency's final rule was not published until March 1991, those companies did not know that they did not have to file a report until more than four months after it was due.

For insurance companies added to the list, NHTSA's update did not focus on the reports for calendar year 1989. Instead, any company added to the list was required to file reports beginning with the one for calendar year 1990. Since, under the agency's approach, a company which is added to the lists need not file a report until the following year, and a company which is deleted from the lists need not file a report for the immediate year at issue, an anomaly of the approach is that if a company is added one year and deleted the next, it would not have to file any report.

NHTSA believes that insurance companies should know well in advance of the October 25 filing date whether they need to file a report. However, since the agency does not receive the A. M. Best and other data until the spring, it is not possible to complete a rulemaking well in advance of October 25 that same year.

NHTSA believes that the problem described above would be resolved if the updating of the appendices focused on the report due the year after receipt of the A. M. Best and other data, both for companies which are added to the lists and companies which are deleted from the lists. If this approach is followed for this year, all companies on the lists as of the March 1991 update should file the required report by October 25, 1991, and all companies added to the lists by the final rule based on this NPRM would file the required report due October 25, 1992. The update based on this NPRM will be issued in time to give companies ample notice concerning whether they need to file a report by that date.

The agency notes that part 544 would not need to be changed to implement this approach. Part 544 generally does not limit its requirements to particular years. As that part is currently drafted, any company not listed has, in effect, an indefinite exemption from the reporting requirements, and any listed company must file reports each October 25. Thus, any company presently listed in the appendices must file a report this coming October 25 (and each succeeding

October 25, absent a further amendment). Assuming that NHTSA amended the lists some time after October 25, 1991, based on this NPRM, the effect would be that all companies on the revised list would need to file a report for October 25, 1992 (and each succeeding October 25, absent a further amendment).

NHTSA requests comments on this revised approach and on whether there are any other ways to eliminate the problem discussed above. Depending on the comments, the agency may adopt other approaches that address these concerns.

Proposed Revisions to Lists

A. Insurers of Passenger Motor Vehicles

Based on the 1989 calendar year A. M. Best data for market shares, it is proposed that appendix A, which lists companies which must report based on the fact that each insurer had at least one percent of the national market for motor vehicle insurance premiums, be changed slightly from the March 26, 1991 listing (which was based on 1988 calendar year A. M. Best data). Two companies, CIGNA Group and Crum and Forster Companies, that are currently included in appendix A are proposed to be deleted, and one company, Prudential of American Group, is proposed to be added.

Appendix B lists those insurers that are required to report for particular States, because each insurer has a 10 percent or greater market share of motor vehicle premiums in those States. Based on the 1989 calendar year A. M. Best data for market shares, it is proposed that one company, Island Insurance Group for Hawaii, currently included in appendix B be deleted, and that one company, Tennessee Farmers, be added to the appendix and required to report on its activities in Tennessee. In addition, it is proposed that Southern Farm Bureau Casualty Group, already included in appendix B and required to report on its activities in Mississippi, also be required to report on its activities in Arkansas, where it has a 10 percent or higher market share of motor vehicle premiums.

B. Rental and Leasing Companies

Based on information in Automotive Fleet Magazine and Travel Trade Business Travel News for 1989, the most recent year for which data are available, NHTSA is proposing several changes in appendix C. As indicated above, that appendix lists rental and leasing companies required to file reports. It is proposed that the following six rental and leasing companies be deleted from appendix C: Automotive Rentals, Inc. (subsidiary of ARI, Inc.), Enterprise Rent-A-Car, GE Capital Auto Lease, Inc., Lend Lease Cars, Security Pacific Auto Finance, and United States Fleet Leasing, Inc. Automotive Rentals, Inc. informed the agency that it self-insures only 3843 vehicles, and United States Fleet Leasing, Inc. stated that it self-insures only 38,350 vehicles. It is also proposed that one company, Associates Leasing, Inc., be added to the appendix.

The agency is also proposing certain changes in the listings of some companies already included in appendix C. Avis Car Leasing-USA and Avis Rent-A-Car System, Inc., subsidiaries of Avis, Inc., that in the past have reported separately, reported to the two publications as Avis. Inc. The agency is therefore proposing to include the name Avis, Inc. in appendix C, instead of the names of the two subsidiaries. In addition, the company that was formerly known as Hertz Penske Truck Leasing Inc. is now known as Penske Truck Leasing Company, and the agency proposes to amend appendix C to reflect this change.

Regulatory Impacts

NHTSA has analyzed this proposal and determined that it is neither "major" within the meaning of Executive Order 12291 nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. If adopted as a final rule, these amendments would ensure that all insurance companies that are statutorily eligible for exemption from the insurer reporting requirements are in fact exempted from those requirements. Those companies that are not statutorily eligible for an exemption would be expressly required to file reports.

NHTSA does not believe that this proposed rulemaking to reflect more current data from A.M. Best, Automotive Fleet Magazine, and Travel Trade Business Travel News would affect the impacts described in the final regulatory evaluation prepared for part 544. Accordingly, a separate regulatory evaluation has not been prepared for this proposal. In the final regulatory evaluation for part 544, the agency estimated that it would cost a company on appendix A $50.000 to file a report, a company on appendix B $20,000 to file a report, and a company on appendix C $5,770 to file a report. In this notice, the agency proposes: for appendix A, to delete two companies and add a new company; for appendix B, to delete one company, add one company, and require reporting for an additional state for a company already reporting on its activities in one state; and for appendix C, to delete six companies and add one. The agency therefore estimates that the net effect of this proposal will be a cost savings to insurers, as a group, of approximately $58,850. Such a savings would be well below the threshold of $100 million for classifying a rulemaking action as "major" under the Executive Order.

As noted above, a full regulatory evaluation was prepared for the final rule establishing part 544. Interested persons may wish to examine that evaluation in connection with this proposal. Copies of that evaluation have been placed in Docket No. T86-01; Notice 2. Any Interested person may obtain a copy of this evaluation by writing to: NHTSA Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling the Docket Section at (202) 366-4949.

The agency has also considered the effects of this proposed rulemaking under the Regulatory Flexibility Act. I certify that this proposed action would not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that none of the companies on appendices A, B, or C would be construed to be a small entity within the definition of the Regulatory Flexibility Act. NHTSA believes that any insurance company that does not qualify as a "small insurer" within the meaning of Section 612 of the Act would also not qualify as a small entity within the meaning of the Regulatory Flexibility Act.

The Final Regulatory Flexibility Analysis for the final rule (55 FR 25609) that exempted most rental and leasing companies from reporting noted that the U.S. Small Business Administration considered as small those rental and leasing companies that grossed less than $12.5 million a year. Because the 50,000 vehicle fleet cutoff point for reporting is attained only by approximately two dozen companies, all the companies proposed to be included in appendix C exceed the $12.5 million small business size standard. Furthermore, the proposed action simply applies more current information to determine which insurance companies are statutorily eligible to be exempted from these reporting requirements. It does not in any way change the criteria by which companies are selected for inclusion on the appendices.

The requirement that certain insurers report information annually to this agency are information collection requirements, as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. As required

by the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) the agency has requested, and obtained approval from, OMB for this information collection. This information collection is assigned OMB Control Number 2127–0547 ("Insurer Reporting Requirements") and has been approved for use through October 31, 1993.

In accordance with the National Environmental Policy Act, the agency has considered the environmental impacts of this proposed rule and determined that, if adopted as a final rule, it would not have a significant impact on the quality of the human environment.

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

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15–page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 544

Crime insurance, insurance, insurance companies, motor vehicles. reporting and recordkeeping requirements.

In consideration of the foregoing, it is proposed that 49 CFR part 544 be amended as follows:

1. The authority citation for part 544 would continue to read as follows:

Authority: 15 U.S.C. 2032; delegation of authority at 49 CFR 1.50.

2. Appendix A to part 544 would be revised to read as follows:

Appendix A—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements in Each State in Which They Do Business

Aetna Life & Casualty Group
Allstate Insurance Group
American Family Group
American International Group
California State Auto Association
CNA Insurance Companies
Farmers Insurance Group
Geico Corporation Group
Hanover Insurance Companies
Hartford Insurance Group
Liberty Mutual Group
Nationwide Group
Progressive Group
Prudential of America Group
State Farm Group
Travelers Insurance Group
United States F & G Group
USAA Group

3. Appendix B to part 544 would be revised to read as follows:

Appendix B—Issuers of Motor Vehicle Insurance Policies Subject to the Reporting Requirements Only in Designated States

Alfa Insurance Group (Alabama)
Amica Mutual Insurance Company (Rhode Island)
Auto Club of Michigan Group (Michigan)
Commercial Union Insurance Companies (Maine)
Concord Group Insurance Companies (Vermont)
Erie Insurance Group (Pennsylvania)
Indiana Farm Bureau Group (Indiana)
Kentucky Farm Bureau Group (Kentucky)
Southern Farm Bureau Casualty Group (Arkansas. Mississippi)
Tennessee Farmers (Tennessee)

4. Appendix C to part 544 would be revised to read as follows:

Appendix C—Motor Vehicle Rental and Leasing Companies (Including Licensees and Franchisees) Subject to the Reporting Requirements of Part 544

Alamo Rent-A-Car, Inc.
American International Rent-A-Car Corp./ANSA
Associates Leasing, Inc.
Avis, Inc.
Budget Rent-A-Car Corporation
Dollar Rent-A-Car Systems, Inc.
GE Capital Fleet Services
Hertz Rent-A-Car Division (subsidiary of Hertz Corporation)
Lease Plan USA
Lend Lease Cars
McCullagh Leasing, Inc.
National Car Rental System, Inc.
Penske Truck Leasing Company
PHH Fleet America
Rental Concepts, Inc.
Ryder Truck Rental (both rental and leasing operations)
U–Haul International, Inc. (subsidiary of AMERCO)
Wheels, Inc.

Issued on: October 9, 1991.

Jerry Ralph Curry,

Administrator.

[FR Doc. 91–24819 Filed 10–15–91; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 56, No. 200
Wednesday, October 16, 1991

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.

ARMS CONTROL AND DISARMAMENT AGENCY

Hubert H. Humphrey Fellowship Competition

The United States Arms Control and Disarmament Agency will conduct a competition in 1992 for one-year Hubert H. Humphrey Fellowships in support of unclassified doctoral dissertation research in arms control and disarmament. Law candidates for the Juris Doctor or any higher degree are also eligible if they are writing a substantial paper in partial fulfillment of degree requirements. The fellowship stipends for the Ph.D. candidates will be $5000 plus applicable tuition and fees up to a maximum of $3,400. Stipends and tuition for law candidates will be prorated according to the credits given for the research paper. Fellows must be citizens or nationals of the United States and degree candidates at a U.S. university. The application deadline for the awards is March 15, 1992. Awards will be for the twelve month period beginning in September, 1992 or January, 1993. For information and application materials please write: Hubert H. Humphrey Fellowship Program, Operations Analysis, U.S. Arms Control and Disarmament Agency, Washington, DC 20451.

Dated: October 2, 1991.

Alfred Lieberman,

Chief, Operations Analysis.

[FR Doc. 91-24875 Filed 10-15-91; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

October 11, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

New Collection

- Animal and Plant Health Inspection Service

User Fees—Addendum 1.
PPQ Form 250.
On occasion; Quarterly.
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Small businesses or organizations; 132,052 responses; 4,465 hours.
Donna J. Ford (301) 436-5752.

- Animal and Plant Health Inspection Service

User Fees—Domestic—Addendum 1.
On occasion; Quarterly; Semi-annually.
Individuals or households; Businesses or other for-profit; Federal agencies or employees; Small businesses or organizations; 1,160 responses; 127 hours.
Donna J. Ford (301) 436-5752.

New Collection (Emergency)

- Forest Service

State and Private Forestry Assistance—Stewardship Incentive Program.
SIP-245, -36, -502, -211-1, -100.
On occasion.
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 30,053 responses; 73,720 hours.
Mary Carol Koester (202) 205-1381.

Reinstatement

- Farmers Home Administration

7 CFR 1946-A, Agricultural Loan Mediation Program.
On occasion; Annually.
State or local governments; 70 responses; 370 hours.
Jack Holston (202) 382-9736.

Larry K. Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 91-24877 Filed 10-15-91; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Northwest Region, Oregon and Washington

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Northwest Region to publish legal notice of all decisions subject to appeal under 36 CFR part 217. This action is necessary to implement the Secretary of Agriculture's final rule amending the Forest Service administrative appeal procedures, which was signed on December 5, 1990 and was published in the **Federal Register** on February 6, 1991 (56 FR 4914). The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

DATES: Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after October 15, 1991. The list of newspapers will remain in effect until April 1992 when another notice wil be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: James L. Schuler, Regional Appeals Coordinator, Pacific Northwest Region, PO Box 3623, Portland, OR 97204-3623, phone: (503) 326-2322.

SUPPLEMENTARY INFORMATION: On December 5, 1990 the Deputy Secretary of Agriculture signed a final rule amending the administrative appeal procedures 36 CFR part 217 of the Forest Service to require publication of legal notice in a newspaper of general circulation of all decisions subject to appeal. This newspaper publication of notices of decisions is in addition to direct notice to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify: The decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins is the day following publication of the notice.

In addition to the principal newspaper listed for each unit, some forest supervisors and district rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

Pacific Northwest Regional Office

Pacific Northwest Regional Forester decisions on Oregon National Forests: The Oregonian, Portland, Oregon.
Pacific Northwest Regional Forester decisions on Washington National Forests: The Seattle Post-Intelligence, Seattle, Washington.
Columbia Gorge National Scenic Area Manager decisions: The Oregonian, Portland, Oregon, Hood River News, Hood River, Oregon, The Dallas Chronicle, Dallas, Oregon, Columbian, Vancouver, Washington.

Oregon National Forests

Deschutes National Forest

Deschutes Forest Supervisors decisions: The Bulletin, Bend, Oregon.
Bend District Ranger decisions: The Bulletin, Bend, Oregon.
Crescent District Ranger decisions: The Bulletin, Bend, Oregon.
Fort Rock District Ranger decisions: The Bulletin, Bend, Oregon.
Sister District Ranger decisions: Sisters Nugget, Sisters, Oregon.
Bend Pine Nursery Managers decisions: The Bulletin, Bend, Oregon.
Redmond Air Center managers decisions: The Bulletin, Bend, Oregon.

Fremont National Forest

Fremont Forest Supervisor decisions: Herald and News, Klamath Falls, Oregon.
Newspapers providing additional notice for Fremont Forest Supervisor decisions: Lake County Examiner, Lakeview, Oregon, The Bulletin, Bend, Oregon.
Bly District Ranger decisions: Herald and News, Klamath Falls, Oregon.
Lakeview District Ranger decisions: Lake County Examiner, Lakeview, Oregon.
Paisley District Ranger decisions: Lake County Examiner, Lakeview, Oregon.
Silver Lake District Ranger decisions: Herald and News, Klamath Falls, Oregon.
Newspaper providing additional notice of Silver Lake decisions: The Bulletin, Bend, Oregon.

Malheur National Forest

Malheur Forest Supervisor decisions: Blue Mountain Eagle, John Day, Oregon.
Bear Valley District Ranger decisions: Blue Mountain Eagle, John Day, Oregon.
Burns District Ranger decisions: Blue Mountain Eagle, John Day, Oregon.
Long Creek District Ranger decisions: Blue Mountain Eagle, John Day, Oregon.
Prairie City District Ranger decisions: Blue Mountain Eagle, John Day, Oregon.

Mt. Hood National Forest

Mt. Hood Forest Supervisor decisions: The Oregonian, Portland, Oregon.
Barlow District Ranger decisions: The Oregonian, Portland, Oregon.
Bear springs District Ranger decisions: The Oregonian, Portland, Oregon.
Clackamas District Ranger decisions: The Oregonian, Portland, Oregon.
Columbia Gorge District Ranger decisions: The Oregonian, Portland, Oregon.
Estacada District Ranger decisions: The Oregonian, Portland, Oregon.
Hood River District Ranger decisions: The Oregonian, Portland, Oregon.
Zigzag District Ranger decisions: The Oregonian, Portland, Oregon.

Ochoco National Forest

Ochoco Forest Supervisor decisions: The Bulletin, Bend, Oregon.
Newspapers providing additional notice of Ochoco Forest Supervisor decisions: Burns Times/Herald, Burns, Oregon, Central Oregonian, Prineville, Oregon.
Big Summit District Ranger decisions: The Bulletin, Bend, Oregon.
Crooked River National Grassland District Ranger decisions: The Bulletin, Bend, Oregon.
Newspapers providing additional notice of Grassland decisions: Madras Pioneer, Madras, Oregon.
Paulina District Ranger decisions: The Bulletin, Bend, Oregon.
Newspapers providing additional notice of Paulina decisions: Blue Mountain Eagle, John Day, Oregon.
Prineville District Ranger decisions: The Bulletin, Bend, Oregon.
Newspapers providing additional notice of Prineville decisions: Central Oregonian, Prineville, Oregon.
Snow Mountain district Ranger decisions: The Bulletin, Bend, Oregon.
Newspapers providing additional notice of Snow Mountain decisions: Burns Times/Herald, Burns, Oregon.

Rogue River National Forest

Rogue River Forest Supervisor decisions: Mail Tribune, Medford, Oregon.
Applegate District Ranger decisions: Mail Tribune, Medford, Oregon.
Ashland District Ranger decisions: Mail Tribune, Medford, Oregon.
Butte Falls District Ranger decisions: Mail Tribune, Medford, Oregon.
J. Herbert Stone Nursery Managers decisions: Mail Tribune, Medford, Oregon.
Prospect District Ranger decisions: Mail Tribune, Medford, Oregon.

Siskiyou National Forest

Sisikiyou Forest Supervisor decisions: Grants Pass Courier, Grants Pass, Oregon.
Chetco District Ranger decisions: Curry Coastal Pilot, Brookings, Oregon.
Galice District Ranger decisions: Grants Pass Courier, Grants Pass, Oregon.
Gold Beach District Ranger decisions: Curry County Reporter, Gold Beach, Oregon.
Illinois Valley District Ranger decisions: Grants Pass Courier, Grants Pass, Oregon.
Powers District Ranger decisions: The World, Coos Bay, Oregon.
Newspaper providing additional notice of Powers decisions: Curry County Reporter, Gold Beach, Oregon.

Siuslaw National Forest

Siuslaw Forest Supervisor decisions: Corvallis Gazette-Times, Corvallis, Oregon.
Alsea District Ranger decisions: Corvallis Gazette-Times, Corvallis, Oregon.
Hebo District Ranger decisions: Headlight Herald, Tillamook, Oregon.

Mapleton District Ranger decisions: Siuslaw News, Florence, Oregon.
Oregon Dunes National Recreation Area Manager decisions: The World, Coos Bay, Oregon.
Waldport District Ranger decisions: Newport News Times, Newport, Oregon.

Umatilla National Forest

Umatilla Forest Supervisor decisions: East Oregonian, Pendleton, Oregon.
Heppner District Ranger decisions: East Oregonian, Pendleton, Oregon.
North Fork John Day District Ranger decisions: East Oregonian, Pendleton, Oregon.
Pomeroy District Ranger decisions: East Oregonian, Pendleton, Oregon.
Walla Walla District Ranger decisions: East Oregonian, Pendleton, Oregon.

Umpqua National Forest

Unpqua Forest Supervisor decisions: The News-Review, Roseburg, Oregon.
Cottage Grove District Ranger decisions: The News-Review, Roseburg, Oregon.
Diamond Lake District Ranger decisions: The News-Review, Roseburg, Oregon.
North Umpqua District Ranger decisions: The News-Review, Roseburg, Oregon.
Tiller District Ranger decisions: The News-Review, Roseburg, Oregon.
Dorena Tree Improvement Center Manager decisions: The News-Review, Roseburg, Oregon.

Wallowa-Whitman National

Wallowa-Whitman Forest Forest Supervisor decisions: Baker City Herald, Baker City, Oregon.
Baker District Ranger decisions: Baker City Herald, Baker City, Oregon.
Eagle Cap District Ranger decisions: Wallowa County Chieftain, Enterprise, Oregon.
Hells Canyon National Recreation Area Ranger decisions: Occurring in Oregon—Wallowa County Chieftain, Enterprise, Oregon; Occurring in Idaho—Lewiston Morning Tribune, Lewiston, ID.
La Grande District Ranger decision: The Observer, La Grande, Oregon.
Pine District Ranger decisions: Baker City Herald, Baker City, Oregon.
Unity District Ranger decisions: Baker City Herald, Baker City, Oregon.
Wallowa Valley District Ranger decisions: Wallowa County Chieftain, Enterprise, Oregon.

Willamette National Forest

Willamette Forest Supervisor decisions: Register-Guard, Eugene, Oregon.
Newspapers providing additional notice of Willamette Forest Supervisor decisions: Salem Statesman-Journal, Salem, Oregon; Albany Democrat Herald, Albany, Oregon.
Blue River District Ranger decisions: Register-Guard, Eugene, Oregon.
Newspapers providing additional notice of Blue River decisions: Salem Statesman-Journal, Salem, Oregon; Albany Democrat Herald, Albany, Oregon.
Detroit District Ranger decisions: Register-Guard, Eugene, Oregon.
Newspapers providing additional notice of Detroit decisions: Salem Statesman-Journal, Salem, Oregon; Albany Democrat Herald, Albany, Oregon.
Lowell District Ranger decisions: Register-Guard, Eugene, Oregon.
Newspapers providing additional notice of Lowell decisions: Salem Statesman-Journal, Salem, Oregon; Albany Democrat Herald, Albany, Oregon.
McKenzie District Ranger decisions: Register-Guard, Eugene, Oregon.
Newspapers providing additional notice of McKenzie decisions: Salem Statesman-Journal, Salem, Oregon; Albany Democrat Herald, Albany, Oregon.
Oakridge District Ranger decisions: Register-Guard, Eugene, Oregon.
Newspapers providing additional notice of Oakridge decisions: Salem Statesman-Journal, Salem, Oregon; Albany Democrat Herald, Albany, Oregon.
Rigdon District Ranger decisions: Register-Guard, Eugene, Oregon.
Newspapers providing additional notice of Rigdon decisions: Salem Statesman-Journal, Salem, Oregon; Albany Democrat Herald, Albany, Oregon.
Sweet Home District Ranger decisions: Register-Guard, Eugene, Oregon.
Newspapers providing additional notice of Sweet Home decisions: Salem Statesman-Journal, Salem, Oregon; Albany Democrat Herald, Albany, Oregon.

Winema National Forest

Winema Forest Supervisor decisions: Herald and News, Klamath Falls, Oregon.
Chemult District Ranger decisions: Herald and News, Klamath Falls, Oregon.
Chiloquin District Ranger decisions: Herald and News, Klamath Falls, Oregon.
Klamath District Ranger decisions: Herald and News, Klamath Falls, Oregon.

Washington National Forests

Colville National Forest

Colville Forest Supervisory decisions: Statesman-Examiner, Colville, WA.
Colville District Ranger decisions: Statesman-Examiner, Colville, WA.
Kettle Falls District Ranger decisions: Statesman-Examiner, Colville, WA.
Newport District Ranger decisions: Newport Miner, Newport, WA.
Republic District Ranger decisions: Republic News Miner, Republic, WA.
Sullivan Lake District Ranger decisions: Newport Miner, Newport, WA.

Gifford Pinchot National Forest

Gifford Pinchot Forest Supervisor decisions: Columbian, Vancouver, Washington.
Mt Saint Helens National Monument Manager decisions: Columbian, Vancouver, Washington.
Mt. Adams District Ranger decisions: Enterprise, White Salmon, Washington.
Packwood District Ranger decisions: Chronicle, Chehalis, Washington.
Randle District Ranger decisions: Columbian, Vancouver, Washington.
Wind River District Ranger decisions: Columbian, Vancouver, Washington.

Mt. Baker-Snoqualmie National Forest

Mt. Baker-Snoqualmie Forest Supervisor decisions: Seattle Post-Intelligencer, Seattle, Washington.
Darrington District Ranger decisions: Everett Harald, Everett, Washington.
Mt. Baker District Ranger decisions: Skagit Valley Herald, Mt. Vernon, Washington.
North Bend District Ranger decisions: Valley Record, North Bend, Washington.
Skykomish District Ranger decisions: Everett Herald, Everett, Washington.
White River District Ranger decisions: Enumclaw Courier Herald, Enumclaw, Washington.

Okanagon National Forest

Okanagon Forest Supervisor decisions: Omak Chronicle, Omak, Washington.
Tonasket District Ranger decisions: The Gazette-Tribune, Oroville, Washington.
Twisp District Ranger decisions: Methow Valley News, Twisp, Washington.
Winthrop District Ranger decisions: Methow Valley News, Twisp, Washington.

Olympic National Forest

Olympic Forest Supervisor decisions: Daily Olympian, Olympia, Washington.
Newspapers providing additional notice for Olympic Forest Supervisor decisions: Mason County Journal, Shelton, Washington; Daily World, Aberdeen, Washington; Pennisula

Daily News, Port Angeles, Washington; Bremerton Sun, Bremerton, Washington.
Hood Canal District Ranger decisions: Mason County Journal, Shelton, Washington.
Quilicene District Ranger decisions: Pennisula Daily News, Port Angeles, Washington.
Newspaper providing additional notice for Quilicene decisions: Bremerton Sun, Bremerton, Washington.
Quinault District Ranger decisions: The Daily World, Aberdeen, Washington.
Soleduck District Ranger decisions: The Forks Forum, Forks, Washington.

Wenatchee National Forest

Wenatchee Forest Supervisor decisions: The Wenatchee World, Wenatchee, Washington.
Newspaper providing additional notice for Wenatchee Forest Supervisor decisions: The Yakima Herald-Republic, Yakima, Washington.
Chelan District Ranger decisions: The Wenatchee World, Wenatchee, Washington.
Newspaper providing additional notice for Chelan decisions: The Yakima Herald-Republic, Yakima, Washington.
Cle Elum District Ranger decisions: The Wenatchee World, Wenatchee, Washington.
Newspaper providing additional notice for Cle Elum decisions: The Yakima Herald-Republic, Yakima, Washington.
Entiat District Ranger decisions: The Wenatchee World, Wenatchee, Washington.
Newspaper providing additional notice for Entiat decisions: The Yakima Herald-Republic, Yakima, Washington.
Lake Wenatchee District Ranger decisions: The Wenatchee World, Wenatchee, Washington.
Newspaper providing additional notice for Lake Wenatchee decisions: The Yakima Herald-Republic, Yakima, Washington.
Leavenworth District Ranger decisions: The Wenatchee World, Wenatchee, Washington.
Newspaper providing additional notice for Leavenworth decisions: The Yakima Herald-Republic, Yakima, Washington.
Naches District Ranger decisions: The Wenatchee World, Wenatchee, Washington.
Newspaper providing additional notice for Naches decisions: The Yakima Herald-Republic, Yakima, Washington.

Dated: October 8, 1991.

John F. Butruille,

Regional Forester.

[FR Doc. 91-24827 Filed 10-15-91; 8:45 am]

BILLING CODE 3410-11-M

COUNCIL ON ENVIRONMENTAL QUALITY

President's Commission on Environmental Quality; Meeting

AGENCY: Council on Environmental Quality, Executive Office of the President, President's Commission on Environmental Quality.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is being provided for a meeting of the President's Commission on Environmental Quality. This meeting is open to the public and there will be an opportunity for public comment.

DATES: The meeting will be held on October 31, 1991.

ADDRESSES: The meeting will be held from 9 a.m. to 12:45 p.m. on Thursday, October 31, 1991, at room 474 (Indian Treaty Room), Old Executive Office Building, 17th & Pennsylvania Avenue, NW., Washington, DC.

Persons attending the meeting will need to provide their names and dates of birth to Ms. Kim Chastain (telephone: (202) 395-5750) by Monday, October 28, 1991, at 5 p.m. for clearance into the Old Executive Office Building. Space in the Indian Treaty Room is limited and persons interested in attending will be accommodated on a first-come, first-served basis.

Agenda

Thursday, October 31, 1991

Old Executive Office Building, 17th & Pennsylvania Avenue, NW., room 474 (Indian Treaty Room), Washington, DC.

9 a.m.–9:15 p.m. Opening Remarks & Agenda
9:15 a.m.–12:15 p.m. Subcommittee Reports & Discussion
12:15 p.m.–12:30 p.m. Public Comment
12:30 p.m.–12:45 p.m. Conclusion
12:45 p.m. Adjourn

FOR FURTHER INFORMATION CONTACT: Ms. Kim Chastain, Staff Assistant, President's Commission on Environmental Quality (telephone: (202) 395-5750).

SUPPLEMENTARY INFORMATION: The President's Commission on Environmental Quality was established by Executive Order No. 12737 on December 12, 1990. The Commission has 25 members and is chaired by the Chairman of the Council on Environmental Quality. The function of the Commission is to advise the President on matters involving environmental quality.

David Struhs,

Chief of Staff, Council on Environmental Quality.

[FR Doc. 91-24954 Filed 10-15-91; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.
Title: Service Annual Survey.
Form Number(s): B-500T, B-500T1 through B-500T6, B-500M, B-500M1 through B-500M3.
Agency Approval Number: 0607-0422.
Type of Request: Revision of a currently approved collection.
Burden: 12,000 hours.
Number of Respondents: 30,000.
Avg Hours Per Response: 24 minutes.
Needs and Uses: The Service Annual Survey (SAS) is the only annual source of data on the dollar volume of receipts for various service industries. The Bureau of Economic Analysis uses SAS data in its preparation of the national income and product accounts, and its benchmark and annual input-output tables. The Bureau of Labor Statistics uses the data as input to its Producer Price Indexes and in developing productivity measurements. Other government agencies use the data for program planning and development. We are requesting an expansion to the SAS to enhance the data collected for some of the fastest growing activities such as computer and data processing services, management and public relations services, equipment rental and leasing services, automotive rental and leasing services, amusement parks, and offices and clinics of health practitioners. The enhanced data will allow us to produce more than just a single estimate (total receipts) for these industries so that data users can conduct a more in-depth analysis of changes in the service sector.
Affected Public: Businesses or other for-profit organizations, Non-profit institutions, Small businesses or organizations.

Frequency: Annually.
Respondent's Obligation: Mandatory.
OMB Desk Officer: Maria Gonzalez, 395–7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377–3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 9, 1991.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 91–24900 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–07–F

International Trade Administration

Kent State University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 91–108. *Applicant:* Kent State University, Kent, OH 44242. *Instrument:* Rotating Anode X-ray Generator, Model RU–200H. *Manufacturer:* Rigaku, Japan. *Intended Use:* See notice at 56 FR 36776, August 1, 1991. *Reasons:* The foreign instrument provides: (1) Brilliance to 12 kW, (2) 20 to 60 kV, (3) 10 to 200 mA and (4) focal spot size to 0.3 x 3.0 mm. *Advice Received From:* National Institute of Standards and Technology, September 4, 1991.

Docket Number: 90–198R. *Applicant:* Research Foundation of SUNY at Albany, Albany, NY 12222. *Instrument:* Infrared Neon Gas Laser. *Manufacturer:* MPB Technologies Inc., Canada. *Intended Use:* See notice at 55 FR 50857, December 11, 1990. *Reasons:* The foreign instrument provides: (1) Tunable operation in the region of 8.0 um, (2) power of at least 100 uW and (3) angular divergence to 1.0 milliradian. *Advice Submitted By:* National Institutes of Standards and Technology, September 25, 1991.

Docket Number: 91–060. *Applicant:* Iowa State University of Science and Technology, Ames, IA 50011. *Instrument:* Electron Beam Accelerator, Type Circe II. *Manufacturer:* CGR, France. *Intended Use:* See notice at 56 FR 23287, May 21, 1991. *Reasons:* The foreign instrument provides electron beams or x-ray beams at 10 kW, 10 MeV or 20 kW, 5 MeV for food irradiation research. *Advice Submitted By:* National Institutes of Health, August 15, 1991.

Docket Number: 91–076. *Applicant:* Wake Forest University, Winston–Salem, NC 27109. *Instrument:* Stopped-Flow Spectrofluorimeter, Model DX.17MV/S. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 28371, June 20, 1991. *Reasons:* The foreign instrument provides sequential double mixing capability and a mixing ratio adjustable to 25 to 1. *Advice Submitted By:* National Institutes of Health, August 30, 1991.

Docket Number: 91–077. *Applicant:* Baylor College of Medicine, Houston, TX 77030. *Instrument:* Automated Breath ^{13} Carbon Analyser System. *Manufacturer:* Europa Scientific Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 28372, June 20, 1991. *Reasons:* The foreign instrument provides carbon dioxide sample purification without cryogenic isolation with liquid nitrogen and can achieve computer-controlled processing of 10–12 samples per hour for extended periods. *Advice Submitted By:* National institutes of Health, August 3, 1991.

Docket Number: 91–080. *Applicant:* National Institutes of Standards and Technology, Gaithersburg, MD 20899. *Instrument:* Automatic Sample Changer, Model ASC–50. *Manufacturer:* Tracerlab Instruments, West Germany. *Intended Use:* See notice at 56 FR 28372, June 20, 1991. *Reasons:* The foreign instrument provides minimum horizontal and vertical transport ranges of 6.0 m and 1.2 m, respectively, with an accuracy of 0.5 mm and capability to serve seven different types of sample containers. *Advice Submitted By:* National Institutes of Health, August 30, 1991.

Docket Number: 91–082. *Applicant:* University of North Carolina at Chapel Hill, Chapel Hill, NC 27599–7260. *Instrument:* Cryogenic Airstream Device. *Manufacturer:* Stoe Diffraction Systems, United Kingdom. *Intended Use:* See notice at 56 FR 28372, June 20, 1991. *Reasons:* The foreign instrument provides uninterrupted constant temperature to 80° K, controlled to ±0.1° and portability. *Advice Submitted By:* National Institutes of Health, August 30, 1991.

Docket Number: 91–087. *Applicant:* The Graduate Hospital, Philadelphia, PA 19146. *Instrument:* Flash Lamp for Photolysis. *Manufacturer:* Gert Rapp, West Germany. *Intended Use:* See notice at 56 Fr 30558, July 3, 1991. *Reasons:* The foreign instrument provides focusing optics and pulse shaping optimized for initiating muscle fiber contractile events. *Advice Submitted By:* National Institutes of Health, August 30, 1991.

Docket Number: 91–094. *Applicant:* American Red Cross, Rockville, MD 20855. *Instrument:* Scanning Calorimeter, Model DASM–4M. *Manufacturer:* NPO "BIOPRIBOR", Union of Soviet Socialist Republics. *Intended Use:* See notice at 56 FR 32405, July 16, 1991. *Reasons:* The foreign instrument provides: (1) a temperature range of 0.5° to 130° C, (2) sensitivity (as noise level) of 0.2 microvolts and (3) 0.6 ml sample volume. *Advice Submitted By:* National Institutes of Health, August 30, 1991.

The National Institutes of Health and National Institute of Standards and Technology advise that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91–24901 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–DS–M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 896; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 90–218R. *Applicant:* Massachusetts Institute of Technology, Geology Department, 77 Massachusetts Avenue, 54–1016, Cambridge, MA 02139. *Instrument:* Isotope Mass Spectrometer, Model 215–50. *Manufacturer:* Mass Analyser Products Ltd., United Kingdom. Original notice of this resubmitted application was published in the **Federal Register** of January 15, 1991.

Docket Number: 91–040R. *Applicant:* University of Illinois at Urbana-Champaign, Purchasing Division, 506 South Wright Street, Urbana, IL 61801. *Instrument:* Gas/Liquid Phase Behavior Apparatus. *Manufacturer:* DB Robinson Design and Manufacturing Ltd., Canada. Original notice of this resubmitted application was published in the **Federal Register** of April 3, 1991.

Docket Number: 91–140. Applicant: Laser Medical Research Foundation, 323 East Town Street, Columbus, OH 43215. *Instrument:* Laser. *Manufacturer:* Scientific Research and Manufacturing Corporation, USSR. *Intended Use:* The instrument will be used for photodynamic therapy (PDT), a new investigational method of cancer therapy. The overall objective of the studies is to increase tumoricidal effects (tumor depth, uniformity and selectivity of treatment) of PDT by application of fast 3-dimensionally scanned, narrow collimated or focused laser beam. *Application Received by Commissioner of Customs:* September 23, 1991.

Docket Number: 91–141. *Applicant:* University of Minnesota, Department of Psychiatry, 420 Delaware Street, Minneapolis, MN 55455. *Instrument:* Solid State Video Camera, MS–4030 and Desk Top Illuminator, Model NL2. *Manufacturer:* Northern Lights Incorporated, Canada. *Intended Use:* The instrument will be used for research in the molecular neurobiology field. Studies will be made concerning the role of certain neurotransmitters and receptors involved in many neurological disorders. *Application Received by Commissioner of Customs:* September 24, 1991.

Docket Number: 91–142. *Applicant:* Cornell University Medical College, 1300 York Avenue, New York, NY 10021. *Instrument:* Rapid Mixing Accessory, Model SFA–12. *Manufacturer:* Hi-Tech Scientific Ltd., United Kingdom. *Intended Use:* The instrument will be used to obtain quantitative information regarding the rates by which Vitamin A derivatives interact with binding proteins and with biological membrances. The aim of this study is to clarify the mechanisms by which retinoids move between cells and sub-cellular compartments in vivo, and the factors that regulate the distribution of these compounds between target sites. *Application Received by Commissioner of Customs:* September 24, 1991.

Frank W. Creel,

Director, Statutory, Import Programs Staff.

[FR Doc. 91–24902 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council's Texas Habitat Protection Advisory Panel (Advisory Panel) will convene a pubic meeting on October 22, 1991, from 9 a.m. to 4 p.m., at The La Quinta Motor Inn—Hobby Airport, 9902 Gulf Freeway, Houston, TX.

The Advisory Panel will discuss: the Corps of Engineers and National Oceanic and Atmospheric Administration's (NOAA) Habitat Restoration/Creation Memorandum of Agreement (MOA); the Coastal Wetlands Planning, Protection, and Restoration Act; NOAA's role/actions regarding the Oil Pollution Control Act; and Section 216 studies. It also will discuss the status of the East Matagorda Bay Channel, the mouth of the Colorado River diversion, and the Keith Lake/Salt Bayou projects.

For more information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, suite 881, Tampa, FL; telephone: (813) 228–2815.

Dated: October 9, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–24796 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–22–M

National Oceanic and Atmospheric Administration

Endangered Species; Application for Permit; Southwest Fisheries Science Center (P77#58)

Notice is hereby given that the Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Part 217–222).

1. Applicant: Dr. Izador Barrett, Director, Southwest Fisheries Science Center, National Marine Fisheries Service, 8604 La Jolla Shores Drive, La Jolla, CA 92038.

2. Type of Permit: Scientific Purposes under the Endangered Species Act.

3. Species and Type of Take: One whole frozen specimen of totoaba (*Cynoscion macdonaldi*) will be imported from Mexico for scientific purposes. The specimen was caught incidentally in Mexican waters by gillnet fishermen. The totoaba is protected by law in Mexico. The National Seafood Inspection Laboratory will study the specimen to determine distinguishing characteristics of totoaba muscle to enable inspectors to identify mislabeled totoaba fillets and, thereby, to stop their importation into the United States.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East-West Hwy., room 7324, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices: By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, Suite 7324, Silver Spring, Maryland 20910 (301/427–2289);

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731–7415 (213/514–6196);

Director, Southeast Region, Natural Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702 (813/893–3141); and Director, National Marine Mammal Laboratory, National Marine Fisheries Service, 7600 Sand Point Way, NE. BIN C15700, Seattle, Washington 98115 (206/526–4020).

Dated: October 9, 1991.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 91–24918 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Modification No. 2 to Public Display Permit No. 649 Marine Animal Productions, Inc., (P108I).

Notice is hereby given that pursuant to the provisions of Section 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Public Display Permit No. 649 issued to Marine Animal Productions, Inc., Gulfport, Mississippi, on August 25, 1988, (53 FR 35104), and modified on November 5, 1990 (55 FR 46543), is further modified as follows:

Section B.7, first sentence, is changed to read:

7. The authority to acquire the marine mammal authorized herein, shall extend from the date of issuance through December 31, 1992.

All conditions currently contained in the Permit and Modification remain in effect.

This modification is effective upon publication in the **Federal Register.**

Documents submitted in connection with the above modification are available for review in the Office of Protected Resources, National Marine Fisheries Service, Permits Division, 1335 East-West Highway, SSMC1, room 7324, Silver Spring, Maryland 20910, (301–427–2289).

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) is initiating a rulemaking proceeding to issue regulations establishing a procedure for setting and revising quotas to govern the removal of Atlantic bottlenose dolphins from the waters of the Gulf of Mexico and Florida east coast. (55 FR 22042). The National Marine Fisheries Service (NMFS) has asked the public display industry to defer collections except in situations where collecting is absolutely necessary to maintain a public display. NMFS has informed permit holders that, upon their request, NMFS will grant extensions through 1992 to permit holders for any permit authorizing collection of dolphins. If there is an urgent need to collect before the uncertainties are resolved, NMFS must be notified in advance of any collections.

Dated: October 9, 1991.

Nancy Foster,

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

[FR Doc. 91–24786 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Modification No. 4 to Permit No. 598 (P77#28).

Notice is hereby given that pursuant to the provisions of §§ 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 598 was issued to the Alaska Fisheries Science Center, National Marine Mammal Laboratory, 7600 Sand Point Way NE., Bin C15700, Seattle, Washington 98115–0070, on July 17, 1987 (52 FR 27697) and subsequent Modifications No. 1, 2 and 3. On Wednesday, June 12, 1991 (56 FR 26996), notice of a fourth modification request was published to capture, handle and instrument northern fur seals (*Callorhinus ursinus*) on the high seas, Research is required to meet obligations under the Driftnet Impact Monitoring Assessment and Control Act of 1987.

Notice is hereby given that on October 9, 1991, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the National Marine Fisheries Service approved Modification No. 4 to Permit No. 598 for the above research activities subject to Special Conditions set forth therein. All other conditions currently contained in the permit and modifications remain in effect.

This Modification No. 4 is effective on date of signature.

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

Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Highway, SSMC1, room 7324, Silver Spring, Maryland 20910 (301/427–2289);

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802 (907/586–7221);

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115–0070 (206/526–6150);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731–7415 (213/514–6196); and

Pacific Area Office, National Marine Fisheries Service, NOAA, 2570 Dole St., room 106, Honolulu, Hawaii 96822–2396 (808/943–1221).

Dated: October 9, 1991.

Nancy Foster,

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

[FR Doc. 91–24787 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

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

ACTION: Application for permit; New Jersey Academy for Aquatic Sciences (P489).

SUMMARY: Notice is hereby given that an applicant has applied in due form for a Public Display Permit to obtain the care and custody of marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

1. Applicant: New Jersey Academy for Aquatic Sciences, P.O. Box 95004, Camden, NJ 08101–5004.

2. Type of Permit Requested: Public Display.

3. Number and Name of Marine Mammals: Ten harbor or gray seals (*Phoca vitulina* or *Halichoerus grypus*).

4. The applicant requests permission to maintain a combination of ten harbor and gray seals at the New Jersey State Aquarium, now under construction. The animals will be obtained from captive or stranded stock. The education program associated with the seal exhibit will emphasize conservation and anti-pollution themes.

The arrangements and facilities for transporting and maintaining the marine mammals requested in this application will be concluded consistent with requirements established by the US

Department of Agriculture under the Animal Welfare Act. The animals will be under the care of a licensed veterinarian at the State Aquarium.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, 1335 East West Highway, Silver Spring, Maryland 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices: Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910, (301) 427–2289; and Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930, (508) 281–9300.

Dated: October 7, 1991.

Nancy Foster,

Director, Office of Protected Resources.

[FR Doc. 91–24788 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–22–M

ENVIRONMENTAL PROTECTION AGENCY

Coastal Nonpoint Source Pollution State Program Guidance; and Extension of Comment Period for Related Guidance

AGENCIES: National Oceanic and Atmospheric Administration (NOAA) and Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comment.

SUMMARY: Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA) establishes authority for State-administered Coastal Nonpoint Pollution Control Programs to be approved by NOAA and EPA ("coastal nonpoint programs"). The State coastal programs are to be jointly implemented by State coastal zone and nonpoint source agencies. To assist States in developing and obtaining approval for their coastal nonpoint programs, EPA and NOAA have jointly developed, and request public comment on, proposed guidance specifying the procedures and criteria that will guide the Agencies' approval of State programs.

This proposed guidance should be read in conjunction with additional guidance proposed by EPA in the **Federal Register** under section 6217(g) of the CZARA on June 14, 1991, (56 FR 27,618), which specifies management measures to control nonpoint source pollution from the following sources: Agriculture, silviculture, urban (including construction activities), hydromodification, and marinas. The purpose of that proposed management measures guidance is to provide a technical basis for major components of State coastal nonpoint programs. The comment period for the management measures guidance was originally scheduled to end on October 15, 1991. However, to ensure that the public has ample time to consider these two proposed guidances together, EPA is today extending the comment period for the management measures guidance for 30 days to November 14, 1991.

NOAA and EPA will consider comments on the proposed State program development and approval guidance and intend to issue final guidance in May 1992. EPA will also issue the final section 6217(g) guidance in May 1992 as required by section 6217(g)(3). State coastal nonpoint programs must be submitted to NOAA and EPA for approval within 30 months after EPA issues final section 6217(g) guidance scheduled for May 1992.

DATES: Written comments on the proposed State program development and approval guidance should be addressed to Marcella Jansen, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235 by December 16, 1991.

Written comments on the proposed management measures guidance should be addressed by November 14, 1991, to Steve Dressing, Assessment and Watershed Protection Division (WH–553), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

ADDRESSES: Copies of the proposed guidance may be obtained from NOAA at the address above. Copies of both documents are also available for public inspection and copying during normal business hours at: Coastal Zone Information Center, NOAA, Room 729, 1825 Connecticut Avenue, NW., Washington, DC 20235, and at the Public Information Reference Unit, U.S. Environmental Protection Agency, room 2404 (rear), 401 M St. SW., Washington, DC 20460. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services. Copies of these documents are also available for review in the EPA Regional Office libraries.

FOR FURTHER INFORMATION CONTACT: Marcella Jansen (NOAA) at (202)606–4181, or Ann Beier (EPA) at (202)260–7085.

SUPPLEMENTARY INFORMATION:

I. Background

Section 6217 of the Coastal Zone Reauthorization Amendments of 1990 was enacted in November 1990. This section requires all states with a federally approved coastal zone management program to develop, and submit to NOAA and EPA for approval, a Coastal Nonpoint Pollution Control Program. For simplicity, the programs required by section 6217 will be known as "coastal nonpoint programs." The statutory purpose of the programs "shall be to develop and implement management measures for nonpoint source pollution to restore and protect coastal waters, working in close conjunction with other State and local authorities."

Under section 6217, State coastal nonpoint programs must contain a number of provisions in order to be approvable by NOAA and EPA. First, section 6217(b) provides that all State programs must provide for implementation of management measures "in conformity with" technology-based management measures guidance established by EPA under section 6217(g), to "protect coastal waters generally." Congress required that EPA's proposed management measures guidance for nonpoint sources be issued within six months after the statute was enacted (May 1991) and final guidance within eighteen months of enactment (May 1992). EPA published proposed management measures guidance in the **Federal Register** on June 14, 1991 (56 FR 27,618).

In addition to providing for implementation of State management measures in conformity with EPA's 6217(g) management measures guidance, section 6217 requires State programs to:

1. Identify land uses which, individually or cumulatively, may cause

or contribute significantly to a degradation of (a) coastal waters where there is a failure to attain or maintain applicable water quality standards or protect designated uses, or (b) coastal waters that are threatened by reasonably foreseeable increases in pollution loadings from new or expanding sources;

2. Identify critical coastal areas adjacent to coastal waters identified under the preceding paragraph;

3. Implement additional management measures applicable to land uses and areas identified under paragraphs (1) and (2) above that are necessary to achieve and maintain applicable water quality standards and protect designated uses:

4. Provide technical assistance to local governments and the public to implement management measures;

5. Provide opportunities for public participation in all aspects of the program;

6. Establish mechanisms to improve coordination among State and local agencies and officials responsible for land use programs and permitting, water quality permitting and enforcement, habitat protection, and public health and safety; and

7. Propose to modify State coastal zone boundaries as necessary to implement NOAA recommendations under section 6217(e). (Section 6217(e) requires NOAA, in consultation with EPA, to evaluate the landward coastal zone boundary of each coastal State to determine whether it extends inland to the extent necessary to control land and water uses that have a significant impact on coastal waters of the State and to recommend boundary modifications as necessary to control the land and water uses significantly impacting coastal waters.)

In addition to the provisions of section 6217, the Coastal Zone Act Reauthorization Amendments of 1990 amends section 306 of the Coastal Zone Management Act to require that, before approving a coastal zone management program submitted by a coastal State, NOAA shall find that: "* * * the management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 6217 * * *"

Within 30 months after EPA's issuance of management measures guidance in May 1992, States are required to submit to NOAA and EPA their Coastal Nonpoint Pollution Control Programs for review (November 1994).

II. Proposed State Program Development and Approval Guidance

NOAA and EPA have drafted proposed program development and approval guidance in order to assist States in developing and implementing their coastal nonpoint programs. NOAA and EPA plan to issue final program guidance in May 1992. EPA plans to publish final management measures guidance at the same time.

As described above, States must develop coastal nonpoint programs which "provide for the implementation, at a minimum, of management measures in conformity with the guidance published under subsection (g) to protect coastal waters generally, * * *". States will implement the new programs through amendments to their existing State nonpoint source programs under section 319 of the Clean Water Act and their coastal zone management programs under section 306 of the Coastal Zone Management Act.

NOAA and EPA have jointly drafted proposed State program development and approval guidance to assist States in developing their coastal programs. NOAA and EPA announce the availability of the proposed program guidance and ask for comments on the approaches selected for inclusion in the guidance. In addition, NOAA and EPA seek comments on the alternative approaches discussed below, and seek suggestions for other approaches.

• Section 6217(b) requires State coastal nonpoint programs to be "in conformity with" the management measures specified by EPA in EPA's management measures guidance. At issue is the degree of flexibility States should have in adopting management practices appropriate to their circumstances while remaining "in conformity with" the management measures specified by EPA. According to this proposed program guidance, States would adopt the management measures specified by EPA, but also would have the flexibility to adopt alternative management measures which are as effective as EPA's management measures. Any alternative State management measure(s) would be subject to approval by EPA and NOAA based on established criteria for assessing effectiveness. Two different approaches to this issue would be for EPA and NOAA to allow States to use only the management measures specified in the (g) guidance to satisfy the "in conformity" requirement, or to allow States greater latitude to choose alternative practices they feel are appropriate. In addition, EPA and NOAA are interested in exploring the use of nontraditional means of pollution control as alternative management measures, including market-based approaches such as trading of pollution credits. EPA and NOAA request comments on such an approach.

• The proposed program guidance provides States direction on the extent to which they may target the implementation of management measures in conformity with EPA's (g) guidance. Specifically, the guidance provides that states may exclude certain sources if they can demonstrate that such sources, individually and cumulatively, do not and are not reasonably expected to contribute significantly to coastal water pollution or to pose an unacceptable risk. As an alternative approach, the guidance could direct States to implement all the management measures for all covered sources that exist or are anticipated in the State. This approach could also involve a phased /implementation. Another approach would be to implement a certain subset of critical management measures to all appropriate sources. NOAA and EPA request comment on the extent to which targeting should be employed to implement the (g) guidance measures and on appropriate factors to guide such targeting. One such factor may be to target management measures to eliminate known or reasonably foreseeable water quality impairments.

• The proposed program guidance discusses the additional management measures which States need to implement in order to comply with the section 6217(b) requirement for a higher level of protection for threatened or impaired coastal waters than that afforded generally by the management measures guidance. The proposed program guidance gives States great flexibility in selecting additional management measures and suggests that States rely on existing water quality data to determine where additional management measures are necessary.

The proposed program guidance also discusses the kinds of land uses and critical coastal areas that States need to identify in implementing the additional measures. The proposed guidance suggests that States look at fairly broad categories of land uses (e.g. agricultural croplands or grazing lands, urban commercial or residential development) when developing additional measures. Under the proposed program guidance, States may establish critical areas in a variety of situations, e.g., designating a strip of land adjacent to coastal waters that may cause or threaten to contribute to an impairment of coastal water

quality or designating critical areas on an ecosystem basis within coastal watersheds. EPA and NOAA request comments on whether or not the criteria discussed in this guidance for identification of land uses and critical areas are appropriate or whether more or less detailed criteria should be included.

• The proposed program guidance sets deadlines for implementation of management measures in conformity with the (g) guidance measures within 3 years after program approval and for implementation of additional measures within 6 years after program approval. NOAA and EPA request comment on the feasibility of these deadlines. Alternatively, the deadlines could be shortened, lengthened or not included in the guidance.

• The proposed program guidance discusses the process which NOAA intends to use, in consultation with EPA, to recommend boundary changes in States' coastal zone management programs; the process for states to respond to NOAA's recommendations; and the role of the State coastal zone boundaries in NOAA's and EPA's approval of State coastal nonpoint programs under section 6217. Under the proposed program guidance, NOAA will use the smallest U.S. Geological Survey watershed mapping unit (i.e., Cataloguing Unit) for coastal watersheds. NOAA solicits comments on whether the next larger unit (i.e., Accounting Unit) or some other watershed definition would be more appropriate. In addition, NOAA will approve State programs with boundary modifications or without boundary modifications if the State can demonstrate that it has authorities to implement the program throughout the broader area recommended by NOAA. As an alternative, NOAA could recognize the existing coastal zone boundary as adequate to address section 6217. An additional option would be to allow States to rely on existing, non-coastal zone program authorities to fulfill the requirements of section 6217. NOAA and EPA request comments on these issues.

• The proposed program guidance discusses NOAA's interpretation of the requirement in section 6206 of the CZARA (adding a new section 306(d)(16) to the CZMA) that State coastal nonpoint programs include "enforceable policies and mechanisms" to ensure their implementation. The current guidance allows both traditional enforceable policies and mechanisms (e.g., traditional regulatory programs) and other types of reliable enforceable policies and mechanisms (e.g., cost-share programs) provided that these are appropriate and sufficient to ensure implementation of the coastal nonpoint programs. NOAA requests comment on whether or not States should be directed to apply traditional enforceable policies and mechanisms for all management measures or for particularly significant categories of coastal nonpoint pollution.

NOAA and EPA solicit comments on the proposed program guidance, including the major issues identified above as well as others of concern to reviewers. The Agencies also welcome comments on the general approach used in the proposed guidance, including the level of detail and specificity provided. Finally, NOAA expects to promulgate regulations for coastal nonpoint programs, and solicits comments on the scope of those regulations. Both Agencies request comment on the desirability of both EPA and NOAA proposing and promulgating regulations covering some or all aspects of the State program approval process.

Paperwork Reduction Act

The information collection requirements in this proposed guidance will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* These requirements will not be effective until OMB approves them.

Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Administration.

Dated: October 7, 1991.

Frank W. Maloney,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

Dated: October 9, 1991.

Martha G. Prothro,

Deputy Assistant Administrator for Water, Environmental Protection Agency.

[FR Doc. 91–24858 Filed 10–15–91; 8:45 am]

BILLING CODE 3510–08–M

COMMISSION ON CIVIL RIGHTS

Agenda and Public Meeting of the Iowa Advisory Committee

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 10 a.m. and adjourn at 4 p.m. on November 4, 1991, at the Sioux City Hilton, 707 4th Street, Sioux City, Iowa 51101. The purpose of the meeting is to conduct an orientation session for the Advisory Committee and a briefing on the administration of justice in the Sioux City area. Program planning and future Advisory Committee projects will also be discussed.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Division (816) 426–5253, (TTY 816—426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 10, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–24868 Filed 10–15–91; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.236]

Office of Special Education and Rehabilitative Services: National Institute on Disability and Rehabilitation Research; Inviting Applications for New Awards For Projects of National Significance Under the Technology-Related Assistance to Individuals With Disabilities Program: Training and Public Awareness Projects

Purpose of Program: The purpose of the Training and Public Awareness program is to develop and provide training to consumers and service providers and expand public awareness on the general benefits and specific applications of technology-related assistance for individuals with disabilities. Technology Training Projects develop curricula and train individuals with disabilities and their family members. Technology Careers Projects provide undergraduate, graduate, and in-service training to prepare individuals for careers in the provision of technology-related assistance. Public Awareness Projects build awareness of the importance and efficacy of assistive technology for individuals with disabilities.

Eligible Applicants: Private nonprofit and for-profit entities are eligible to apply for assistance under this program. Institutions of higher education are eligible to apply for Technology Careers Projects.

Deadline for Transmittal of Applications: December 13, 1991.

Applications Available: October 21, 1991.

Available Funds: For Technology Training Projects—$300,000. For Technology Careers Projects—$150,000.

Estimated Average Size of Awards: $150,000 per year.

Estimated Number of Awards: Technology Training Projects—two, one, in each priority area. Technology Careers Projects—one.

Note: The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants, unless the amount is otherwise specified by statute or regulation.

Priorities: Absolute priorities for Technology Training Projects will be one project for the conduct of inservice training for rehabilitation counselors in the provision of assistive technology (§ 347.11(a)(8)), and one project for the development, evaluation, implementation, and dissemination of training programs for underserved populations, including economically disadvantaged populations, in the uses of assistive technology (§ 347.11(a)(18)). The absolute priority for Technology Careers Projects is the implementation of scholarships, fellowships, and traineeships for undergraduate or graduate students preparing for careers in the management or delivery of technology-related assistance to individuals with disabilities (§ 347.12(a)(13)).

Project Period: 24 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR), 34 CFR parts 74, 75, 77, 81, 82, 85, and 86 and the regulations for this program in 34 CFR part 347.

FOR FURTHER INFORMATION CONTACT: Carol Cohen, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732–5066). Deaf or hearing-impaired individuals may call (202) 732–5079 for TDD services.

For Applications Contact: U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732–1141.

Program Authority: 29 U.S.C. 2211–2271.

Dated: October 9, 1991.

Michael E. Vader,

Acting Assistant Secretary Office of Special Education and Rehabilitative Services.

[FR Doc. 91–24897 Filed 10–15–91; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.231]

Office of Special Education and Rehabilitative Services: National Institute on Disability and Rehabilitation Research; Inviting Applications for New Awards for Innovation and Demonstration Projects of National Significance Under the Technology-Related Assistance to Individuals With Disabilities Program

Purpose of Program: The purposes of the Demonstration and Innovation program are to undertake demonstration and innovation projects in areas of national significance that will promote the development of comprehensive, consumer-responsive, statewide programs of technology-related assistance for individuals with disabilities, and enhance the capacity of the Federal Government to provide information, models, and technical assistance to the States. Funding is available for income-contingent direct loan demonstration projects.

Eligible Applicants: Private nonprofit and for-profit entities are eligible to apply for assistance under this program.

Deadline for Transmittal of Applications: December 13, 1991.

Applications Available: October 21, 1991.

Available Funds: $450,000 per year.

Estimated Average Size of Awards: $150,000 per year.

Estimated Number of Awards: Three.

Note: The estimates of funding levels and awards in this notice do not bind the Department of Education to a specific level of funding or number of grants, unless the amount is otherwise specified by statute or regulation.

Priorities: Absolute priorities are contained in the regulations for this program at 34 CFR 346.11(c). The priorities for fiscal year 1992 are for one project in each of three areas: The effectiveness of loans to employers for technology-related devices or services to promote the employment of individuals with disabilities (§ 346.11(c)(5)); projects to test the viability of loans for various types of devices (§ 346.11)(c)(9)); and strategies to administer loans for obtaining technology-related services rather than equipment (§ 346.11(c)(13)).

Project Period: 24 months.

Applicable Regulations: The Education Department General Administration Regulations (EDGAR), 34 CFR parts 74, 75, 77, 81, 82, 85, and 86 and the regulations for this program in 34 CFR part 346.

FOR FURTHER INFORMATION CONTACT: Carol Cohen, National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732–5066. Deaf or hearing-impaired individuals may call (202) 732–5079 for TDD services.

For Applications Contact: U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 732–1141.

Program Authority: 29 U.S.C. 2211–2271.

Dated: October 9, 1991.

Michael E. Vader,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 91–24898 Filed 10–15–91; 8:45 am]

BILLING CODE 4000–01–M

Privacy Act of 1974

AGENCY: Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (ED) publishes this notice of a new system of records known as the National Science Scholars Program. This system will be used to maintain information necessary to approve members of State nominating committees that nominate individuals for the National Science Scholars Program and to select recipients for financial assistance based on demonstrated outstanding academic achievement in the physical, life, or computer sciences, mathematics, or engineering. This notice includes proposed routine uses for the information contained in the system of records. ED seeks comments on the proposed routine uses of this system.

DATES: Comments on proposed routine uses for this system of records must be submitted by November 15, 1991. ED filed a report of the new system of records with the Committee on Governmental Affairs of the Senate, the Committee on Government Operations of the House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) on October 9, 1991. ED has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. In no event will this system of records become effective before the minimum period for comment on the proposed routine uses expires on December 8, 1991. ED will publish any

changes to the routine uses that are required as a result of the comments.

ADDRESSES: Comments on the proposed routine uses should be addressed to the Privacy Act Officer, Information Management and Compliance Division Office of Information Resource Management, U.S. Department of Education, 400 Maryland Avenue, SW., room 5624, GSA Regional Office Building 3, Washington, DC 20202–4651. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 5624, GSA Regional Office Building 3, Seventh and D Streets, SW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Fred H. Sellers, Chief, State Student Incentive Grant Section, (Room 4018, ROB #3), Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202–5447, Telephone (202) 708–4607. Deaf and hearing impaired individuals may call: the Federal Dual Party Relay Service at 1–800–877–8339 (in Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (see 5 U.S.C. 552a(e)(4)) requires ED to publish in the **Federal Register** this notice of a new system of records. ED's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) at 34 CFR part 5b.

Under the authority of Title VI, Part A of the Excellence in Mathematics, Science and Engineering Education Act of 1990 (Pub. L. 101–589), the Office of Student Financial Assistance is responsible for administering the National Science Scholars Program. The program provides financial assistance to graduating high school students and General Educational Development (GED) recipients of superior ability as demonstrated by their achievement and exceptional promise to pursue undergraduate studies in the physical, life, or computer sciences, mathematics, or engineering.

Each year, beginning with fiscal year 1991, students will be invited to compete for financial assistance. For fiscal year 1991 only, the President will announce the selection of Scholars before September 30, 1991. Beginning with fiscal year 1992, the President will announce the selection of National Science Scholars prior to January 1 of each fiscal year. The applicants are nominated by a State committee of distinguished educators, scientists, mathematicians, engineers, and other individuals appointed by the Chief State School Officer (CSSO) or by an existing grant agency or panel appointed by the CSSO and approved by the Secretary of Education (Secretary).

The nominating committee in each State must submit to the President a prioritized list consisting of the nominations of at least four individuals from each congressional district in the State, at least half of whom are female. The committee must use the selection criteria developed by the Director of the National Science Foundation in conjunction with the Secretary of Education, to select and prioritize nominees from among those eligible students who submit applications. For each fiscal year the President, after consultation with the Secretary and the Director of the National Science Foundation, must select two National Science Scholars from each congressional district. The Secretary will disburse scholarships, on behalf of Scholars, directly to institutions in which the Scholars are enrolled.

The system of records consists of two subsystems, (1) a State nominating committee subsystem that includes the name and qualifications of State nominating committee members, and, (2) a Scholar subsystem which consists of information about the nominees, and Scholars including name, sex, telephone numbers, social security number or alternate identifier, address, congressional district, priority ranking in the congressional district, name of institution each Scholar plans to attend or is attending, and the institution's address, the cost of attendance, major, and the amount of award. This information will be stored in a file cabinet and also entered into a personal computer system. The personal data on individuals will be maintained only to the extent that such information is considered necessary to meet the purposes of the program. Information on students selected to be Scholars may be provided to civic groups, the business community, professional associations, institutions of higher education, and others, to encourage additional scholarship and motivational support to Scholars, as mandated by the statute. ED may also share information with federally funded research and development centers as well as other Federal agencies in order to give Scholars priority consideration for summer employment. Three years after rejection or withdrawal, information regarding the unsuccessful nominations will be destroyed. Paper records will be mechanically shredded and computer records will be electronically erased. Successful nominations and related documents shall be destroyed 5 years after final payment, or after completion of audit-related activities or litigation, whichever is later.

Because of the nature of the established ED systems, the procedures used for storing, retrieving, and disclosing records, and the safeguards put into place against unauthorized access, it is highly unlikely that the privacy of any individual could be violated with respect to information maintained on such individuals in that system of records.

Dated: October 9, 1991.

Michael J. Farrell,

Acting Assistant Secretary for Postsecondary Education.

The Acting Assistant Secretary for Postsecondary Education publishes a notice of a new system of records to read as follows:

18–40–0038

SYSTEM NAME:

National Science Scholars Program.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Division of Policy and Program Development and Division of Program Operations and Systems, Student Financial Assistance Programs, Office of Postsecondary Education, U.S. Department of Education, Seventh and D Streets, SW., GSA Regional Office Building 3, Rooms 4018 and 4651, Washington, DC 20202–5459.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(a) Individuals appointed to serve on State nominating committees that nominate Scholars for the National Science Scholars Program, and

(b) Individuals nominated for scholarships under the National Science Scholars Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Nominating committee member's name, and qualifications for the position.

(b) Student's name, sex, social security number or alternate identifier, address, telephone numbers, congressional district, priority ranking in the congressional district, name of the institution of higher education the applicant is attending or plans to attend, the institution's address, the Scholar's cost of attendance for the institution of higher education at which he or she will enroll, major, and the amount of award.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title VI, Part A of the Excellence in Mathematics, Science and Engineering Education Act of 1990 (Pub. L. 101–589), 20 U.S.C. 5381(b) and 20 U.S.C. 5383a–5383e.

PURPOSE(S):

This system of records will be maintained for the general purpose of administering the National Science Scholars Program, including approving members of State nominating committees, selection of National Science Scholars (Scholars), disbursing awards to institutions of higher education on behalf of Scholars, encouraging other organizations to provide additional assistance to Scholars, assisting Scholars in obtaining federally financed summer employment, and ensuring compliance with program requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The routine uses for this system of records apply to records regarding the nominating committee, National Science Scholar nominees, and National Science Scholars unless otherwise specified in a particular routine use. The Department of Education (ED) will disclose information contained in a record in this system of records without the consent of the individual consistent with the following routine uses, but only for a purpose which is compatible with the purpose for which the record was collected.

(a) Information on State nominating committee members shall be used for approval of State nominating committees by the Secretary, as required in section 603(b)(1) of the Act. This information will be disclosed to the President, Presidential staff, Congress, Congressional staff, and members of the public who make specific inquiries concerning State nominating committee composition.

(b) Selection of Scholarship Finalists. Records regarding National Science Scholar nominees are disclosed to responsible officials at the National Science Foundation and to the President or his representative during consultation to select finalists.

(c) Benefit Disclosure. Scholar records from this system of records may be disclosed to civic groups, the business community, professional associations, institutions of higher education, and others to encourage them to provide financial support, scholarship assistance, equipment, employment, and other forms of recognition to National Science Scholars.

(d) Employment Disclosure. ED may disclose National Science Scholars records to appropriate officials so that Scholars may be considered for employment under federally financed summer employment programs, or by federally funded research and development centers and Federal agencies.

(e) Congressional Member Disclosure. ED must disclose records of Scholars to Congress under section 603(b)(4) of the statute (Pub. L. 101–589). ED will send a notification to each member of Congress listing all Scholars by State and Congressional District. In addition, ED may also disclose individually identifiable information of a Scholar from this system of records in response to an inquiry from a congressional office made at the request of that individual.

(f) Disclosure to Institutions of Higher Education. ED discloses personally identifiable information on Scholars from this system of records to the institution of higher education at which the Scholar will enroll.

(g) Litigation Disclosure.

(1) Disclosure to the Department of Justice. If ED determines that disclosure of certain records to the Department of Justice is relevant and necessary for litigation and is compatible with the purpose for which the records were collected, ED may disclose those records as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in such litigation:

(i) ED or any component of the Department; or

(ii) Any ED employee in his or her official capacity; or

(iii) Any employee of ED in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(iv) The United States, where ED determines that the litigation is likely to affect ED or any of its components.

(2) Disclosure to a Court or Adjudicative Body, Counsel or Potential Witness. If ED determines that the disclosure of certain records to a court, adjudicative body, counsel or potential witness before which ED is authorized to appear is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, ED may disclose those records as a routine use to the court, adjudicative body, counsel or potential witness. Such disclosure may be made in the event that one of the parties listed below is involved in the litigation or has an interest in the litigation:

(i) ED or any component of the Department; or

(ii) Any ED employee in his or her official capacity; or

(iii) Any employee in his or her individual capacity where ED has agreed to represent the employee; or

(iv) The United States, where ED determines that the litigation is likely to affect ED or any of its components.

(h) FOIA Advice Disclosure. In the event ED deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

(i) Research Disclosure. When the appropriate official of ED determines that an individual or an organization is qualified to carry out specific research, that official may disclose information from this system of records to that researcher solely for the purpose of carrying out that research. The researcher shall be required to maintain Privacy Act safeguards with respect to such records.

(j) Contract Disclosure. When ED contemplates that it will contract with a private firm for the purpose of computer data entry, collecting, analyzing, aggregating or otherwise refining records in this system, relevant records will be disclosed to the contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosure pursuant to 5 U.S.C. 552(a)(b)(12): In the event that a Scholar ceases to be eligible for scholarship proceeds and the Scholar fails to return a prorated portion of the scholarship award, ED may disclose to a consumer reporting agency information regarding a claim which is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number, if available, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. ED may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(f). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders in locked file cabinets, on removable personal computer diskettes, and on personal computer hard disks.

RETRIEVABILITY:

Records are indexed and retrieved by social security number or other identification number and name of individual.

SAFEGUARDS:

Records are secured in locked file cabinets, and the office is locked during nonworking hours. Records are also maintained on a personal computer that is locked by key and requires password access and the office is locked during nonworking hours. The computer diskettes, used as a backup system for the computer record, are locked in a file cabinet and kept in an office that is locked during nonworking hours.

RETENTION AND DISPOSAL:

Records on Scholars are destroyed 5 years after final payment or after completion of audit-related activities or litigation, whichever is later.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Program Operations and Systems, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 4640, GSA Regional Office Building 3, Seventh and D Streets, SW., Washington, DC 20200–5459.

NOTIFICATION PROCEDURE:

An individual wishing to know if information about him or her is maintained in this system of records must submit a written request to the system manager. Requests must reasonably specify the system of records containing the information and the particular record contents being sought. For a complete statement of notification procedures, see ED's Privacy Act regulations, 34 CFR 5b.5.

RECORD ACCESS PROCEDURE:

An individual wishing to gain access to a record in this system of records must submit a written request to the system manager. Requests must reasonably specify the system of records containing the information, the particular record content being sought, and the reason for the request. Requests for access to a record in this system of records must meet the requirements of ED's Privacy Act regulations, 34 CFR 5b.5.

CONTESTING RECORD PROCEDURE:

Individuals desiring to contest information contained in a record in this system of records should contact the system manager. Requests must be made either in writing or in person and must specify: (1) The system of records from which the record is to be retrieved; (2) the particular record the requestor is seeking to amend; (3) a description regarding whether a deletion, an addition, or a substitution is being sought; and (4) the reason(s) for the requested change(s). Requests for amendments of a record must meet the requirements of ED's Privacy Act regulations, 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information contained in the system will be obtained principally from individual applicants, nominating committee members, State governments, references, and schools attended by the applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 91–24899 Filed 10–15–91; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER91–685–000, et al.]

Iowa Public Service Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 8, 1991.

Take notice that the following filings have been made with the Commission:

1. Iowa Public Service Company

[Docket No. ER91–685–000]

Take notice that on September 30, 1991, Public Service Company (IPS) tendered for filing a Memo of Understanding regarding Transmission Service dated March 25, 1988, between IPS and Corn Belt Power Cooperative (CBPC); and a Letter of Understanding regarding Transmission Service to Waverly, Iowa dated March 20, 1989, between IPS and CBPC.

IPS indicates that the Transmission Service Agreements provide CBPC a system capacity allocation of 2.0 MW on the IPS transmission and distribution system for energy delivery to Arlington, Iowa, from April 6, 1988, to April 5, 1988. CBPC will credit IPS a 20 MW-year of system allocation over a combined CBPC transmission-distribution path or a 25 MW-year of system allocation over the CBPC transmission only (not lower than 69 kV). The IPS capacity credit on the CBPC system may be exercised anytime between April 6, 1988, and April 5, 2000. The IPS transmission capacity credit was applied in the form of CBPC providing transmission service for delivery of power and energy from IPS to the municipal of Waverly, Iowa. The settlement for the transmission service is in the form of inkind payments.

IPS respectfully requests a waiver of the Commission's rules so that the Transmission Service Agreements may be approved retroactive to April 6, 1988. Inasmuch as there is no rate for transmission of power and energy included in this transaction, IPS respectfully requests a waiver of the filing requirements pursuant to 35.12(b).

IPS states that copies of this filing were served on Corn Belt Power Cooperative and the Iowa Utilities Board.

Comment date: October 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. North Carolina Eastern Municipal Power Agency v. Carolina Power & Light Company

[Docket No. EL92–1–000]

Take notice that on October 2, 1991, North Carolina Eastern Municipal Power Agency ("Power Agency") filed a "Complaint, Request for Hearing, Petition for an Order Establishing Just and Reasonable Terms and Conditions of Power Coordination Agreements and Motion for an Order Directing the Filing of Jurisdictional Agreements" (hereinafter, "Complaint"). Power Agency's Complaint alleges that Carolina Power & Light Company ("CP&L") has refused to agree to just and reasonable terms and conditions of power coordination agreements for Power Agency's purchase of firm capacity and energy from the South Carolina Public Service Authority ("Santee Cooper") for the period after January 1, 1994, and for Power Agency's use of a combustion turbine electric generating project to be placed into service on June 1, 1995. Power Agency's Complaint describes certain issues in dispute between Power Agency and CP&L, and Power Agency requests that hearings be held concerning these matters. Power Agency has filed with its Complaint proposed power coordination agreements for its post-1993 Santee Cooper purchase and for its Peaking Project, and has requested that the Commission find that these agreements contain just and reasonable terms and conditions for the use of these resources.

Power Agency requests that the Commission place these proposed agreements into effect as the applicable rate schedules. In the alternative, Power Agency asks that CP&L be directed to file new rate schedules, or modifications to existing rate schedules, as necessary to implement the Commission's findings concerning the just and reasonable terms and conditions of power coordination agreements for Power Agency's post-1983 purchase from Santee Cooper and for Power Agency's Peaking Project.

In addition, Power Agency has requested that CP&L be directed to file with the Commission two agreements that affect or relate to jurisdictional services, rates and charges. These agreements are (1) a December 1990 letter agreement between Power Agency and CP&L, and (2) the antitrust license conditions adopted in connection with the Nuclear Regulatory Commission's licensing of the Sharon Harris Nuclear Power Plant. Power Agency alleges that CP&L is required to file these agreements with the Commission pursuant to 18 CFR 35.2(b) and section 205(c) of the Federal Power Act. Power Agency has also asked that the matters raised in its Complaint be heard in accordance with an expedited procedural schedule.

Comment date: November 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

Answers to the complaint shall be due on or before November 7, 1991.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24813 Filed 10-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP91-3233-000, et al.]

Florida Gas Transmission Company, et al.; Natural Gas Certificate Filings

October 8, 1991.

Take notice that the following filings have been made with the Commission:

1. Florida Gas Transmission Company

[Docket No. CP91-3233-000]

Take notice that on September 30, 1991, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251, filed in Docket No. CP91-3233-000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authorization under its blanket certificate issued in Docket No. CP82-553-000 to construct and operate a meter station and to add the meter station as a new delivery point under existing sales service agreements, all as more fully set forth in the prior notice request which is on file with the Commission and open to public inspection.

FGT proposes to construct and operate the Ocala North Meter Station and appurtenances on its Dixie-Lime Lateral in Marion County, Florida. FGT states that the estimated cost of the meter station is $152,000. It is stated that West Florida Natural Gas Company (West Florida) would reimburse FGT for all costs incurred by FGT to construct the meter station and appurtenances.

FGT also proposes to add the Ocala North Meter Station as a delivery point under two sales service agreements with West Florida. FGT states that the daily volumes delivered to West Florida at the meter station would 2,330 MMBtu/d for peak day, 1,748 MMBtu/d for average day and 850,450 MMBtu annually. FGT explains that the volumes delivered to West Florida would be within currently certificated volumes.

Comment date: November 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. Texas Gas Transmission Corporation

[Docket No. CP91-3219-000]

Take notice that on September 30, 1991, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP91-3219-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing: (A) An increase in the daily contract demand of two (2) of Texas Gas's sales customers; and (B) the construction and operation of 3.22 miles of 20-inch pipeline, looping Texas Gas' existing 12-inch Slaughters-Montezuma system in Vanderburgh County, Indiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas states that the City of Henderson, Kentucky (Henderson) has requested an increase of 2,000 MMBtu per day of sales gas to bring their total contract demand to 19,751 MMBtu per day and Boonville Natural Gas Corporation (Boonville) has requested an increase of 1,195 MMBtu per day of sales gas, for a total contract demand of 7,495 MMBtu per day; with both increases being necessary in order for these customers to meet their requirements due to recent and potential residential growth on their systems. Both increases are requested to be effective November 1, 1992. The increase in contract demand by Henderson can be accommodated through existing capacity on the Texas Gas system, and the increase requested by Boonville can be served after the installation of the pipeline loop facilities proposed in the instant application.

Texas Gas states that the 3.22 miles of 20-inch pipeline loop proposed to be constructed by Texas Gas also is necessary to alleviate various operational problems at that particular point on its system. Texas Gas states that such facilities will cost approximately $3,152,000 and are proposed to be constructed and in service by November 1, 1992.

Texas Gas states that the location of the 3.22 miles of loop pipeline is along a portion of Texas Gas' existing single 12-inch Slaughters-Montezuma pipeline, located near Evansville, in Vanderburgh County, Indiana. System security in this particular location has become a more critical concern recently because of increases in Texas Gas' firm service obligations north of Texas Gas' Leesville Compressor Station. Service to these increased loads north of Leesville, as well as existing loads along this system, would be in serious jeopardy should the single 12-inch pipeline fail or have to be taken out of service for any reason.

Texas Gas states that the 12-inch bottleneck described above has been exacerbated by the decreased flowing efficiencies along this portion of the system over the years. This condition has occurred because portions of this system are not equipped to be pigged. Therefore, pipe must either be replaced or looped to recover the reduced capacity resulting from this lost efficiency.

Furthermore, Texas Gas states that an existing customer along this system has

requested a shift in their existing load which will place more demand on the single 12-inch pipeline and cannot be accommodated without the addition of the proposed facilities. Texas Cas further states that because of growing commercial development in this particular part of Vanderburgh County, construction of this loop should not be put off beyond the Fall of 1992; otherwise, any kind of pipeline replacement or construction in the future could be severely handicapped by the inevitable encroachment of more commercial development.

Comment date: October 29, 1991, in accordance with Standard Paragraph F at the end of this notice.

3. Natural Gas Pipeline Company of America

[Docket Nos. CP92–26–000, CP92–27–000, CP92–28–000, CP92–29–000, CP92–30–000, CP92–31–000]

Take notice that Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86–582–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: November 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Appendix

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP92–26–000 (10–4–91)	Shell Oil Company (end-user).	5,000 5,000 1,825,000	LA	IL	7–25–91, FTS, Firm	ST91–10181, 8–1–91.
CP92–27–000 (10–4–91)	Entrade Corporation (marketer).	50,000 25,000 9,125,000	Various	Various	5–11–90, ITS, Interruptible.	ST91–10179, 8–1–91.
CP92–28–000 (10–4–91)	Maxus Exploration Company (producer).	50,000 15,000 5,475,000	TX, IA	IL, NE, IA, TX, MO, KS	12–14–89, ITS, Interruptible.	ST91–10082, 8–1–91.
CP92–29–000 (10–4–91)	Gasmark, Inc. (marketer)	100,000 30,000 10,950,000	Various	Various	6–21–91, ITS, Interruptible.	ST91–10085, 6–21–91.
CP92–30 (10–4–91)	Torch Energy Marketing, Inc. (marketer).	25,000 10,000 3,650,000	Various	Various	7–24–91, ITS, Interruptible.	ST91–10084, 8–1–91.
CP92–31 (10–4–91)	Mitchell Marketing Company (marketer).	50,000 20,000 7,300,000	Various	Various	7–25–91, ITS, Interruptible.	ST91–10086, 8–1–91.

4. Northwest Pipeline Corporation

[Docket No. CP92–19–000]

Take notice that on October 3, 1991, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City,Utah 84158, filed in Docket No. CP92–19–000 a request pursuant to §§ 157.205, 157.211, 157.212, and 157.216 of the Commission's Regulations under the Natural Gas Act for authorization to (1) abandon in part the existing metering facilities at the Puyallup Meter Station, (2) construct and operate upgraded metering facilities at the existing Granite Falls and Puyallup Meter Stations to accommodate both existing and reallocated firm service to Washington Natural Gas Company (Washington Natural), and (3) reallocate firm service among the delivery points under its Rate Schedule ODL–1 Service Agreement with Washington Natural, under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest states that Washington Natural has requested the addition of a new delivery point, the Boeing-Fredrickson Meter Station, to its ODL–1 service agreement and a reallocation of its maximum daily delivery obligations (MDDO) among several of its firm delivery points in order to better satisfy its current and projected firm service requirements in its distribution areas. It is stated that the attached appendix shows reallocations resulting from the correction of typographical errors in the table of proposed MDDO reallocations previously approved in Docket No. CP91–1047–000 as well as changes proposed herein.

Northwest further states that it has agreed to upgrade the Granite Falls and Puyallup meter stations to accommodate the reallocated MDDO's requested by Washington Natural. Northwest proposes to upgrade the Granite Falls metering facilities by adding a 6-inch turbine meter, two 2-inch regulation (4 regulators) and a 4-inch tap on the 26-inch mainline and a 4-inch tap on the 30-inch mainline. Northwest is also proposing to upgrade the Puyallup metering facilities by replacing the existing 1-inch and 2-inch regulators with four 2-inch regulators. It is stated that, pursuant to the facilities reimbursement provisions of Northwest's Rate Schedule TF–1, Northwest would install and pay for these upgraded facilities, since the estimated revenues associated with the

incremental load projected to result from service to these facilities exceed the cost-of-service for the meter upgrades. It is estimated that the total cost of upgrading these stations is $304,593, including $270 as the cost of removing the old facilities. Northwest advises that these upgrades are projected to result in approximately 627,800 dekatherms of annual incremental volumes being delivered.

Comment date: November 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

Appendix

Reallocations from Corrections, and Changes Proposed Herein.

Northwest Pipeline Corporation

MDDO Quantities in Therms

Delivery point	Existing Pre- CP91-1407	Corrected CP91-1407	Proposed herein
Bartelheimer Dairy	2,000	1,000	1,000
Echo Lake	0	1,300	1,300
Gold Bar	1,000	[1]	[1]
Granite Falls	3,000	2,700	60,000
Lake Francis	19,200	18,000	18,000
Lake Stevens	20,000	15,000	15,000
Covington	506,000	506,000	441,200

MDDO Quantities in Therms—Continued

Delivery point	Existing Pre- CP91-1407	Corrected CP91-1407	Proposed herein
Little Rock	11,200	8,000	8,000
Monroe	8,000	12,000	12,000
Olympia	150,000	134,000	134,000
Rainer	2,500	1,500	1,500
North Seattle	932,100	836,000	836,000
Redmond	263,000	260,000	260,000
Duvall-Cottage	17,000	50,000	50,000
South Seattle	500,000	530,000	530,000
South Tacoma	210,000	220,000	220,000
Puyallup	11,000	25,000	32,500
North Bend	11,000	45,000	45,000
Evergreen Shores	7,000	10,000	10,000
Bethel School	500	1,500	1,500
Snohomish	10,500	10,000	10,000
Startup	1,000	[1]	[1]
Sultan	1,500	[1]	[1]
Toledo	3,000	1,500	1,500
Winlock	4,000	4,000	4,000
Yelm	4,000	7,000	7,000
Total	2,699,500	2,699,500	2,699,500

[1] This delivery point is located downstream of Northwest's Monroe Meter Station, so the proposed MDDO for Monroe includes volumes necessary to service this point.

5. Natural Gas Pipeline Company of America

[Docket Nos. CP92-32-000, CP92-33-000, CP92-34-000]

Take notice that on October 4, 1991, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in the above-referenced dockets prior notice requests pursuant to sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86-582-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under section 284.223 of the Commission's Regulations, has been provided by Natural and is summarized in the attached appendix.

Comment date: November 22, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Appendix

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP92-32-000 (10-4-91)	Union Pacific Fuels, Inc. (Marketer).	20,000 20,000 7,300,000	TX	IL, IA, AR	7-8-91, FTS, Firm	ST91-10154-000, 8-1-91.
CP92-33-000 (10-4-91)	Lavaca Pipe Line Co. (Intrastate).	400 400 146,000	TX	TX	8-1-91, FTS, Firm	ST91-10180-000, 8-1-91.
CP92-34-000 (10-4-91)	Texaco Gas Marketing, Inc. (Marketer).	100,000 45,000 16,425,000	Various	Various	7-25-91, FTS, Interruptible	ST91-10146-000, 8-1-91.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by

sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24814 Filed 10-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT90-5-004]

Canyon Creek Compression Company; Change in Tariff

October 9, 1991.

Take notice that on September 30, 1991, Canyon Creek Compression Company (Canyon) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet No. 124 to be effective October 30, 1991.

Canyon states that the purpose of the filing is to update the list of shared operating personnel between Canyon and its marketing affiliates in accordance with § 250.16(d)(2) of the Commission's Regulations.

Canyon states that copies of the fling were served upon Canyon's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before October 17, 1991. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24807 Filed 10-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP92-62-000]

CNG Transmission Corporation, Texas Eastern Transmission Corporation; Application

October 9, 1991.

Take notice that on October 8, 1991, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, and Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056, filed in Docket No. CP92-62-000 an application pursuant to section 7 of the Natural Gas Act for authority to permanently assign part of CNG's firm sales and firm transportation rights on Texas Eastern to certain of CNG's customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG states that as an essential element of its Settlement filed in Docket No. RP88-211, *et al.*, CNG agreed to assign part of its firm transportation capacity on Texas Eastern to certain of its current Rate Schedule ACD customers: Niagara Mohawk Power Corporation (Niagara Mohawk), Rochester Gas and Electric Corporation (RG&E), New York State Electric and Gas Corporation (NYSEG), The East Ohio Gas Company (East Ohio), The Peoples Natural Gas Company (Peoples), The River Gas Company (River) and Hope Gas, Inc. (Hope). CNG states that Texas Eastern has agreed to this assignment.

CNG and Texas Eastern state that CNG would assign a total of 165,339 Dt per day of its Texas Eastern sales entitlement and firm transportation rights associated with standby sales service to these customers. CNG and Texas Eastern state that these customers would then convert corresponding quantities on CNG to firm transportation. CNG requests authorization to make the assignment and to abandon Rate Schedule ACD sales service for the converted quantities.

CNG and Texas Eastern also state that CNG would permanently assign 55,000 Dt per day of its Texas Eastern Rate Schedule FT-1 firm transportation capacity to the customers listed. CNG and Texas Eastern state that because CNG's customers have received temporary assignments of this capacity, CNG's customers have already converted to firm transportation.

CNG states that the permanent capacity assignments will permit the restructuring of services to CNG's customers. CNG further states that the abandonment of the Rate Schedule ACD service is necessary for CNG to effect the assignments to its customers and their conversions on CNG.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for CNG and Texas Eastern to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24810 Filed 10-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-634-009]

Iroquois Gas Transmission System, L.P.; Compliance Filing

October 9, 1991.

Take notice that on October 1, 1991, Iroquois Gas Transmission System, L.P. (Iroquois), One Corporate Tower, Corporate Drive, Shelton, Connecticut 06484, filed proposed changes in its FERC Gas Tariff, Volume No. 1, in compliance with the Commission's Opinion No. 357, issued November 14, 1990, (53 FERC ¶ 61,194 (1990)). The filing also reflects the fact that Iroquois will hold an open season from October 1, 1991 through October 30, 1991 to allocate capacity pursuant to its Part 284 blanket certificate, all as more fully set forth in the compliance filing which is on file with the Commission and open to public inspection.

Iroquois submits that copies of the filing were served upon Iroquois' jurisdictional customers, interested state regulatory commissions, and other interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before October 23, 1991. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24812 Filed 10-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-33-007]

Natural Gas Pipeline Company of America; Change in Tariff

October 9, 1991.

Take notice that on September 30, 1991, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1A, Fourth Revised Sheet No. 117 to be effective October 30, 1991.

Natural states that the purpose of the filing is to update the list of shared operating personnel between Natural and its marketing affiliates in accordance with § 250.16(d)(2) of the Commission's Regulations.

Natural States that copies of the filing were served upon Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before October 17, 1991. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24804 Filed 10-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT88-11-014]

Northwest Pipeline Corporation; Change in FERC Gas Tariff

October 9, 1991.

Take notice that on September 30, 1991, Northwest Pipeline Corporation ("Northwest") tendered Second Revised Sheet No. 434 for filing and acceptance to be a part of its FERC Gas Tariff, First Revised Volume No. 1-A.

The purpose of this filing is to reflect a change in title from Supervisor to Manager, Transportation and Contract Administration, in compliance with the Commission's quarterly reporting requirements in Order No. 497.

Northwest has requested an effective date of October 30 for the tendered sheet.

Northwest states that copies of the filing were served upon Northwest's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before October 17, 1991. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24805 Filed 10-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL91-23-000]

Oklahoma Gas & Electric Company; Filing

October 9, 1991.

Take notice that on October 1, 1991, Oklahoma Gas & Electric Company (OG&E) tendered for filing amendments to its Power Sales Agreement and the Dispatch and Load Regulation Agreement with Oklahoma Municipal Power Authority.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 21, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-24808 Filed 10-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MT90-6-004]

Stingray Pipeline Company; Change in Tariff

October 9, 1991.

Take notice that on September 30, 1991, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, First Revised Sheet Nos. 72 and 109 to be effective October 30, 1991.

Stingray states that the purpose of the filing is to update the list of shared operating personnel between Stingray and its marketing affiliates in

accordance with § 250.16(d)(2) of the Commission's Regulations.

Stingray states that copies of the filing were served upon Stingray's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before October 17, 1991. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24809 Filed 10–15–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT90–3–004]

Trailblazer Pipeline Co.; Change in Tariff

October 9, 1991.

Take notice that on September 30, 1991, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Second Revised Sheet No. 132 to be effective October 30, 1991.

Trailblazer states that the purpose of the filing is to update the list of shared operating personnel between Trailblazer and its marketing affiliates in accordance with § 250.16(d)(2) of the Commission's Regulations.

Trailblazer states that copies of the filing were served upon Trailblazer's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before October 17, 1991. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24806 Filed 10–15–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI92–1–000]

Washington Natural Gas Co.; Application for a Blanket Certificate With Pregranted Abandonment

October 9, 1991.

Take notice that on October 4, 1991, Washington Natural Gas Company (Washington Natural), a local distribution company (LDC), of 815 Mercer Street, Seattle, Washington 98109, filed an application pursuant to sections 4 and 7 of the Natural Gas Act (NGA) and the Federal Energy Regulatory Commission's (Commission) regulations. Washington Natural requests an unlimited-term blanket certificate with pregranted abandonment authorizing sales for resale in interstate commerce of all Natural Gas Policy Act of 1978 categories of natural gas subject to the Commission's NGA jurisdiction, natural gas purchased from interstate and intrastate pipelines and LDCs, imported natural gas and liquified natural gas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Citing current business circumstances, Washington Natural requests expedited consideration of its application so it may commence sales effective November 1, 1991. Therefore, it appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Any person desiring to be heard or to make any protest with reference to said application should on or before October 18, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Washington Natural to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91–24811 Filed 10–15–91; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4021–5]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the Clean Air Scientific Advisory Committee of the Science Advisory Board will be held on October 28–29, 1991, at the Embassy Suites Hotel 1900 Diagonal Road, Alexandria, Virginia 22314, Phone· (703) 684–5900.

The meeting will be from 1 p.m. to 6 p.m. on October 28 and will start at 8 a.m. and adjourn no later than 11 a.m. October 29, and is open to the public. The main purposes of this meeting is to examine EPA's approach to prioritizing the 189 Hazardous Air Pollutants listed in the Clean Air Act Amendments of 1990.

A draft agenda for the meeting is available from Ms. Janice Jones, Staff Secretary, Clean Air Scientific Advisory Committee, Science Advisory Board (A101F), U.S. Environmental Protection Agency, Washington DC, 20460 (202) 260–6552 Fax: (202) 260–7118. Members of the public desiring additional information about the meeting should contact Mr. Randall Bond, Designated Federal Official, Science Advisory Board, at the address or number noted above Anyone wishing to make a brief oral presentation at the meeting should contact Mr. Bond by October 18, 1991 The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. Seating at the meeting will be on a first come basis

Dated: October 4, 1991

Donald Barnes,

Director, Science Advisory Board.

[FR Doc. 91–24904 Filed 10–15–91, 8:45 am]

BILLING CODE 6560–50–M

[FRL 4021-8]

Southern Desk Cabinet Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Southern Desk Cabinet Site, Hickory, North Carolina, with GTE Products Corporation. EPA will consider public comments on proposed settlement for thirty (30) days. EPA may withdraw or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Carolyn McCall, Cost Recovery Section, Waste Management Division, EPA, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365, 404-347-5059.

Written comments may be submitted to the person above by November 15, 1991.

Dated: October 7, 1991.

Donald J. Guinyard,

Acting Director, Waste Management Division.

[FR Doc. 91-24906 Filed 10-15-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4021-7]

Maxi-Em, Inc. Hydrofluoric Acid Release Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Maxi-Em, Inc. Hydrofluoric Acid Release Site, Atlanta, Georgia, with Mimms Enterprises and Coral International, Inc. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Carolyn McCall, Waste Programs Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347-5059.

Written comment may be submitted to the person above within 30 days of the date of publication.

Dated: August 28, 1991.

Donald J. Guinyard,

Director, Waste Management Division.

[FR Doc. 91-24905 Filed 10-15-91; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Intention to Issue Declaratory Ruling With Respect to Exclusive Authority of FCC to Determine Whether Broadcasters Have Violated Lowest Unit Charge Requirement of Section 315(b); Comment Period Established

October 10, 1991.

Comments due: October 21, 1991.

The Commission is considering issuing on its own motion a declaratory ruling confirming its earlier conclusion that it has exclusive jurisdiction to determine questions of liability of violations of section 315(b) of the Communications Act. News Release, Report No. GN-74, June 6, 1991. The Commission also is considering whether its exclusive jurisdiction should extend beyond the basic liability question and, if so, whether it should preempt any cause of action in which an alleged violation of section 315(b) is an essential element. This Public Notice invites interested parties to comment on these issues by October 21, 1991.

Candidates for elective office in several states have sued broadcast stations, on various legal theories, for allegedly overcharging the candidates for political advertisements. The lawsuits, some of them in state courts and others in federal courts, are based ultimately on allegations that the stations charged the candidates more than the "lowest unit charge" or the charge for "comparable use" of the station—standards that are set forth in section 315(b) of the Communications Act and enforced by the Federal Communications Commission.

In one of these cases, the United States District Court for the Northern District of Georgia held that the Commission has exclusive jurisdiction to determine whether a station has violated section 315(b).[1] The court held further that the Commission's procedures are the exclusive remedy for violations of section 315(b). In particular, the court found that state court complaints brought by candidates against broadcasters for alleged violations of section 315(b) present a federal question and noted that "enforcement of the (Communications Act) and vindication of the public interest are vested in the Federal Communications Commission."[2] Pointing to the "pervasive statutory and administrative scheme to enforce section 315," the court cited cases in which the Commission has ruled on candidates' complaints about overcharges and in which rebates have been ordered.[3] The court dismissed the complaints and held that the Commission provides candidates an exclusive remedy for violations of section 315(b). That decision is now on appeal to the United States Court of Appeals for the Eleventh Circuit.[4]

In contrast, in a second case, the United States District Court for the Middle District of Alabama held that complaints filed in state court by political candidates against broadcasters for alleged advertising overcharges did not present a federal question warranting removal of the case by the defendants to federal district court.[5] That court held that the complaints were "essentially local to the state," even though resolution of the claims probably would require some application of federal statutes and regulations.[6] It accordingly remanded the case to the Alabama state court for further proceedings.

In the wake of that remand, the Commission appeared before the Alabama state court as *amicus curiae* and argued that the issue of whether a broadcaster had violated section 315(b) was within the exclusive primary jurisdiction of the FCC and should be referred to the agency for determination. The Commission stated that consistency in the application and enforcement of section 315(b) requires that the Commission in every instance make the basic liability determination in cases alleging overcharges for political

[1] *Zell Miller for Governor, et al.* v. *Pacific and Southern Company*, Civil Action No. 1:91-CV-267-RLV (N.D. Ga.) (Order released June 4, 1991).

[2] *Id.*, slip op. at 13, *quoting Belluso* v. *Turner Communications Corp.*, 633 F. 2d 393, 397 (5th Cir. 1980).

[3] Slip op. at 13-14, *citing Hernstadt* v. *FCC*, 677 F.2d 893 (D.C. Cir. 1980); *Atlin Communications, Inc.*, 5 FCC Rcd 2835 (M.M.B. 1990); *Southern Arkansas Radio Co.*, 5 FCC Rcd 4643 (M.M.B. 1990).

[4] No. 91-8561 (11th Cir., filed June 27, 1991).

[5] *William Dickinson* v. *Cosmos Broadcasting Co.*, Civil Action No. 91-T-072-N (M.D. Ala.) (Order, released April 1, 1991).

[6] *Id.*, slip op. at 17.

advertisements. The Commission thus concluded that, in order to fulfill its own responsibilities under the Act, it must assert its exclusive primary jurisdiction to determine the question of liability.[7] *Compare Capital Cities Cable, Inc.* v. *Crisp,* 467 U.S. 691, 700 (1984); *City of New York* v. *FCC,* 486 U.S. 57, 63-64 (1988), *citing Fidelity Federal Savings and Loan Assn.* v. *De la Cuesta,* 458 U.S. 141, 154 (1982). Nonetheless, although the Alabama state court recognized the Commission's "strong interest" in enforcing section 315(b), it has not referred the liability determination to the Commission and has not stayed its own proceedings to permit the agency to make such a determination.[8]

In view of the inconsistencies among these federal and state court decisions and the likely proliferation of similar suits in a number of jurisdictions, the Commission is now considering issuing a declaratory ruling to clarify its role in resolving these political broadcasting controversies. It accordingly requests comment on whether its jurisdiction to determine the lawfulness of political advertising charges is exclusive and whether federal and state courts must refer the liability question to the FCC in any case alleging that charges for political advertising are excessive. The Commission also seeks comments on whether its exclusive jurisdiction should extend beyond the basic liability question and, if so, whether the Commission should preempt any cause of action in any court in which an alleged violation of section 315(b) is an essential element.[9]

Interested parties may file comments in this matter no later than October 21, 1991. Reply comments will not be accepted, and no extensions of this comment period are contemplated.

An original and four copies of all comments must be filed in accordance with § 1.51(c) of the Commission's Rules. In addition, copies of each pleading must be filed as follows: one copy with the Downtown Copy Center (DCC), the Commission's duplicating contractor, at its office in room 246, 1919 M Street, NW., Washington, DC 20554; one copy with the Office of General Counsel, room 614, 1919 M Street, NW., Washington, DC 20554; and one copy with the Mass Media Bureau, room 314, 1919 M Street, NW., Washington, DC 20554.

Copies of comments may be obtained from DCC. The documents will be available for public inspection and copying in room 614, 1919 M Street, NW.

For further information, contact Diane L. Hofbauer, Office of General Counsel, at (202) 632-7020.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

Separate Statement of Chairman Alfred C. Sikes and Commissioner Andrew C. Barrett on Notice of Intention to Issue Declaratory Ruling with Respect to Exclusive Authority of FCC to Determine Violations of Section 315(B) of Communications Act

We have no objection to asking whether or not the Commission's exclusive jurisdiction can or should be "extended beyond the basic liability question" of whether there has been a violation of section 315(b). However, we write to emphasize that asking this question should not be read as concluding that the Commission has the ability—or should exercise that ability—to totally preempt state or federal judicial proceedings with respect to both liability and damages in this area.

[FR Doc. 91-24969 Filed 10-15-91; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL ELECTION COMMISSION

[Notice 1991-16]

Filing Dates for the Pennsylvania Special Election

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for a special election.

SUMMARY: Pennsylvania has scheduled a Special General Election on November 5, 1991, for the 2nd Congressional District, to fill the seat of Congressmen William H. Gary, III. Committees required to file a report in connection with the Special General Election, must file a 12-day Pre-General Report by October 24, 1991, and a Post-General Report by December 5, 1991.

Committees are not required to file Pre-Election Reports for the Republication and Democratic Conventions that will be held to nominate candidates for the Special General Election. These reports are not required because there is not enough time before the party conventions for the committees to file a report. In addition to this short time frame, all candidates participating in the party conventions have not been officially identified.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Public Information Office, 999 E Street, NW., Washington, DC 20463, Telephone: (202) 219-3420; Toll Free (800) 424-9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates in the Special General Election and all other political committees not filing monthly which support candidates in this election shall file a 12-day Pre-General Report, due on October 24, 1991, with coverage dates from July 1, 1991, the last report filed, or the date of the committee's first activity, through October 16, 1991, and a Post-General Report by December 5, 1991, with coverage dates from October 17 through November 25, 1991. Such committees must also file a Year-End Report by January 31, 1992, with coverage dates from November 26, 1991, through December 31, 1991.

CALENDAR OF REPORTING DATES FOR THE PENNSYLVANIA SPECIAL GENERAL ELECTION ON NOVEMBER 5, 1991

Report	Period covered [1]	Reg./cert. mailing date [2]	Filing date
Pre-General	07/01/91—10/16/91	10/21/91	10/24/92
Post-General	10/17/91—11/25/91	12/05/91	12/05/91

[7] This exclusive jurisdiction over section 315(b) liability determinations, moreover, must be recognized by both federal and state courts.

[8] *See William L. Dickinson,* v. *Cosmos Broadcasting Co.,* Circuit Court for Montgomery, Alabama, Case No. CV-91-67-P (Order, released September 23, 1991). It was "significant" to the state court that the Commission "has not taken a position here that the claims of the Plaintiffs are preempted by the Communications Act." Slip op. at 3. That order denied motions to dismiss, filed by the defendants, arguing that state court actions for overcharges for political advertising were preempted. The defendants have asked the Alabama Supreme Court to review the denial of their motions to dismiss.

[9] In this regard the Commission believes it would be advisable for courts to stay any ongoing proceedings pending the issuance of any declaratory ruling as a result of this notice.

CALENDAR OF REPORTING DATES FOR THE PENNSYLVANIA SPECIAL GENERAL ELECTION ON NOVEMBER 5, 1991—Continued

Report	Period covered [1]	Reg./cert. mailing date [2]	Filing date
Year-End	11/26/91—12/31/91	01/31/92	01/31/92

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
[2] Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

Dated: October 9, 1991.
John Warren McGarry,
Chairman, Federal Election Commission.
[FR Doc. 91–24802 Filed 10–15–91; 8:45 am]
BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Tampa Port Authority et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. 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.: 224–200574.
Title: Tampa Port Authority/ Harborside Refrigerated Services, Inc. Incentive Wharfage Agreement.
Parties: Tampa Port Authority ("Port Authority"), Harborside Refrigerated Services, Inc. ("Harborside").
Synopsis: The Agreement, filed October 2, 1991, is a wharfage incentive agreement wherein the Authority will assess a reduced wharfage rate to Harborside on shipments of grapefruit, handled through the Harborside facility, for each individual ocean carrier handling in excess of 3,000,000 boxes of grapefruit annually.

Agreement No.: 202–000150–101.
Title: Trans-Pacific Freight Conference of Japan Agreement.
Parties: American President Lines, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., A.P. Moller-Maersk Line, Neptune Orient Lines Limited, Nippon Yusen Kaisha, Orient Overseas Container Line, Inc., Sea-Land Service, Inc., Wilhelmsen Lines AS.
Synopsis: The proposed amendment authorizes the members to establish a credit system for the payment of freight charges with respect to cargo carried under service contracts. The parties have requested shortened review.

Agreement No.: 202–003103–103.
Title: Japan-Atlantic and Gulf Freight Conference.
Parties: Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., A.P. Moller-Maersk Line, Neptune Orient Lines Limited, Nippon Yusen Kaisha, Orient Overseas Container Line, Inc., Wilhelmsen Lines AS.
Synopsis: The proposed amendment authorizes the members to establish a credit system for the payment of freight charges with respect to cargo carried under service contracts. The parties have requested shortened review.

Agreement No.: 203–011350.
Title: Agreement for Settlement and Release of Claims Re AmTrans and Columbus Relating To The Brazil/U.S. Atlantic Coast Pooling Agreement.
Parties: Empresa Lineas Maritimas Argentinas, A. Bottacchi de Navegacion C.F.I.I., American Transport Lines, Inc., Hamburg-Sudamerikanische DampfSchifffahrts-Gesellschaft (Columbus Line).
Synopsis: The proposed Agreement would settle disputes among the parties over revenue pool accounting payments for the years 1987–1990 under pooling Agreement No. 212–010027 (the Brazil/ U.S. Atlantic Coast Agreement). The parties have requested a shortened review period.

Dated: October 9, 1991.
By Order of the Federal Maritime Commission.
Ronald D. Murphy,
Assistant Secretary.
[FR Doc. 91–24801 Filed 10–15–91; 8:45 am]
BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR part 510.

License Number: 1206R.
Name: Merchants International Inc.
Address: 22884 Sterling Road, Sterling, VA 22170.
Date Revoked: August 28, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 1946R.
Name: Ultramar Forwarding, Inc.
Address: 7001 NW. 51st St., Miami, FL 33166.
Date Revoked: September 18, 1991.
Reason: Failed to furnish a valid surety bond.

License Number: 3301.
Name: Chemical Leaman Tank Lines, Inc. dba Chemical Leaman International Services.
Address: 102 Pickering Way, Exton, PA 19341–0200.
Date Revoked: September 25, 1991.
Reason: Surrendered license voluntarily.

Bryant L. VanBrakle,
Director, Bureau of Tariffs, Certification and Licensing.
[FR Doc. 91–24785 Filed 10–15–91; 8:45 am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Fifth Third Bancorp, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than November 7, 1991.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Fifth Third Bancorp, Cincinnati, Ohio; to acquire Pinnacle Bancorp, Inc., Middletown, Ohio, and thereby indirectly acquire MidFed Savings Bank, Middletown, Ohio, and thereby engage in owning, controlling or operating a savings association pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Comerica Incorporated, Detroit, Michigan; to acquire the home equity loan portfolio and a portion of the private banking loan portfolio of the Midlantic National Bank and Trust Company, Ft. Lauderdale, Florida, pursuant to § 225.25(b)(9) of the Board's Regulation Y, through its subsidiary Comerica Bank-Florida, F.S.B., Clearwater, Florida; and to acquire the trust assets of Midlantic National Bank and Trust Company, Ft. Lauderdale, Florida, pursuant to § 225.25(b)(3) of the Board's Regulation Y, through its subsidiary, Comerica Bank-Florida, F.S.B., Clearwater, Florida.

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Valley Capital Corporation, Las Vegas, Nevada; to expand the geographic scope of Caliber Bank, Phoenix, Arizona, and thereby engage in acting as principal, agent, or broker for credit-related insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in Arizona and Nevada.

2. Valley Capital Corporation, Las Vegas, Nevada; to expand the geographic scope of Valley Capital Life Insurance Company, Inc., Phoenix, Arizona, and thereby engage in acting as principal, agent, or broker for credit-related insurance pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. These activities will be conducted in Arizona and Nevada.

Board of Governors of the Federal Reserve System, October 8, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-24833 Filed 10-15-91; 8:45 am]

BILLING CODE 6210-01-F

First Community Bankshares, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies

The companies listed in this notice have 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 companies have also applied under § 225.23 of Regulation Y (12 CFR 225.23) 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 of Regulation Y (12 CFR 225.21) 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 or that the Board has approved by Order 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 applications are 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.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 7, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. First Community Bankshares, Inc., Fort Morgan, Colorado; to acquire up to 100 percent of the voting shares of First of Burlington Agency, Inc., Burlington, Colorado, and thereby indirectly acquire The First National Bank at Burlington, Burlington, Colorado.

In connection with this application, Applicant also proposes to engage in credit-related insurance sales and general insurance activities in Burlington, Colorado, a town with a population of less than 5,000 pursuant to § 225.25(b)(8)(i) and (iii)(A) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. BankAmerica Corporation, San Francisco, California; to acquire 100 percent of the voting shares of Valley Capital Corporation, Las Vegas, Nevada, and thereby indirectly acquire Valley Bank of Nevada, Las Vegas, Nevada, and Caliber Bank, Phoenix, Arizona. In connection with this application, Nevada First Development Corporation, a subsidiary of BankAmerica, has applied to merge with Valley Capital Corporation, Las Vegas, Nevada.

In addition, Valley Bank of Nevada, also has applied to merge with Bank of America Nevada pursuant to the Bank Merger Act and to establish branches pursuant to section 9 of the Federal Reserve Act.

Applicants also propose to acquire Valley Capital Life Insurance Co., Inc., Las Vegas, Nevada, and thereby engage in the sale of credit life insurance and credit accident, health and unemployment insurance which is

directly related to extensions of credit by bank affiliates pursuant to § 225.25(b)(8)(i); Valley Electronic Services, Inc., Las Vegas, Nevada, and thereby engage in providing electronic banking services by operating and servicing ATM machines; processing debit and credit card transactions; and interfacing with national and regional ATM networks pursuant to § 225.25(b)(7); Valley Leasing Company, Inc., Las Vegas, Nevada, and thereby engage in leveraged and non-leveraged leasing of personal property; Valley Mortgage Company, Inc., Las Vegas, Nevada, and thereby engage in originating and servicing residential mortgage loans; and making and servicing residential real estate construction loans pursuant to § 225.25(b)(1); Pacific Century Finance Company d/b/a Caliber Finance Company, Las Vegas, Nevada, and thereby engage in financing of non-recourse automobile dealer installment sales contracts pursuant to § 225.25(b)(1); and Caliber Premium Corporation, Las Vegas, Nevada, and thereby engage in insurance premium financing pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 8, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-24832 Filed 10-15-91; 8:45 am]

BILLING CODE 6210-01-F

Osterreichische Landerbank Aktiengesellschaft; Acquisition of Company Engaged in Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a) or (f) of the Board's Regulation Y (12 CFR 225.23(a) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 7, 1991.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Osterreichische Landerbank Aktiengesellschaft, Vienna, Austria; to engage *de novo* in providing advice regarding the structuring of and arranging for, loan syndications, interest rate "swaps", interest rate "caps", and similar transactions; providing advice in connection with financing transactions for nonaffiliated financial institutions; providing valuation services for nonaffiliated financial and nonfinancial institutions; advising nonaffiliated financial and nonfinancial institutions in connection with merger, acquisition, and divestiture considerations; rendering fairness opinions in connection with merger, acquisition, and similar transactions for nonaffiliated financial and nonfinancial institutions; and conducting feasibility studies for corporations. The Board has determined that these activities, subject to certain limitations, are permissible for bank holding companies. *SunTrust Banks, Inc.*, 74 Federal Reserve Bulletin 256 (1988).

Board of Governors of the Federal Reserve System, October 8, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-24834 Filed 10-15-91; 8:45 am]

BILLING CODE 6210-01-F

UnionBancorp, Inc., et al.; Notice of Applications to Engage de novo in Permissible Nonbanking Activities

The companies listed in this notice have 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.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 7, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. UnionBancorp, Inc., Streator, Illinois; formerly named First Union Bancorporation, Inc., Streator, Illinois, to engage *de novo* through its subsidiary, UnionData Corp., Inc., Streator, Illinois, in data processing and information services to UnionBancorp, Inc., its financial subsidiaries and other banks and businesses, including payroll services, data processing and data transmission services, or access to such services by any technological means pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Houghton Financial, Inc., Houghton, Michigan; to engage *de novo* through its subsidiary, Midwest Loan Services, Inc., Houghton, Michigan, and thereby engage in servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. First Amarillo Bancorporation, Inc., Amarillo, Texas; to engage *de novo* through its subsidiary, Eighth & Taylor Corp., Amarillo, Texas, in providing portfolio investment advice to any other person pursuant to § 225.25(b)(4)(iii).

Board of Governors of the Federal Reserve System, October 8, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–24835 Filed 10–15–91; 8:45 am]

BILLING CODE 6210–01–F

Van Diest Investment Company, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 7, 1991.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Van Diest Investment Company, Ankeny, Iowa; formerly named Ankeny Investment Company, Ankeny, Iowa, to acquire at least 67.43 percent of the voting shares of Altoona State Bank, Altoona, Iowa.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Boatmen's Bancshares, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Founders Bancorporation, Inc., Oklahoma City, Oklahoma, and thereby indirectly acquire Founders Bank & Trust Company, Oklahoma City, Oklahoma.

2. Dawson Springs Bancorp, Inc., Maysville, Kentucky; to acquire 100 percent of the voting shares of Citizens Bank of Albany, Albany, Kentucky.

3. Southwest Bancshares, Inc., Trumann, Arkansas; to acquire 100 percent of the voting shares of Doyer Bancshares, Inc., Russellville, Arkansas, and thereby indirectly acquire First Bank of Arkansas, Russellville, Arkansas.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Prairie Bancshares, Inc., Lester Prairie, Minnesota; to merge with Silver Lake Bancorporation, Silver Lake, Minnesota, and thereby indirectly acquire Citizens State Bank of Silver Lake, Silver Lake, Minnesota.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Lindoe, Inc., Ordway, Colorado; to acquire 94 percent of the voting shares of The Gunnison Bank and Trust Company, Gunnison, Colorado.

Comments on this application must be received by October 25, 1991.

Board of Governors of the Federal Reserve System, October 8, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91–24836 Filed 10–15–91; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 091691 AND 092791

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
FS Equity Partners II, L.P., Merrill Lynch Capital Appreciation Partnership IX, L.P., Purity Supreme, Inc	91–1372	09/16/91
Sanifill, Inc., Jordan Smith, Redwood Landfill, Inc	91–1425	09/16/91
Woolworth Corporation, Warburg, Pincus Capital Company, L.P., The San Francisco Music Box Company	91–1433	09/16/91
Newell Co., The Black & Decker Corporation, The Black & Decker Corporation	91–1347	09/17/91
Savannah Foods & Industries, Inc., Leland J. McCarthy, South Coast Sugars, Inc	91–1426	09/17/91
Mitsubishi Corporation, Iron Ore Company of Canada (a U.S. company) Iron Ore Company of Canada	91–1448	09/17/91
Diamond Shamrock, Inc., Occidental Petroleum Corporation, Occidental Boliviana, Inc	91–1436	09/18/91
Public Service Enterprise Group Incorporated, USF&G Corporation, USF&G Fidelity/Retail Associates Limited Partnership	91–1458	09/18/91
Savannah Foods & Industries, Inc., Richard H. Cook, South Coast Sugars, Inc	91–1427	09/19/91
Tele-Communications, Inc., Liberty Media Corporation, LMC Cable AdNet, Inc. or one of its Subsidiaries	91–1401	09/20/91
Cardinal Distribution, Inc., Chapman Drug Company, Chapman Drug Company	91–1412	09/20/91
Austrofueguina, S.A., Occidental Petroleum Corporation, Occidental Bolivana, Inc	91–1439	09/20/91
Four Seasons Hotels Inc., Manufacturers Hanover Corporation, Town Lake Center Corp	91–1449	09/20/91
Cintas Corporation, Donald F. Waggoner, Rental Uniform Service of Greenville, S.C. Inc	91–1450	09/20/91

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 091691 AND 092791—Continued

Name of acquiring person, name of acquired person, name of acquired entity	PMN No.	Date terminated
Swiss Reinsurance Company, Integrated Resources, Inc., Integrated Resources Life Insurance Company	91-1455	09/20/91
ITT Corporation, United Technologies Corporation, Carrier Distribution Credit Corporation	91-1452	09/23/91
Cirrus Logic, Inc., Crystal Semiconductor Corporation, Crystal Semiconductor Corporation	91-1456	09/23/91
Utilicorp United Inc., Mobile Corporation, Mobil Producing Texas & New Mexico Inc	91-1464	09/23/91
General Electric Company, McDonnell Douglas Corporation, McDonnell Douglas Auto Leasing Corporation	91-1482	09/23/91
Memorial Healthcare System, The Woodlands Medical Center, Inc., The Woodlands Medical Center, Inc	91-1407	09/24/91
DSM N.V., AKZO N.V., AKZO Engineering Plastics, Inc	91-1422	09/24/91
Erskine Bronson Ingram, Howard Bellowe, Gordon's Books, Inc	91-1422	09/24/91
HCA-Hospital Corporation of America, Healthtrust, Inc.—The Hospital Company, Healthtrust, Inc.—The Hospital Company	91-1447	09/24/91
Peter Kiewit Sons', Inc., Dai-Ichi Kangyo Bank, Institutional Communications Company	91-1459	09/24/91
Computer Sciences Corporation, Ronald J. Haan, Intelicom Solutions Corpooration	91-1483	09/24/91
Melville Corporation, K & K Toys, Inc., K & K Toys, Inc	91-1434	09/26/91
United Insurance Companies, Inc., Farm and Home Life Insurance Company, First United, Inc. and The Chesapeake Life Insurance Co.	91-1461	09/27/91
Equitable Resources, Inc., Maxus Energy Corporation, Maxus Exploration Company	91-1446	09/27/91
The Promus Companies Incorporated, Procordia AB, Park Suite Corporation, Lee Vista P.S. Hotel	91-1473	09/27/91
Genstar Capital Corporation, John M. Goode, Prestolite Electric Inc./PMI Holding Corporation	91-1488	09/27/91
Morrison Knudsen Corporation, Michael J. Farrell, Motor Coils Manufacturing Co	91-1489	09/27/91
Morrison Knudsen Corporation, Thomas J. Reinecke, Motor Coils Manufacturing Co	91-1490	09/27/91
Vista Resources, Inc., Brookpark Trust, American Southern Insurance Company	91-1494	09/27/91

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 91-24863 Filed 10-15-91; 8:45 am]

BILLING CODE 6750-01-M

[File No. 912 3175]

Reproductive Genetics in Vitro, P.C., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a provider of infertility services and its president from making false and unsubstantiated claims regarding the success of their *in vitro* fertilization program.

DATES: Comments must be received on or before December 16, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Walter Gross, FTC/H-200, Washington, DC 20580. (202) 326-3319.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

[File No. 912 3175]

Agreement Containing Consent Order To Cease and Desist

In the matter of Reproductive Genetics in Vitro, P.C., a corporation, and George P. Henry, M.D., individually.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Reproductive Genetics In Vitro, P.C., a corporation, and George P. Henry, an individual, hereafter sometimes collectively referred to as proposed respondents or respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Reproductive Genetics In Vitro, P.C., George P. Henry, M.D., the president, director and sole stockholder of Reproductive Genetics In Vitro, P.C., and counsel for the Federal Trade Commission that:

1. Proposed respondent Reproductive Genetics In Vitro, P.C. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado, with its office and principal place of business located at 455 South Hudson Street, Denver, Colorado 80222.

Proposed respondent George P. Henry, M.D. is the president, director and sole stockholder of Reproductive Genetics In Vitro, P.C.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondents waive: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents

that the law has been violated as alleged in the attached draft complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents: (a) Issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the attached draft complaint and the following order. Proposed respondents understand that once the order has been issued, it will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered That respondents Reproductive Genetics In Vitro, P.C., and George P. Henry, M.D., individually, and respondent Reproductive Genetics In Vitro, P.C.'s officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, sale or offering for sale of services relating to the treatment of infertility through in vitro fertilization do forthwith cease and desist from representing, directly or by implication:

A. That the success rate in achieving pregnancies for their patients is higher than or compares favorably with the success rates of other providers of these services, unless at the time of making such representations, respondents possess and rely upon a reasonable basis for making such comparison which shall, at a minimum, consist of results for their own patients that are based upon either the same or essentially equivalent test procedures for determining pregnancy that were used to produce the results with which the comparison is made.

B. That any of their patients have achieved pregnancies through respondents' treatment program unless at the time of making such representation, respondents possess and rely upon a reasonable basis for making such representation. Such reasonable basis shall consist of competent and reliable scientific evidence substantiating the representation. For any test to be "competent and reliable" it must be conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate and reliable results, and shall not consist solely of human chorionic gonadotrophin laboratory blood analysis.

C. That a percentage of respondents' patients have given birth or achieved pregnancy, unless the percentage represented accounts for all patients who received medication in an effort to stimulate ovulation in connection with the provision of in vitro fertilization services; or, in lieu thereof, respondent discloses the basis used in calculating or arriving at the percentage represented. Such disclosure shall include the numerator and denominator used in calculating the percentage represented, and shall be made clearly and prominently, in close proximity to such percentage, and in a manner that can be easily understood by prospective purchasers of respondents' services.

II.

It is ordered That respondents George P. Henry, M.D. and Reproductive Genetics In Vitro, P.C., a corporation, its successors and assigns, officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, sale or offering for sale of services relating to the treatment of infertility, do forthwith cease and desist from representing, directly or by implication, that a number or percentage of respondents' patients give birth or achieve pregnancy, or have given birth or achieved pregnancies, unless such is the case, or otherwise misrepresent respondents' success rate in achieving births or pregnancies.

III.

It is further ordered That respondents, their successors or assigns, shall forthwith distribute a copy of this Order to each of their officers, agents, representatives, and employees, who are engaged in the preparation and placement of advertisements or promotional materials, who communicated with patients or prospective patients, or who have any responsibilities with respect to the subject matter of this Order; and for a period of ten (10) years from the date of entry of this Order, distribute same to all of respondents' future officers, agents, representatives, and employees having said responsibilities.

IV.

It is further ordered That respondents shall maintain for a period of three (3) years after the date the representation was last made, and make available to the Federal Trade Commission upon request, business records supporting any claims of success in connection with their infertility treatment programs.

V.

It is further ordered That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in respondents which may affect compliance obligations arising out of this order.

VI.

It is further ordered That respondents shall, within (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Reproductive Genetics In Vitro, P.C., of Denver, Colorado and its president, George P. Henry, M.D. Reproductive Genetics In Vitro, P.C., offers infertility services to the public, including *in vitro* fertilization.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days,

the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission has alleged that proposed respondents failed to possess a reasonable basis for claims they made regarding their success rates in achieving pregnancies for their patients. Reproductive Genetics In Vitro, P.C., claimed that women who participate in a single attempt at conception in its *in vitro* program have a 25 percent chance of establishing a pregnancy and that this rate was almost two and one-half times the worldwide average.

The Commission alleges that these claims were deceptive because proposed respondents had based their determination of pregnancy on the results of chemical tests that measure the rising levels of human chorionic gonadotrophin in the blood or urine of the patient. Such chemical tests are allegedly considered by experts in the field of *in vitro* fertilization to be unreliable by themselves for the purposes of confirming an IVF induced pregnancy. Thus, at the time it made the claim, the Commission alleges that Reproductive Genetics In Vitro, P.C., lacked a reasonable basis for claiming that its patients had achieved pregnancy. Furthermore, when it claimed that its own success rate exceeded the worldwide average, Reproductive Genetics In Vitro, P.C., may have lacked hard data to support its comparison.

Moreover, the Commission alleges that, in addition to the deception raised by the use of chemical pregnancy tests, the success rate claims further overstated the likelihood of achieving a pregnancy because proposed respondents failed to disclose to consumers that a significant number of unsuccessful outcomes were not included in the method of calculation used to determine success. It is important to note that the allegations do not concern the quality of the infertility services provided to consumers but address only the success rates claimed.

Part I of the proposed consent order seeks to address the alleged misrepresentations cited in the accompanying complaint by requiring proposed respondents to possess a reasonable basis for any future success rate claims for their infertility procedures, which in the case of comparisons with other success rates, shall consist of results that were based upon the same or essentially equivalent tests that were used as a basis for the other rates. (Part I.A) Furthermore, claims that pregnancies have been achieved for their patients must be based upon tests that are recognized within the infertility treatment industry as producing accurate and reliable results. (Part I.B) Part I.C prohibits success rate representations concerning infertility treatment unless (1) the percentage accounts for all patients who begin the program; or (2) the basis used to compute the percentage rate, including the numerator and denominator used to reach the success rate figure, is clearly and prominently disclosed.

Part II of the proposed consent order prohibits any misrepresentation of success in achieving pregnancies or live births.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 91-24861 Filed 10-15-91; 8:45 am]

BILLING CODE 6750-01-M

[File No. 902 3090]

Spanish Telemarketing Industries, Inc., et al.; Proposed Consent Agreement With Anaylsis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, three California telemarketing companies and an individual, that produce Spanish-language television advertisements for a weight loss product, from representing that any weight control food, drug, product, device, or service causes weight loss without increased physical activity and/or decreased caloric intake.

DATES: Comments must be received on or before December 16, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Sylvia Kundig, San Francisco Regional Office, Federal Trade Commission, 901 Market St., suite 570, San Francisco, CA 94103. (415) 744-7920.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

The Federal Trade Commission having initiated an investigation of Spanish Telemarketing Industries, Inc., a corporation, Nickolas Telemarketing Industries, Inc., a corporation, Sylvia George, Inc., a corporation (collectively "corporate respondents"), and Stewart Brown, individually and as an officer and director of Spanish Telemarketing Industries, Inc., Nickolas Telemarketing Industries, Inc., and Sylvia George, Inc., hereinafter sometimes referred to as proposed respondents; in connection with their advertising, promotion, offering for sale, and distribution of a weight loss regimen described in the attached draft complaint, consisting of a nylon covered rubber belt and a moisturizing cream, ("Faja Fantastica"), including their production and dissemination of the Faja Fantastica commercials described in the attached draft of complaint; and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the acts and practices being investigated,

It Is Hereby Agreed By and between Stewart Brown, individually and as an officer and director of Spanish Telemarketing Industries, Inc., a corporation, Nickolas Telemarketing Industries, Inc., a corporation, and Sylvia George, Inc., a corporation; and Spanish Telemarketing Industries, Inc., a corporation, Nickolas Telemarketing Industries, Inc., a corporation, and Sylvia George, Inc., a corporation, by and through their duly authorized officers, and counsel for the Federal Trade Commission that:

1. a. Spanish Telemarketing Industries, Inc., is a corporation organized, existing, and doing business under the laws of the State of California. Its offices and principal place of business is 3219 San Fernando Road, Los Angeles, California 90065.

b. Nickolas Telemarketing Industries, Inc., is a corporation organized, existing, and doing business under the laws of the State of California. Its offices and principal place of business is 3219 San

Fernando Road, Los Angeles, California 90065.

c. Sylvia George, Inc., is a corporation organized, existing, and doing business under the laws of the State of California. Its offices and principal place of business is 3219 San Fernando Road, Los Angeles, California 90065

d. Stewart Brown is an individual who is, and at all material times was, an officer and director of Spanish Telemarketing Industries, Inc., Nickolas Telemarketing Industries, Inc., and Sylvia George, Inc. His principal place of business is located at 3219 San Fernando Road, Los Angeles, California 90065.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondents waive:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by the proposed respondents that they, or any one of them, have violated the law as alleged in the draft of complaint here attached or have engaged in any other unlawful conduct.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It Is Ordered That corporate respondents, their successors and assigns and their officers; and Stewart Brown, individually and as an officer of corporate respondents; and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of Faja Fantastica, a moisturizing cream and/or girdle, any substantially similar products, devices, or combination of such products or devices in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that the product will cause an individual to lose weight without increased physical activity and/or decreased caloric intake.

II.

It Is Further Ordered That corporate respondents, their successors and assigns and their officers; and Stewart Brown, individually and as an officer of corporate respondents; and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, offering for sale, sale, marketing, or other promotion of any weight control product, device or service, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication the performance or efficacy of any weight control product, device or service. For purposes of this Order, weight control product, device, or service shall include any food, drug, product, device, or service designed or used to prevent weight gain or to produce weight loss, reduction or elimination of fat, slimming, or a caloric deficit in a user of the food, drug, product, device, or service.

III.

It Is Further Ordered That corporate respondents, their successors and assigns and their officers; and Stewart Brown, individually and as an officer of corporate respondents; and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any food, drug, product, device, or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that the food, drug, product, device, or service will cause an individual to lose weight without a prominent disclosure that weight loss can only be obtained through increased physical activity and/or decreased caloric intake. The disclosure shall be in the same language as the advertisement or commercial for the food, drug, device, product, or service and in close proximity to the representation.

IV.

It Is Further Ordered That corporate respondents, their successors and assigns and their officers; and Stewart Brown, individually and as an officer of corporate respondents; and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any food, drug, product, device, or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do

forthwith cease and desist from representing, directly or by implication that the food, drug, product, device, or service will, can, or may provide or help provide any health-related benefit, unless, at the time of making the representation, respondents possess and rely on a reasonable basis consisting of competent and reliable scientific evidence that substantiates the representation. For purposes of this Order, scientific evidence shall mean tests, analyses, research, studies, or other evidence, conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate and reliable results.

V.

It Is Further Ordered That corporate respondents, their successors and assigns and their officers; and Stewart Brown, individually and as an officer of corporate respondents; and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. using, publishing, or referring to any endorsement (as endorsement is defined in 16 CFR 255(b)) unless respondents have good reason to believe that at the time of the use, publication, or reference, the endorsement reflects the honest opinions, findings, beliefs, or experience of the endorser and contains no representation which would be false or unsubstantiated if made directly by respondents; and

B. representing, directly or by implication, that any endorsement of the product or service represents the typical or ordinary experience of members of the public who use the product or service, unless that is the case.

VI.

It Is Further Ordered That respondents are jointly and severally liable for consumer redress in the amount of one hundred thousand dollars ($100,000) and shall, within five (5) days of the date that this Order becomes final, deposit the sum of one hundred thousand dollars ($100,000) into an escrow account established and managed by the Commission. These funds shall be used to provide redress to consumers who were injured by respondents or others in connection with the acts and practices alleged in the complaint, and to pay any attendant costs of administration. The final determination of eligibility for, and amount of, refunds to be paid to consumers shall rest with the Commission. If the Commission determines that the direct payment of said funds to eligible consumers is wholly or partially impracticable, then, in lieu of making direct consumer redress, the Commission shall cause said funds to be paid to the United States Treasury. Respondents shall be notified as to how the funds are disbursed, but shall have no right to contest the manner of distribution chosen by the Commission. No portion of the payment as herein described shall be deemed a payment of any fine, penalty, or punitive assessment.

VII.

It Is Further Ordered That respondents shall, for at least three (3) years after the date of service of this Order, maintain and upon request make available to the Federal Trade Commission for inspection and copying, at a place designated by the Commission, complete records regarding respondents' compliance with this Order, such records to include, but not be limited to:

A. All advertisements, promotional materials, documents, or other materials covered by this Order;

B. All materials relied on to substantiate any claim or representation covered by this Order;

C. All materials in their possession, custody, or control that contradict, qualify, or call into question such representation or the basis on which respondents relied for such representation; and

D. All materials that demonstrate respondents' compliance with this Order.

VIII.

It Is Further Ordered That the respondents shall, for three (3) years from the date of entry of this Order, distribute a copy of this Order to each present and future managerial employee.

IX.

It Is Further Ordered That respondents shall notify the Commission, at least thirty (30) days prior to the proposed change, of any proposed change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of the Order.

X.

It Is Further Ordered That respondent Stewart Brown shall, for a period of five (5) years from the date of service of this Order, promptly notify the Commission, in writing, of his discontinuance of his affiliation with any corporate respondent, or his new affiliation with any other business or employment that engages in any acts or practices covered by any provision of this Order. For each such new affiliation, the notice shall include the name and address of the new business or employment, and a description of respondent's duties and responsibilities.

XI.

It Is Further Ordered That respondents shall, within one hundred and twenty (120) days after the date of service of this Order upon them and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an Agreement to a proposed Consent Order from Spanish Telemarketing Industries, Inc., a corporation; Nickolas Telemarketing Industries, Inc., a corporation; Sylvia George, Inc., a corporation; and Stewart Brown, individually and as an officer and director of Spanish Telemarketing Industries, Inc., Nickolas Telemarketing Industries, Inc., and Sylvia George, Inc. (collectively, the proposed respondents).

The proposed Consent Order has been placed on the public record for sixty (60) days for the receipt of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement and take other appropriate action, or make final the proposed Order contained in the Agreement.

This matter concerns Spanish-language television advertisements for a weight loss product—"Faja Fantastica." The Commission's proposed Complaint alleges that the advertisements expressly and impliedly claimed that the use of a cream, called "Quita Grasa," in conjunction with an approximately six-inch wide nylon covered rubber belt, would cause the user to lose weight,

without a decrease in caloric intake and/or an increase in physical activity. This claim is alleged to violate section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, because it is false and misleading, and because proposed respondents did not possess adequate substantiation for the claim at the time it was made.

The proposed Complaint also alleges that consumer endorsements contained in respondents' ads were deceptive. According to the Complaint, respondents' testimonials make the claim that the endorser's experiences are representative of what consumers will generally achieve with the product in actual, although variable, conditions of use; and, use of the testimonials constitutes a claim that respondents possessed and relied upon a reasonable basis for these claims. The Complaint charges that those claims are false, in violation of section 5 of the Federal Trade Commission Act, 15 U.S.C. 45.

Finally, because the advertisements were for a drug or device to affect the structure of the body, the proposed Complaint also alleges that respondents' practices violate section 12 of the Federal Trade Commission Act, 15 U.S.C. 52.

The proposed Consent Order prohibits the proposed respondents from representing, directly or by implication, that Faja Fantastica or any similar product or device causes weight loss without increased physical activity and/or decreased caloric intake. It requires respondents to cease and desist from misrepresenting the performance or efficacy of any weight control product or service.

The proposed Consent Order also requires affirmative disclosures in specific circumstances. If proposed respondents make any weight loss claims, they must affirmatively disclose that weight loss can occur only through an increase in physical activity and/or a decrease in caloric intake. It requires that proposed respondents possess and rely upon a reasonable basis for any claim that any food, product, device or service will provide any health-related benefit.

Moreover, the proposed Order contains provisions regarding the use of endorsements. It prohibits the use of statements in endorsements that would be false or unsubstantiated if made directly by respondents and prohibits deceptive representations that an endorsement represents the typical or ordinary experience of a product's users.

The proposed Order requires the proposed respondents to pay $100,000 in consumer redress. In the event the Commission determines that a redress program is impracticable, the Order provides that the monies will be disgorged to the U.S. Treasury.

Finally, the proposed Consent Order contains standard order provisions regarding record retention demonstrating compliance with the Order; distribution of the Order to managerial employees; notification to the Commission of any changes in the structure of the corporations; and reports to the Commission demonstrating compliance with the terms of the Order.

The purpose of this analysis is to facilitate public comment on the proposed Order. It is no intended to constitute an official interpretation of the Agreement and proposed Order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 91–24862 Filed 10–15–91; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Meeting on Exposure—Prone Invasive Procedures

SUMMARY: The Centers for Disease Control (CDC) announces an open meeting to solicit views of organizations of health-care workers (HCW) who perform invasive surgical and dental procedures and other interested persons in order to identify which categories of invasive procedures should be considered "exposure-prone." Information from this meeting will be used by CDC to develop a draft document identifying invasive procedures that should be considered exposure-prone and not exposure-prone. The draft document will also subsequently be released for public comment. Background information will be provided upon request prior to the meeting.

TIME AND DATE: 8:30 a.m.–5 p.m., November 4, 1991.

PLACE: Centers for Disease Control, Auditorium B, 1600 Clifton Road NE., Atlanta, Georgia 30333.

STATUS: Open to the public, limited only by the space available.

WRITTEN COMMENTS ACCEPTED: Organizations and persons wishing to provide comments must submit them to the meeting organizer, PACE Enterprises, 17 Executive Park Drive, suite 200, Atlanta, Georgia 30329, telephone 404/633–8610, FAX 404/633–8745, for receipt by close of business on Monday, November 4, 1991.

NOTIFICATION OF ATTENDANCE: If you or other representatives of your organization plan to attend the meeting, please provide name(s), organization, address, and telephone and FAX numbers to PACE Enterprises at the above address by October 25.

SUPPLEMENTARY INFORMATION:

A. General

In July 1991 CDC recommended that certain invasive surgical and dental procedures be considered exposure-prone because they have been implicated in the transmission of hepatitis B virus (HBV) to patients from infected HCWs, despite adherence to the principles of universal precautions. In addition CDC recommended that certain other procedures also be considered exposure-prone because of the recognized risk of percutaneous injury to the HCW, and if such an injury occurs, the HCW's blood is likely to contact the patient's body cavity, subcutaneous tissues, and/or mucous membranes. Characteristics of such exposure-prone procedures include digital palpation of a needle tip in a body cavity or the simultaneous presence of the HCW's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomic site. Reference: Centers for Disease Control. "Recommendations for preventing transmission of human immunodeficiency virus (HIV) and hepatitis B virus (HBV) to patients during exposure-prone invasive procedures. Morbidity and Mortality Weekly Report 1991;40 (No. RR–8) :4.

B. Transcript

The proceedings of this meeting will be transcribed. Any interested person may, consistent with the orderly conduct of the meeting, record or otherwise make a transcript of the meeting.

CONTACT FOR ADDITIONAL INFORMATION: Organizations and persons who wish to obtain background materials for the meeting may contact the meeting organizer, PACE Enterprises.

Dated: October 9, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91–24828 Filed 10–15–91; 8:45 am]

BILLING CODE 4160–18–M

National Committee on Vital and Health Statistics: Meeting

Pursuant to Public Law 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control, announces the following committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates: 1 p.m.–5 p.m., November 6, 1991; 9 a.m.–5 p.m., November 7, 1991; 9 a.m.–1 p.m., November 8, 1991.

Place: Quality Hotel Capitol Hill, Ballroom, 415 New Jersey Avenue NW., Washington, DC 20001.

Status: Open.

Purpose: The purpose of this meeting is for the Committee to consider reports from each NCVHS subcommittee; to receive reports from NCHS, the Health Care Financing Administration, and the Agency for Health Care Policy and Research; and to address new business as appropriate.

Contact Person for More Information: Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050 or FTS 436–7050.

Dated: October 9, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 91–24829 Filed 10–15–91; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 91N–0409]

Drug Export; Abbott IMx CORE ™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Abbott Diagnostics Division, Abbott Laboratories, has filed an application requesting approval for the export of the biological product Abbott IMx CORE™ to Austria, Belgium, Canada, Denmark, Federal Republic of Germany, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, room 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB–120), Food and Drug Administration, 5600 Fishers Lance, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the Federal Register within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Abbott Diagnostics Division, Abbott Laboratories, One Abbott Park Rd., Abbott Park, IL 60064, has filed an application requesting approval for the export of the biological product Abbott IMx CORE™ to Austria, Belgium, Canada, Denmark, Federal Republic of Germany, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. Abbott IMx CORE™ is a Microparticle Enzyme Immunoassay for the qualitative determination of total antibody to hepatitis B core antigen (anti-HBc) in human serum or plasma and is indicated as an aid in the diagnosis of ongoing or previous hepatitis B viral infection. The application was received and filed in the Center for Biologics Evaluation and Research on September 9, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by October 28, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44)

Dated: September 27, 1991.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 91–24845 Filed 10–15–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 91N–0408]

Drug Export: Blood Grouping Reagents: Anti–Jk [a] (Monoclonal) Bioclone for Tube and Microplate Test; Anti–Jk [b] (Monoclonal) Bioclone for Tube and Microplate Test

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Diagnostic Systems, Inc., has failed an application requesting approval for the export of the biological products Blood Grouping Reagents Anti–Jk [a] (Monoclonal) BioClone for Tube and Microplate Test; Anti–Jk [b] (Monoclonal) BioClone for Tube and Microplate Test to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), and Food and Drug Administration, room 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendment Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ortho Diagnostic Systems, Inc., Route 202, Raritan, NJ 08869, has filed an application requesting approval for the export of the biological products Blood Grouping Reagents Anti–Jk [a] (Monoclonal) BioClone for Tube and Microplate Test; Anti–Jk [b] (Monoclonal) BioClone for Tube and Microplate Test to Australia, Austria, Belgium, Canada, Denmark, Federal Republic of Germany, Finland, France, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, and the United Kingdom. The Blood Grouping Reagents Anti–Jk [a] (Monoclonal) BioClone for Tube and Microplate Test; Anti–Jk [b] (Monoclonal) BioClone for Tube and Microplate Test are qualitative tests designed for use in agglutination tests for recognition of the Jk [a] and/or Jk [b] antigens on human and red blood cells.

The application was received and filed in the Center for Biologics Evaluation and Research on September 11, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by October 28, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, and Drug, and Cosmetic Act (section 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: September 27, 1991.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 91–24846 Filed 10–15–91; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), **Federal Register**, Vol. 53, page 7402, dated March 8, 1988) is amended to reflect a change to update the functional statement of the Division of Classification and Organizational Analysis within the Office of Human Resources, Office of Budget and Administration, Office of the Associate Administrator for Management. The division, renamed as the Division of Information and Organizational Management, will be responsible for position classification, organizational analysis, delegations of authority, personnel information management, and special management studies.

The Specific Amendment to Part F. Is Described Below

• Section FH.20A.1.a., Division of Classification and Organizational Analysis (FHA61), is deleted in its entirety and replaced by the following revised functional statement, including the new organizational title, the Division of Information and Organizational Management:

a. Division of Information and Organizational Management (FHA61)

• Coordinates all personnel information management activities for the Office of Human Resources. Administers and operates the Department's automated personnel/payroll system, Improved Management of Personnel Administration through Computer Technology (IMPACT), as it applies to HCFA components. Serves as the primary point of contact with the Department for IMPACT issues.

• Develops human resource functional requirements for and access to HCFA's Comprehensive Personnel System. Provides systems support and technical assistance on all other automated data processing and office automation activities that relate to human resources functions.

• Plans, directs and implements a comprehensive HCFA position classification and position management program for all positions GS–15 and below in the central and regional offices. Inputs data into the automated personnel system and prepares statistical information and reports relating to the position management and classification program.

• Conducts the HCFA-wide organizational analysis program. Studies HCFA's organizational and functional arrangements and develops plans for assimilating new or modified functions into the HCFA organization.

• Conducts in-depth analyses of new legislation affecting HCFA for the purposes of determining the affect on HCFA's delegations of program authority and/or organizational structure. Develops recommendations for organizational changes, new or revised delegations of authority, and submits proposals to upper management's consideration.

• Develops, review, and analyzes existing or proposed delegations of administrative management and program authority, and prepares recommendations concerning these delegations for approval by the appropriate HCFA or other Department of Health and Human Services (HHS) officials.

• Conducts special studies concerning HCFA-wide program and administrative authorities, organizational and functional activities, and other analyses deemed necessary by management to assess workload, human resource utilization, the placement of functions within the Agency, and the relationship of HCFA's functions to those of other Federal and non-Federal organizations.

Dated: October 31, 1991.

Robert A. Streimer,

Associate Administrator for Management, Health Care Financing Administration.

[FR Doc. 91–24793 Filed 10–15–91; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-91-3331]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 30, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Performance Funding System; Formal Review Process (FR-3024).
Office: Public and Indian Housing.
Description of the Need for the Information and its Proposed Use: This information is used by Public Housing Agencies for inclusion in budget submissions which are reviewed and approved by Field Offices as the basis for obligating operating subsidies. This information is necessary in order to calculate the eligibility for operating subsidies under the Performance Funding System regulation, as amended by the Proposed Rule.
Form Number: None.
Respondents: State or Local Government.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information collection	868		1		4		3,472

Total Estimated Burden Hours: 3,472.
Status: New.
Contact: John T. Comerford, HUD, (202) 708-1872, Jennifer Main, OMB, (202) 395-6880.

Dated: September 30, 1991.

[FR Doc. 91-24892 Filed 10-15-91; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N-91-3330]

Notices of Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comment on the subject proposals.

ADDRESSES: Interested persons are invited to submit comment regarding these proposals. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals for the collections of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 7, 1991.

John T. Murphy,

Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Borrower Response to Title I Collection Letters.

Office: Housing.

Description of the Need for the Information and Its Proposed Use: This collection is comprised of the initial and subsequent demand letters used by HUD to collect monies on delinquent property improvement and manufactured housing loans assigned to the Federal Government after the lender has exhausted its collection effort and has submitted a claim to HUD for loan reimbursement.

Form Number: HUD–9812–1.

Respondents: Individuals or Households.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Title I Collection Letters	2,600		1		0.083		216

Total Estimated Burden Hours: 216.

Status: Extension.

Contact: Anne Barid-Bridges, HUD, (202) 708–1102, Jennifer Main, OMB, (202) 395–6880.

Dated: October 7, 1991.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Single Family Property Disposition; Program for Sales to Nonprofits and Government Entities (FR–2835).

Office: Public and Indian Housing.

Description of the Need for the Information and Its Proposed Use: The Demonstration Program facilitates the sale of HUD-acquired Single Family properties to private nonprofit organizations and governmental entities for resale to low and moderate income families to help stabilize neighborhoods and to expand affordable homeownership opportunities for low and moderate income families.

Form Number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	10		1		50		500

Total Estimated Burden Hours: 500.

Status: Extension.

Contact: Marian F. Connell, HUD, (202) 708–1832, Jennifer Main, OMB, (202) 395–6880.

Dated: October 7, 1991.

[FR Doc. 91–24893 Filed 10–15–91; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. N–91–3334]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 1, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Previous Participation Certificate Joint HUD Form 2530/ USDA Farmer's Home 1944/37.

Office: Housing.

Description of the Need for the Information and its Proposed Use: This information collected will be used to evaluate the feasibility of applications for multifamily projects with respect to previous track and experience records of the applicants

as owners, managers, consultants, and general contractors.
Form Number: HUD–2503 USDA Farmer's Home 1944–37.
Respondents: Individuals or Households and Businesses or Other For-Profit.
Frequency of Submission: On Occasion.
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	9,250		1		0.6197		5,732

Total Estimated Burden Hours: 5,732.
Status: Revision.
Contact: Bruce J. Weichmann, (202) 708–0582, Jennifer Main, OMB, (202) 395–6880.

Dated: October 1, 1991.

[FR Doc. 91–24889 Filed 10–15–91; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–91–3333]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Wendy Swire, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 1, 1991.

John T. Murphy,
Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Computation of Payments in Lieu of Taxes.
Office: Public and Indian Housing.
Description of the Need for the Information and its Proposed Use: Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) use the form to compute the payments in lieu of taxes they make to local municipalities. HUD uses the forms to ascertain compliance with the requirements of Section 6(d) of the U.S. Housing Act which provides for exemption for real and personal property taxes.
Form Number: HUD–52267.
Respondents: State or Local Governments.
Frequency of Submission: Recordkeeping and Annually.
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per Response	=	Burden hours
HUD Form 52267	2,800		1		.4		1,120

Total Estimated Burden Hours: 1,120.
Status: Reinstatement.
Contact: John T. Comeford, HUD, (202) 708–1872, Wendy Swire, OMB, (202) 395–6880.

Dated: October 1, 1991.

[FR Doc. 91–24890 Filed 10–15–91; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–91–3332]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.
ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Jennifer Main, OMB Desk Officer, Office of Management and

Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 29, 1991.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Public Housing Mixed Income New Communities Strategy (MINCS) Demonstration Project (FR–3036).

Office: Public and Indian Housing.

Description of the Need for the Information and its Proposed Use: The information provided by the applicant will be reviewed by HUD and evaluated against rating criteria for possible grant funding. HUD will review and determine the feasibility and effectiveness of the implementation plan to conduct the demonstration program.

Form Number: None.

Respondents: State or Local Governments.

Frequency of Submission: Semi-Annually and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Section VII	4		1		48		192
Section XIII (Annual Report)	4		1		16		64
Section XIII (Semiannual Report)	4		2		48		192
Section XV	10		1		48		480

Total Estimated Burden Hours: 928.

Status: New.

Contact: Paul Fletcher, HUD, (202) 708–4214, Jennifer Main, OMB, (202) 395–6880.

Dated: September 29, 1991.

[FR Doc. 91–24891 Filed 10–15–91; 8:45 am]

BILLING CODE 4210–01–M

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–91–3197; FR–2915–N–02]

Announcement of Funding Awards Community Development Work Study Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of funding awards.

SUMMARY: The purpose of this notice is to notify the public of funding decisions made by the Department in a competition for funding under the Community Development Work Study Program (CDWSP). The announcement contains the names and addresses of the award winners and the amount of the awards.

FOR FURTHER INFORMATION CONTACT: James H. Turk, Technical Assistance Division, Office of Technical Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, Telephone (202) 708–3176. The TDD number is (202) 708–0564. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: In a notice published on March 6, 1991 (56 FR 9574), the public was informed of the availability of approximately $3 million to provide assistance to economically disadvantaged and minority students participating in work study programs. Section 107(c) of the Housing and Community Development Act of 1974, as amended, authorizes the CDWSP. Under this section, HUD is authorized to provide grants to institutions of higher education, either directly or through area-wide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community or economic development, community planning, or community management.

HUD awarded up to $3 million from the FY 1991 appropriations, and up to $3 million from the FY 1992 appropriations, if the latter amount is made available. The purpose of inviting applications for FY 1992 was to permit advance planning, by prospective applicants wishing to organize Work Study Programs. A total of $3,407,530 is available from FY 1991 appropriations and recaptures to fund work study programs to be carried out from September 1991 to September 1993. Applications were accepted for grants to fund work study programs to be carried out from September 1992 to September 1994. However, approvals for such applications may not be made or announced until FY 1992 appropriations are available. A separate announcement of successful FY 1992 applicants will be made after those funds become available. A total of 54 applications were received, and 15 were selected for FY 1991.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), the Department is publishing the CDWSP winners as follows:

COMMUNITY DEVELOPMENT WORK STUDY PROGRAM LIST OF WINNERS FOR FISCAL YEAR 1991

[Grantees School Years 1991–93]

	No. students funded	Amount funded ($)
Region I:		
1. New Hampshire College—Mr. Michael Swack, Community Economic Development Program, 2500 N. River Road, Manchester, NJ 03104, Telephone: (603) 668–2211	10	290,200
Region III:		
2. Carnegie Mellon University—Dr. Harold Miller, School of Urban and Public Affairs, 5000 Forbes Avenue, Pittsburgh, PA 15213, Telephone: (412) 268–3841	10	300,000
3. University of Baltimore—Dr. Lawrence Downey, Department of Government and Public Administration, 1420 North Charles Street, Baltimore, MD 21202, Telephone: (301) 625–3172	8	233,912
4. Morgan State University—Dr. Elva Tillman, Institute for Urban Research, Soldiers' Armory, room 204, Baltimore, MD 21239, Telephone: (301) 314–3004	10	300,000
Region IV:		
5. Jackson State University—Dr. Curtina Moreland-Young, Public Policy & Administration Program, 3825 Ridgewood Road, P.O. Box 18, Jackson, MS 39217, Telephone: (601) 982–6277	10	281,400
6. Eastern Kentucky University—Dr. Terry Busson, Lancaster Avenue, Richmond, KY 40475, Telephone: (606) 622–1019	3	82,200
7. Clemson University—Dr. Herb Norman, College of Architecture, Lee Hall, Clemson, SC 29634, Telephone: (803 656–3926	10	241,880
8. Triangle COG—Ms. Patricia White, Triangle Council of Governments, Research Triangle Park, Durham, NC 27709, Telephone: (919) 549–0551	22	592,131
University of North Carolina	6	
North Carolina State	6	
North Carolina Central	10	
9. Alabama A&M University—Ms. Constance W. Jordan, Interim Chairperson, Community Planning and Urban Studies, Huntsville, AL 35762, Telephone: (205) 851–5425	3	48,000
Region V:		
10. University of Wisconsin—Green Bay—Mr. Ray Hutchinson, Center for Public Affairs, 2420 Nicolet Drive, Green Bay, WI 54311, Telephone: (414) 465–2355	5	103,600
11. University of Illinois at Chicago—Dr. Charles Orlebeke, School of Urban Planning and Policy, P.O. Box 4348, Chicago, IL 60680, Telephone: (312) 996–2166	10	291,600
12. Mankato State University—Mr. Robert Barrett, Urban and Regional Studies Institute, Blue Earth County, Mankato, MN 56002, Telephone: (507) 389–1714	8	230,948
Region VI:		
13. North Central Texas COG—Mr. William J. Pitstick, Executive Director, P.O. Drawer COG, Arlington, TX 76005, Telephone: (817) 640–3300	9	196,140
University of North Texas	3	
University of Texas at Arlington	6	
14. Iowa State University—Dr. Duane Shinn, Department of Community & Regional Planning, 126 College of Design, Ames, IA 50011, Telephone (515) 294–8959	6	156,150
Region X:		
15. Eastern Washington University—Mr. Steven Neumiller, Mail Stop 50-Urban and Regional Planning, Spokane County, INA, Cheney, WA 99004, Telephone (509) 359–6567	3	59,369
Total	127	3,407,530

Dated: October 8, 1991.

S. Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 91–24816 Filed 10–15–91; 8:45 am]

BILLING CODE 4210–29–M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N–91–3102; FR–2835–N–04]

Single Family Property Disposition; Demonstration Program for Sale of Properties to Nonprofits and Governmental Entities

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of extension of demonstration.

SUMMARY: This notice announces the extension of the deadline for acquiring properties under approved proposals to September 30, 1992 (or until the authorized cap of 1,500 properties has been reached, whichever occurs first). The Notice also announces a second period, from October 16, 1991, to December 31, 1991, for the submission of new proposals from private nonprofit organizations and governmental entities to purchase HUD-acquired single family properties for resale to low- and moderate-income families. These sales are being conducted through a demonstration program, announced on November 28, 1990 (55 FR 49490), to test the cost-effectiveness of an alternative way of reducing the inventory of HUD-acquired properties consistent with the need to help preserve neighborhoods and expand affordable homeownership opportunities.

DATES: The deadline for acquiring properties is September 30, 1992, and the deadline for receipt of new proposals is December 31, 1991.

FOR MORE INFORMATION CONTACT: Marion F. Connell, Single Family Property Disposition Division, room 9170, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; (202) 708–1832 or, for hearing and speech-impaired, (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: In a Notice published on November 28, 1990 (55 FR 49490), HUD announced a demonstration program to explore a method of reducing the inventory of HUD-acquired single family properties, while stabilizing, preserving, and improving neighborhoods and providing a source of affordable homeownership opportunities for low- and moderate-income owner-occupants. (Public comment on the demonstration had been solicited in a previous Notice published on August 9, 1990 (55 FR 32562).) The November 28, 1990 Notice invited proposals from private nonprofit organizations and governmental entities for the purchase of properties, on an all-cash basis, for rehabilitation and

ultimate resale to low- and moderate-income families.

The demonstration is limited to 1,500 vacant single family properties nationwide, located in neighborhoods with significant concentrations of HUD-acquired properties and other characteristics described in the November 28, 1990 Notice. Purchasers are required to buy a minimum of five properties to obtain the significantly discounted purchase prices.

The November 28, 1990 Notice announced that HUD field offices would accept proposals until May 29, 1991, and that approved applicants could continue to acquire properties in their approved demonstration neighborhood for one year from the date of publication of the Notice. After receiving several requests from its regional and field offices to extend the deadline for proposals in order to complete outreach efforts and to give the demonstration a more adequate test, HUD published a **Federal Register** Notice on April 12, 1991 (56 FR 14946) extending the deadline for proposals to July 31, 1991. No extension for acquiring properties was included in the April 12, 1991 Notice.

Several program participants have recently requested that the date for acquiring properties under the demonstration be extended. Because there has been significant interest in the demonstration—approximately 900 properties are currently reserved for 39 applicants—and because the cap of 1,500 properties has not been met, HUD is extending the deadline to September 30, 1992 (or until the 1,500 cap has been reached, whichever occurs first) for acquiring properties by approved participants.

Approved participants will not be required to submit another application to continue acquiring properties as long as their neighborhoods remain the same and the number of properties to be purchased is within the limit previously approved for their project. If an approved participant wishes to expand its demonstration area, or to acquire more properties than the number originally approved, the participant must request, in writing, approval from the Area Manager or Regional Director of Housing in the appropriate HUD office. The request must demonstrate continuing capacity to acquire, rehabilitate, and resell properties in a timely manner within the requirements of the demonstration as announced in the November 28, 1990 Notice. A request to amend a current proposal must also include a brief status report on the implementation and progress of the participant's project as previously approved.

In addition to extending the deadline for acquiring properties by approved participants, HUD is announcing a second application period for proposals from new applicants to be submitted to HUD field offices. This application period commences on October 16, 1991, and will conclude on December 31, 1991. Interested organizations should refer to the November 28, 1990 Notice for demonstration requirements or consult the appropriate HUD field office.

Other Matters

The collection of information requirements for the proposal to be submitted for the demonstration have been approved by the Office of Management and Budget and assigned OMB control number 2502–0444. Collection of information requirements for data on the ultimate owner-occupants of properties and rehabilitation costs were approved and assigned OMB control numbers 2502–0059 and 2502–0111.

Findings made by the Department under the National Environmental Policy Act of 1969 and under Executive Orders 12606 (The Family) and 12612 (Federalism) were announced in the November 28, 1990 Notice and are unchanged by this extension.

Dated: October 8, 1991.

Arthur J. Hill,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 91–24888 Filed 10–15–91; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–010–02–4333–12]

Resource Management Plans; Cody Resource Area, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to examine rivers and streams on BLM-Administered Lands in the Cody Resource Area of Wyoming and to determine if any are eligible for inclusion in the National Wild and Scenic River System as well as to provide for any needed modification (e.g., maintenance or amendment) of the Cody Resource Management Plan (RMP).

SUMMARY: The Worland District, Cody Resource Area of the Bureau of Land Management (BLM) is initiating an examination of rivers and streams pursuant to provisions of the Wild and Scenic Rivers Act of 1968 (WSRA). The required examination will include a separate inventory and study process utilizing information in the Cody RMP. The Cody RMP will be modified, as necessary. The public will be invited to participate in the study process.

FOR FURTHER INFORMATION CONTACT: Interested parties may obtain further information or request to be placed on the Cody mailing list by contacting Duane Whitmer, Area Manager or Bob Dieli, Outdoor Recreation Planner, Cody Resource Area, P.O. Box 518, 1714 Stampede Avenue, Cody, Wyoming 82414. Telephone: (307) 587–2216.

SUPPLEMENTARY INFORMATION: The Cody Resource Area includes about 1.1 million acres of public land and 1.5 million acres of Federal mineral estate administered by the BLM in Park and Big Horn counties, Wyoming. The Cody RMP was approved by the BLM Wyoming State Director on November 8, 1990. The record of Decision for the Cody RMP/EIS states (page 3), "Examination of rivers pursuant to provisions of the Wild and Scenic Rivers Act has not been completed for the Cody Resource Area. The required reviews will be conducted as part of a separate study using the planning process and the Cody RMP will be amended as necessary to accommodate the results. Until those reviews are completed, no uses will be permitted which could impair the presence of any outstandingly remarkable values along river corridors or otherwise effect the eligibility of any river for possible inclusion in the National Wild and Scenic River System."

The analysis in the impending review and the supporting Cody RMP will identify and evaluate river segments within the planning area in order to determine their potential for inclusion in the National Wild and Scenic Rivers System per section 5(d) of the WSRA. The study, which will begin during the 1992 fiscal year, will follow a three-step assessment: (1) Determination of eligibility, (2) determination of tentative classification of rivers found to be eligible, and (3) determination of suitability for inclusion. The public, other Federal agencies, and State and local governments are invited to identify additional information and concerns that should be addressed in this review process and comment on the river/stream segment determinations made by the BLM staff.

The public will have the opportunity to participate throughout the WSRA review/study effort. Notice of public participation opportunities will be

announced in the **Federal Register** and the local news media and by mailings sent to interested parties.

Dated: October 9, 1991.

F. William Eikenberry,

Associate State Director.

[FR Doc. 91-24837 Filed 10-15-91; 8:45 am]

BILLING CODE 4310-22-M

[WY-010-02-4410-10]

Resource Management Plans; Grass Creek Resource Area, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to prepare a resource management plan, request for information for scoping process, and call for coal resource information.

SUMMARY: The Bureau of Land Management (BLM), Worland District, invites the public to provide information on BLM administered public lands and resources in the Grass Creek Resource Area; to identify concerns to be addressed in the Grass Creek Resource Management Plan (RMP); and to comment on preliminary concerns identified by the BLM staff. As required in 43 CFR 3420.1-2, this notice is also the specific call for coal resource information and identification of areas where there is an interest in future leasing and development of Federal coal.

FOR FURTHER INFORMATION CONTACT: Interested parties may obtain further information, or request to be placed on the resource area mailing list, by contacting Bob Ross, RMP Team Leader or Joe Vessels, Area Manager, Grass Creek Resource Area, P.O. Box 119, 101 South 23rd Street, Worland, Wyoming 82401 Telephone: (307) 347-9871.

SUPPLEMENTARY INFORMATION: The Grass Creek Resource Area includes about 1 million acres of public land and about 1.2 million acres of Federal mineral estate administered by BLM in Park, Big Horn, Hot Springs, and Washakie counties, Wyoming.

The Grass Creek RMP is in the preplanning stage. Preplanning activities include: identifying preliminary plan alternatives, developing a schedule for plan preparation, and establishing public participation activities.

The following preliminary issues may be addressed in the RMP: (1) Management of vegetative resources for both consumptive (grazing, timber harvesting, etc.) and nonconsumptive uses (watershed protection, maintenance of cover for wildlife, etc.); (2) special management actions to protect environmentally sensitive areas or unique resource values; and (3) the need to keep some resources or resource values accessible for use (including recreational use and mineral development); and (4) the need to protect other resources or values, such as important wildlife habitat, from too much access or from access at inappropriate times. A summary of the basic problems and concerns for these preliminary issues is available for review at the Worland District Office. The public, including other Federal agencies and State and local governments, is invited to identify additional problems, concerns, and management opportunities that should be addressed in the planning process and to comment on those identified by the BLM staff.

The BLM is also requesting resource data and information that will be used to further define issues, update the inventory base or to identify inventory needs, help develop planning alternatives, and analyze environmental consequences. Due to Federal budget constraints, the BLM will conduct very little, if any, inventory work. Thus, development of the RMP must rely upon existing, available resource information and data.

Pursuant to 43 CFR 3420.1-2, this notice is a formal request for coal resource information and identification of any substantiated interest in future leasing and development of Federal coal in the Grass Creek Resource Area. Specifically, information on the location, quality, and quantity of Federal coal with development potential and on surface resource values related to the twenty coal unsuitability criteria described in 43 CFR 3461.1 is requested and will be used to conduct any necessary coal screening (43 CFR 3420.1-4) during the planning process. The BLM has limited coal resource data for the planning area and will be unable to conduct further inventories. Parties interested in Federal coal leasing and development will be expected to provide coal and other resources data for their areas of interest. Information concerning areas of leasing interest, coal resource data and other resource information related to unsuitability criteria must be submitted to the Worland District Office, at the address above, by January 15, 1992.

Federal coal leasing in the planning area outside designated coal production regions may be considered apart from the competitive leasing process set out in 43 CFR 3420.3 through 3420-5.2. Since the Grass Creek Resource Area is not within a coal production region, any Federal coal leasing will be considered on a case-by-case basis, called "Leasing on Application," under the appropriate provisions of 43 CFR 3425 and 43 CFR 3420.1-4 through 3420.1-8. Note that the sale and issuance of Federal coal leases under these provisions is still done through a competitive bidding process.

Identification at this time of definite interests in future Federal coal leasing, substantiated with adequate coal and other resource data, will allow these interests to be considered in the planning process. In this way, unnecessary administrative delays or revisions in the plan may be avoided, if coal lease applications are submitted in the future.

Public participation activities will be initiated with an open house to be held at the Worland District Office on October 29 and 30, 1991, between the hours of 1 p.m. to 8 p.m. The public will have opportunities to participate throughout the planning process, including input and comment on issues and planning criteria and on the draft and final resource management plan and EIS. Notice of public participation activities will be given through **Federal Register** notices, local media, and mailings to parties included on the Grass Creek Resource Area mailing list.

Dated: October 9, 1991.

F. William Eikenberry,

Associate State Director.

[FR Doc. 91-24838 Filed 10-15-91; 8:45 am]

BILLING CODE 4310-22-M

[CA-940-4214-10; CACA 28927]

Proposed Withdrawal and Opportunity for Public Meeting; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of the Navy has filed an application to withdraw 135,198 acres of public lands for the southern portion of the Chocolate Mountains Aerial Gunnery Range near Niland, California. The United States Department of the Navy has requested a temporary withdrawal in aid of legislation. The withdrawal is requested for a period of 5 years pending Congressional action. This notice closes the lands for up to 2 years from surface entry and mining. A Notice published in the **Federal Register**, 56 FR 47485, September 19, 1991, as corrected, will open the land to mineral leasing at 10 a.m. on October 20, 1991.

DATES: Comments and requests for meeting should be received on or before January 14, 1992.

ADDRESSES: Comments and meeting requests should be sent to the California State Director, BLM, 2800 Cottage Way, room E–2845, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, BLM California State Office, 916–978–4820.

SUPPLEMENTARY INFORMATION: On October 2, 1991, the United States Department of the Navy filed an application to withdraw the following described public lands from settlement, sale, location or entry under the public land laws, including the mining laws, subject to valid existing rights:

San Bernardino Meridian

T. 9 S., R. 16 E.,
Sec. 14, SW¼NE¼, NW¼, and S½;
Secs. 22, 24, and 26;
Sec. 28, E½ and E½W½;
Sec. 34.
T. 9 S., R. 17 E.,
Sec. 20, S½NW¼SW¼, SW¼SW¼, W½SE¼SW¼, and SE¼SE¼SW¼;
Sec. 26;
Sec. 28, NE¼NE¼, S½NE¼, and S½;
Secs. 30, 32, and 34.
T. 10 S., R. 15 E.,
Sec. 22, SE¼;
Secs. 24 and 26;
Sec. 28, E½ and SW¼;
Sec. 34.
T. 10 S., R. 16 E.,
Secs. 2 and 4;
Sec. 8, NE¼, E½NW¼, SW¼NW¼, and S½;
Secs. 10, 12, 14, 18, 20, 22, and 24;
Sec. 25, S½SW¼ and SW¼SE¼;
T. 10 S., R. 16 E.,
Secs. 26, 28, 30, 32, and 34.
T. 10 S., R. 17 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 10 S., R. 18 E.,
Secs. 6, 8, 18, 20, 22, 26, 28, 30, 32, and 34.
T. 10 S., R. 19 E.,
Sec. 32.
T. 11 S., R. 15 E.,
Secs. 2 and 12.
T. 11 S., R. 16 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, and 34.
T. 11 S., R. 17 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 11 S., R. 18 E.,
Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 11 S., R. 19 E.,
Secs. 4, 6, 8, 10, 14, 18, 20, 22, 26, 28, 30, 32, and 34.
T. 12 S., R. 16 E.,
Secs. 2 and 12.
T. 12 S., R. 17 E.,
Secs. 2, 4, 6, 8, 10, 12, 13, and 14;
Sec. 15, S½;
T. 12 S., R. 17 E.,
Sec. 17, S½;
Secs. 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 35.
T. 12 S., R. 18 E.,
Secs. 2, 4, 6, 8, 10, 12, 13, 14, 15, and 17;
Secs. 18 to 35, inclusive.
T. 12 S., R. 19 E.,
Secs. 2, 4, 6, 8, and 10;
Sec. 15, S½;
Sec. 17, S½;
Secs. 18 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 13 S., R. 18 E.,
Secs. 1 to 6, inclusive;
Sec. 8, E½;
Secs. 9, 10, and 11.
T. 13 S., R. 19 E.,
Sec. 5, lots 1 to 10, inclusive;
Sec. 6, lots 1 to 10 inclusive.

The areas described aggregate 135,198 acres in Imperial County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the California State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the California State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. No temporary uses will be permitted during this segregative period.

Dated: October 9, 1991.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 91–24830 Filed 10–15–91; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*)

Applicant: Chicago Zoological Park, Brookfield, IL, PRT–762127.

The applicant requests a permit to import 2 male and 2 female captive-born Leadbeater's possums (*Gymnobelideus leadbeateri*) from the Royal Melbourne Zoological Gardens, Parkville, Victoria, Australia, for breeding and display purposes.

Applicant: Ringling Bros.-Barnum & Bailey, Combined Shows, Inc., Vienna, VA, PRT–761570.

The applicant requests a permit to export one female captive-bred tiger (Panthera tigris) to Okayama, Japan. This animal is owned by Clubb Chipperfield, United Kingdom, and will perform with the Kinoshita Circus Limited in Japan. During circus performances, the public will be provided with written information regarding the species' ecological roles and conservation needs.

Applicant: James A. Fry, Arcadia, CA, PRT–737601.

The applicant requests a permit to import the personal sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive-herd maintained by Mr. T.P. Erasmus, "Mariendal", Kroostad 0350, Orange Free State, Republic of South Africa, for the purpose of enhancement of survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: October 10, 1991.

R.K. Robinson, Chief,

Branch of Permits, Office of Management Authority.

[FR Doc. 91–24854 Filed 10–15–91; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in

the National Register were received by the National Park Service before October 1, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by October 31, 1991.

Carol D. Shull,

Chief of Registration, National Register.

Colorado

Rio Grande County

Monte Vista Downtown Historic District, Jct. of First Ave. and Washington St., Monte Vista, 91001612

South Dakota

Butte County

Small, Charles and Eleanor, House, 825 Fifth Ave., Belle Fourche, 91001617

Lawrence County

Evans, Robert H. House, 258 Evans Ln., Spearfish, 91001621
Homestake Workers House, 830 State St., Spearfish, 91001620
Quillian, Thomas, House, W. Center St., St. Onge, 91001618
Woodmen Hall, Jct. of Center and Second Sts., St. Onge. 91001619

Marshall County

First Presbyterian Church of Langford. Jct. of Main and Findley Sts., Langford, 91001616

Texas

Wharton County

Wharton County Courthouse Historic Commercial District, Roughly bounded by the alley N of Milam St., Rusk St., Elm St. and Richmond St., Wharton, 91001624

Vermont

Addison County

Middlebury Gorge Concrete Arch Bridge (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS). Vermont 125 over the Middlebury R., Middlebury, 91001604

Chittenden County

Redstone Historic District, S. Prospect St., Burlington, 91001614

Essex County

Bloomfield—Nulhegan River Route 102 Bridge (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS), VT 102 over the Nulhgan R., Bloomfield, 91001605

Lamoille County

Jeffersonville Bridge (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS), VT 108 over the Lamoille R., Cambridge, 91001606
Lamoille River Route 15–A Bridge (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS), VT 15–A over the Lamoille R., Morristown, 91001607

Rutland County

Cold River Bridge (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS), VT 7B over the Cold R., Clarendon, 91001608
Marble Bridge, (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS). Main St. over Otter Cr., Proctor, 91001609

Washington County

Middlesex—Winooski River Bridge (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS). US 2 over the Winooski R., Middlesex, 91001610

Windham County

Oak Hill Cemetery Chapel, Off Pleasant St., Bellows Falls, 91001613
Williams River Route 5 Bridge (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS), US 5 over the Williams R., Rockingham, 91001603

Windsor County

*NAMCO Block,*1—17 Union St., Windsor, 91001615
Stockbridge Four Corners Bridge (Metal Truss, Masonry, and Concrete Bridges in Vermont MPS). VT 100 over the White R., Stockbridge, 91001611

[FR Doc. 91–24818 Filed 10–15–91; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research Act of 1984 Fuel Cell Commercialization Group

Notice is hereby given that, on September 20, 1991, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301, *et seq.* ("the Act"), the Fuel Cell Commercialization Group ("FCCG") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of thirteen members to the FCCG. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the FCCG advised that Central & South West Services, City of Pasadena, City of Tallahassee, City of Vernon, Florida Municipal Power Agency, Lower Colorado River Authority, Massachusetts Municipal Wholesale Electric Company, New York Power Authority, Ontario Hydro Design & Development, Public Service Electric & Gas Company, Southern California Edison, Southern California Gas, and TransAlta Utilities Corporation have become members to the FCCG.

No other changes have been made in either the membership or planned activity of the FCCG. Membership in the FCCG remains open, and the members intend to file additional written notification disclosing all changes in membership.

On September 21, 1990, the FCCG 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 25, 1990 (55 FR 43050).

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 91–24849 Filed 10–15–91; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–25,957 Beloit, WI; TA–W–25,958 South Beloit, IL; TA–W–25,958A Rockton, IL]

Beloit Corporation; 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 September 5, 1991, applicable to all workers of Beloit Corporation in Beloit, Wisconsin and South Beloit, Illinois. The Notice was published in the **Federal Register** on September 25, 1991 (56 FR 48586).

New information from the company shows that the sales, production and employment data for the Rockton, Illinois plant of Beloit Corporation was included in the data collection information submitted earlier by the company.

Operations at Rockton are the same as those at the Beloit, Wisconsin plant and are for the same customers. Company imports of paper making machinery increased in 1990 compared to 1989 and Beloit Corporation increased its reliance on imported paper making machinery in the first quarter of 1991 compared to the same period in 1990 from an off-shore affiliate. Therefore, the certification is amended by including workers at the Rockton, Illinois facility of the Beloit Corporation.

The amended notice applicable to TA–W–25,958 is hereby issued as follows:

All workers of Beloit Corporation in Beloit, Wisconsin, South Beloit, Illinois and Rockton, Illinois who became totally or partially separated from employment on or after June 10, 1990 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 7th day of October, 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-24856 Filed 10-15-91; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,423]

Weldotron Corp.; Piscataway, NJ; Public Hearing

Pursuant to the Department's regulations at 29 CFR 90.13 a public hearing is scheduled for 7 p.m. on Thursday, October 24, 1991 at the American Legion, Post #261, 840 S. Washington Avenue, Piscataway, New Jersey. The public hearing is for petitioners or any other persons showing a substantial interest in the proceedings to furnish testimony and evidence of a relevant and material nature bearing upon petition TA-W-26,423 filed on behalf of workers and former workers at Weldotron Corporation, Piscataway, New Jersey.

Such individuals who desire to furnish testimony as evidence should inform the Director, Office of Trade Adjustment Assistance, Department of Labor, of their intention to appear not later than Tuesday, October 22, 1991. Mr. Marvin M. Fooks, Director, OTAA, can be reached in Washington, DC at (202) 523-0555. The Director's Office is in room C-4318, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 9th day of October 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-24855 Filed 10-15-91; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-91]

NASA Advisory Council University Relations Task Force; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council University Relations Task Force.

DATES: November 7, 1991, 1 p.m. to 5:30 p.m.; and November 8, 1991, 8:30 a.m. to noon.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Bldg. 200, Committee Room, Moffett Field, CA 94035-1000.

FOR FURTHER INFORMATION CONTACT: Dr. Sylvia D. Fries, Code ADA-2, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-8766.

SUPPLEMENTARY INFORMATION: The NASA Advisory Council was established as an interdisciplinary group to advise senior management on the full range of NASA's programs, policies, and plans. The University Relations Task Force, reporting to the Council, will examine current forecasts of future national requirements for aerospace science and engineering and their supporting university infrastructure; it will also evaluate the degree, mechanisms, and appropriateness of NASA support for university programs in these fields. The Task Force is chaired by Dr. Steven Muller and is composed of 11 members. The meeting will be open to the public up to the seating capacity of the room, which is approximately 46 persons including Task Force members and other participants. Visitors will be requested to sign a visitor's register. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

TYPE OF MEETING: Open.

Agenda

November 7, 1991

1 p.m.—Opening Remarks.

1:20 p.m.—Ames-Stanford Center for Turbulence Research.

2:30 p.m.—Ames-San Jose State University Cooperative Agreement.

3:30 p.m.—Task Force Review of Responses to Solicitation Letters and Review of Member Institutions' NASA Funding.

5:30 p.m.—Adjourn.

November 8, 1991

8:30 a.m.—Tour of NASA Ames Research Center.

10 a.m.—Task Force Review of Issues and Draft Report Assignments.

Noon—Adjourn.

Dated: October 9, 1991.

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 91-24884 Filed 10-15-91; 8:45 am]

BILLING CODE 7510-01-M

[Notice 91-90]

Intent To Grant an Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant a patent license.

SUMMARY: NASA hereby gives notice of intent to grant the Association for Retarded Citizens of the United States, an exclusive, royalty-bearing, revocable license to practice the invention described in U.S. Patent No. 4,852,578, and all continuations thereof, entitled "Rapidly Quantifying the Relative Distention of a Human Bladder," which was issued to the United States of America, as represented by the Administrator of the National Aeronautics and Space Administration, on August 1, 1989. The proposed patent license will be for a limited number of years and will contain appropriate terms, limitations and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR 1245.200 *et. seq.* NASA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days of the date of this notice, the Director of Patent Licensing receives written objections to the grant, together with any supporting documentation. The Director of Patent Licensing will review all written objections to the grant and then recommend to the Associate General Counsel (Intellectual Property) whether to grant the license.

DATES: Comments to this notice must be received by December 16, 1991.

ADDRESSES: National Aeronautics and Space Administration, Code GP, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Lupuloff (202) 453-2430.

Dated: October 3, 1991.

Edward A. Frankle,

General Counsel.

[FR Doc. 91-24883 Filed 10-15-91; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Behavioral, and Social Sciences; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological, Behavioral, and Social Sciences (BBS).

Date and Time: October 31, 1991; 8:30 a.m.–5 p.m., November 1, 1991; 8:30 a.m.–5 p.m.

Place: Washington Marriott Hotel, 1221 22nd Street, NW., Washington, DC 20037.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological, Behavioral, and Social Sciences, (202) 357–9854, room 506, National Science Foundation, Washington, DC 20550

Summary of Minutes: May be obtained from the contact person.

Purpose of Advisory Committee: The Advisory Committee for BBS provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BBS.

Agenda: Budget and planning issues.

Dated: October 10, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–24844 Filed 10–15–91; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Abnormal Occurrences for Second Quarter CY 1991; Dissemination of Information

Section 208 of the Energy Reorganization Act of 1974, as amended, requires the NRC to disseminate information on abnormal occurrences (i.e., unscheduled incidents or events that the Commission determines are significant from the standpoint of public health and safety). The following incidents at NRC licensees were determined to be abnormal occurrences (AOs) using the criteria published in the **Federal Register** on February 24, 1977 (42 FR 10950). The AOs are described below, together with the remedial actions taken. The events are also being included in NUREG–0090, Vol. 14, No. 2 ("Report to Congress on Abnormal Occurrences: April–June 1991"). This report will be available in the NRC's Public Document Room, 2120 L Street (Lower Level), NW., Washington, DC about three weeks after the publication date of this **Federal Register** Notice.

Fuel Cycle Facilities (Other Than Nuclear Power Plants)

AO 91–6 Potential Criticality Accident at the General Electric Nuclear Fuel and Component Manufacturing Facility in Wilmington, NC

One of the AO examples notes that a major deficiency in design, construction, or operation having safety implications requiring immediate remedial action can be considered an abnormal occurrence.

Date and Place

May 29, 1991; the General Electric Nuclear Fuel and Component Manufacturing facility; Wilmington, North Carolina.

Nature and Probable Consequences

On May 29, 1991, the licensee notified NRC Region II that it had identified higher than expected amounts of uranium in a process tank of the waste treatment system, posing a potential criticality safety problem. The amount was approximately 2300 parts per million or 150 kilograms total uranium (about four percent enriched in uranium-235). The administrative criticality safety limit for transferring uranium into the process tank vessel (an unfavorable geometry tank) was 150 parts per million. (Unfavorable geometry refers to a process vessel that can hold enough uranium to produce a criticality.)

During the morning of May 29, the licensee identified higher than expected amounts of uranium in a favorable geometry vessel in its solvent extraction system as a result of earlier problems with controls and equipment in that system. The licensee shut down the solvent extraction process and subsequently discovered higher than expected amounts of uranium had also been improperly transferred into an unfavorable geometry waste tank. Licensee management was notified and a technical evaluation team was convened. In addition, sparging (i.e., mixing) was initiated in this tank to minimize the criticality potential by preventing an accumulation of material in the bottom of the tank. During the afternoon of May 29, the licensee notified NRC Region II of the incident. Later, the licensee also began uranium recovery operations from this tank via a centrifuge linked to the tank.

Also on May 29, the NRC dispatched a Region II site team and activated the headquarters and Region II incident response centers. The site team arrived early during the morning of May 30. At 6:38 a.m., EDT, on May 30, after discussions with the NRC response centers, the licensee declared an Alert in accordance with its Radiological Contingency and Emergency Plan.

On May 31, the NRC Executive Director for Operations (EDO) requested that the site team be upgraded to an eight-member NRC Incident Investigation Team (III). Also on May 31, the NRC issued a letter confirming the licensee's agreement to refrain from transferring material in certain portions of the waste streams, refrain from using the solvent extraction system, and cooperate with the IIT. The licensee continued to remove uranium by centrifuge from the tank through June 1. On June 1, the licensee had transferred sufficient amounts of solution containing uranium from the tank via the centrifuge process and to other nearby tanks to reduce the uranium in the tank to an amount less than the criticality safety limit. The licensee then terminated the Alert status and the NRC went to a normal response mode in both its headquarters and regional response centers.

The IIT arrived onsite on June 2. The IIT was directed to determine the circumstances associated with the event, identify the probable causes of the event, and make appropriate findings and conclusions that would form the basis for any necessary follow-on actions. The IIT exited the site on June 13 and convened in Bethesda, Maryland, to prepare a formal investigation report. A Region II inspection team continued to monitor the licensee's followup actions at the site from May 30 through July 18.

On June 25, the licensee met with the NRC in the Region II office to discuss status of the systems shut down as a result of the event, the corrective actions needed prior to restart, and the longer-term corrective actions at the facility. The licensee certified that the corrective actions for restart of the waste systems, including a procedure for reporting all types of events to the NRC, were complete in letters dated July 4 and July 7, 1991. The NRC Region II onsite inspection team verified that these actions were complete. The NRC authorized the licensee to restart certain waste stream systems on July 7 and confirmed this in a July 11, 1991, letter. As of August 31, the solvent extraction system remained shut down.

Cause or Causes

The IIT identified numerous problems at the plant including inadequate management oversight, design deficiencies, procedural noncompliance, inadequate incident investigation, and a

general deterioration of criticality controls. The IIT concluded that the problems can be summarized by three interrelated root causes that contributed to the incident:

1. There was a pervasive licensee attitude that a nuclear criticality was not a credible accident scenario. While the licensee understood and recognized that a nuclear criticality with low-enriched uranium was technically possible, and that there were regulatory requirements to establish measures to guard against such an accident, the licensee's perception was that the risk was so low that a criticality accident inherently would not happen.

2. Licensee management did not provide effective guidance and oversight of licensed activities to assure that operations were conducted in a safe manner.

3. There was a deep-seated, production-minded orientation within the licensee's organization that was not sufficiently tempered by a "safety first" attitude, particularly regarding nuclear criticality safety.

In addition, the IIT identified various weaknesses in NRC regulatory guidance, licensing, and inspection programs that had the effect of contributing to the incident.

Actions Taken To Prevent Recurrence

Licensee

Corrective actions included the following: System walkdowns and verifying that documentation matched current plant configuration; revising procedures; retraining of operators, revamping sampling to ensure adequacy for measurement of uranium; sensitivity training of all plant personnel to follow procedures and report problems; documenting a scheme for reporting events; instituting additional management oversight of operators; establishing an audit system; and, establishing a long-term plan to improve performance in staffing, emergency response, equipment reliability, and engineered systems to replace administrative criticality controls. The license reports the status of short and long-term corrective actions to NRC Region II on a biweekly basis. The license will present to the NRC its corrective actions for restart of the solvent extraction system. The licensee presented an outline of these corrective actions to the NRC in an August 9, 1991, letter.

NRC

The special NRC Region II inspection team inspected all corrective actions taken by the licensee in response to the event. As previously mentioned, the NRC issued a letter authorizing restart of certain systems on July 11, 1991, after verifying that the licensee completed all items identified by the NRC as necessary prior to restart. The NRC will continue to closely review the licensee's corrective actions to ensure that all safety issues have been satisfactorily addressed.

The NRC IIT formal report was published in August 1991 as NUREG–1450 ("Potential Criticality Accident at the General Electric Nuclear Fuel and Component Manufacturing Facility, May 29, 1991"). Based on the IIT's findings, on August 13, 1991, the NRC EDO issued a memorandum to identify and assign NRC staff responsibility for generic and facility-specific actions. The resolution status or disposition of each IIT staff action will be included in the Annual Reports issued by the NRC Office for Analysis and Evaluation of Operational Data (NUREG–1272 series).

Other NRC Licensees (Industrial Radiographers, Medical Institutions, Industrial Users, etc.)

AO 91–7 Multiple Medical Teletherapy Misadministrations at St. John's Regional Medical Center in Joplin, Missouri

The overall AO criterion notes that an event involving a moderate or more severe impact on public health or safety can be considered an abnormal occurrence.

Date and Place

September 1989 through March 1991; St. John's Regional Medical Center; Joplin, Missouri.

Nature and Probable Consequences

On April 12, 1991, NRC Region III was notified by the licensee that a number of cobalt-60 teletherapy misadministrations had occurred between September 1989 and March 1991. The misadministrations (defined as therapeutic doses varying more than 10 percent from prescribed doses) were discovered during a review of past treatment data in March and April 1991. On April 25, the licensee formally reported that 12 misadministrations had occurred.

Of the 12, three patients received doses 10% to 18% higher than the prescribed doses, and nine patients received doses from 10% to 27% below the prescribed doses. All misadministrations resulted from erroneous information in the treatment planning computer program. All treatments, with one exception, involved the use of wedges which consist of compensating material, such as lead, placed in the radiation beam to more evenly distribute the prescribed dose of radiation to appropriate tissue. The one exception involved an arc treatment which is a technique used to deliver a greater dose to a selected point while minimizing the dose to other areas by rotating the cobalt-60 source around the patient.

The treatment discrepancies were first discovered in March 1991 when a therapy technologist, preparing for an upcoming board certification test, pulled the files of previously treated patients to practice hand-calculated dosimetry. The technologist later informed licensee management that her results did not match the wedge-related treatment doses indicated in the patient files. On March 22, the Radiation Safety Officer (RSO) was asked to investigate the apparently conflicting results. The RSO developed a list of patients who received wedge-related treatments since the inception of that type of treatment in August 1989. On March 25, the RSO presented the list to the Radiation Oncology staff who began hand calculations of all patient treatments. Reruns of the original computer calculations also were initiated.

By March 29, the reworks supported the technologist's original finding that actual administered doses had deviated significantly from prescribed doses. All of the patients' referring physicians were subsequently notified of the dose differentials, except for one physician who had left the area. In the latter case, the patient was notified directly. Subsequently, the patients have been seen by their physicians for followup care. The licensee stated that no adverse effects have been observed to date.

Cause or Causes

In 11 of the 12 misadministrations, the licensee failed to calculate a computer program's "wedge normalization factor" in making initial dose calculations. The wedge normalization factor is described in the manufacturer's computer program instruction manual. Instead of using this factor, the licensee used different measured wedge factors which were not compatible with the computer program. The other misadministration resulted from the licensee's failure to correct the computer program as directed by the manufacturer's release notes. The manufacturer issues these notes to describe "bugs" or errors in the program that are identified following the program's production.

Actions Taken To Prevent Recurrence

Licensee

On April 12, 1991, the licensee requested an amendment to its NRC license requiring independent verification of cobalt-60 teletherapy treatment plans in order to prevent further misadministrations. In addition, the licensee has implemented an internal procedure which also requires independent verification of treatment plans prior to treatment.

NRC

On April 18, 1991, NRC Region III conducted a special safety inspection at the Medical Center in response to the cobalt-60 misadministrations. On May 10, 1991, Region III issued a Severity Level IV violation (on a scale in which Severity Levels I through V range from the most to the least significant, respectively), citing the licensee for failing to notify the NRC within 24 hours of discovery of the initial misadministration. The NRC was not notified of the misadministrations until April 12, 1991, even though the first misadministration was identified on March 29, 1991.

On April 15, 1991, Region II approved Amendment 18 of the Medical Center's teletherapy license, which requires the licensee to perform dual calculations for all cobalt-60 therapies prior to the initiation of treatment. The licensee also must maintain records of the dual verification.

* * * * *

Dated at Rockville, MD this 9th day of October 1991.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-24881 Filed 10-15-91; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from September 23, 1991 through October 3, 1991. The last biweekly notice was published on October 2, 1991 (56 FR 49915).

Notice of Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments 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. The basis for this proposed determination for each amendment request is shown below.

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 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 15, 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 request for a hearing and a petition for leave to intervene. Requests for a hearing and a 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 for the particular facility involved. 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 a 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 amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request 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 before action is taken. Should the Commission take this action, it will publish in the **Federal Register** 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 20555, 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 **(Project Director):** 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 the 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 upon a balancing of 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 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 for the particular facility involved.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: August 9, 1991

Description of amendment request: The proposed amendment would revise the Technical Specifications to extend the surveillance intervals of the Turbine Steam Stop and Control Valves from monthly to yearly and to remove both the limiting operating conditions and the surveillance requirements for the Independent Electrical Turbine Overspeed Protection System. Also included is a minor correction to a typographical error.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for extending the surveillance intervals of the Turbine Steam Stop and Control Valves, which is presented below:

In applying the standards of 10 CFR 50.92, we have concluded that the proposed Technical Specification changes would not involve a significant hazards consideration because operation of Indian Point Unit No. 2 in accordance with these changes would not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The NRC has established an annual probability acceptance criteria for turbine missile ejection of less than 5×10^{-5} for an unfavorable oriented turbine such as IP-2. The annual probabilities of an IP-2 turbine missile ejection incident presented in WCAP-11525 ['Probabilistic Evaluation of reduction in Turbine Valve Test Frequency'], range from 5.86×10^{-7} with a turbine valve inspection interval of one month to 1.42×10^{-6} with a turbine valve inspection interval of one year (both intervals occurring during the last quarter of the last year before turbine inspection). This outcome is based on a conservatively assumed 10 year inspection interval for the low pressure rotors. As noted in WCAP-11525, the probability of missile ejection from the IP-2 fully integral rotor design, at design overspeed, is sufficiently low even after 30 years of running time before an inspection. This demonstrates that the probability of a turbine missile ejection accident at the Indian Point 2 plant is well within accepted NRC criteria.

2) Create the possibility of a new or different kind of accident from any previously evaluated:

The proposed amendment reduces the frequency at which turbine valves are tested. As revealed in WCAP-11525, reducing the frequency of turbine valve testing does not result in a significant change in the failure rate, nor does it affect the failure modes for the turbine valves. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) Involve a significant reduction in margin of safety:

As noted in Response (1) and as shown in WCAP-11525, this change to the Indian Point 2 Technical Specifications will not result in a significant reduction in the margin of safety for turbine missile ejection. The probability of missile ejection remains acceptably small and within guidelines established by the NRC staff.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration for removing both the limiting operating conditions and the

surveillance requirements for the Independent Electrical Turbine Overspeed Protection System (IEOPS), which is presented below:

In applying the standard of 10 CFR 50.92, we concluded that the proposed Technical Specification changes would not involve a significant hazards considerations because operation of Indian Point Unit No. 2 in accordance with these changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The results of the WCAP-11525 evaluation demonstrate that the probability of missile generation due to overspeed is dominated by valve-related failures and that the probability of missile generation due to overspeed is well within the acceptance criteria for this event. These conclusions are made without taking any credit for IEOPS. In addition, the study demonstrates that the impact of IEOPS on reducing the probability of turbine missiles due to overspeed is minor at best. As such, this proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

This application seeks to delete the LCOs and surveillance requirements applicable to IEOPS. The IEOPS serves as a backup turbine overspeed trip device. The elimination of the IEOPS will not vary or affect any plant or turbine operating condition or parameter. As such, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The total probability of missile ejection due to turbine overspeed and running speed is 1.14×10^{-6}/year which is below the acceptance criteria of 5×10^{-5}/year. The fault tree modeling and quantification demonstrated that IEOPS has only a minor impact in reducing the probability of overspeed. The probability of missile generation at overspeed conditions is sufficiently low that the elimination of the IEOPS will not result in a violation of the 5×10^{-5} per year missile ejection acceptance criteria. As such, this proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Project Director: Robert A. Capra

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: January 30, 1991

Description of amendment request: The proposed changes would add another position to the list of positions designated to review and approve administ rative procedures governing the implementation of offsite environmental, technical, and laboratory activities.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendments would change the administrative controls governing the review and approval of Applied Science Center procedures which implement offsite environmental, technical, and laboratory activities. The amendments would supplement the current requirement that these procedures be reviewed and approved by station management by allowing them to be approved by the Production Support Department management that has authority and responsibility concerning their use.

The proposed amendments would not involve an increase in the probability or consequences of an accident previously evaluated. The amendments have no impact upon station operation and do not involve any changes to the design or operation of any equipment. The activities that are governed by the affected Applied Science Center procedures are performed offsite in support of the stations. These include, but are not limted to, environmental sample collection procedures, procedures for laboratory sample preparation and disposal, preparation of reagents, and count room procedures. The proposed changes would result in procedures of higher quality, since final responsibility for procedures review and approval would reside with management who is most thoroughly familiar with the technical issues involved.

The proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated. The changes do not have any impact upon the design or operation of plant equipment; therefore, they cannot serve to initiate a new type of accident.

The proposed amendments would not involve a reduction in a margin of safety. The changes would not impact the design or operation of any plant systems or components. Improved Applied Science Center procedures will result in enhanced offsite environmental, technical, and laboratory activities.

Based upon the preceding analysis, Duke Power Company concludes that the proposed amendments do not involve a Significant Hazards Consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, Docket Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units 1, 2 and 3, Oconee County, South Carolina

Date of amendment request: August 12, 1991

Description of amendment request: The proposed amendments would revise Technical Specification (TS) 3.8.1 to address the replacement of permanently installed radiation monitors on the Main and Auxiliary Fuel Handling Bridge and the Spent Fuel Pool Bridge with Portable Bridge Monitors. Additional fixed radiation monitors will be installed in the reactor building refueling area and the spent fuel storage area. The existing instruments, which monitor radiation levels in these areas during fuel loading and refueling operations, are being replaced due to obsolescence and unreliability.

In addition, an editorial correction is proposed for TS 3.8.4 to revise the character representing the term "less than or equal" for the k effective value.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

.... operation of the facility in accordance with the proposed amendment would not:

(l) Involve a significant increase in the probability or consequences of an accident previously evaluated

Each accident analysis addressed within the Oconee FSAR has been examined with respect to changes proposed within this amendment request. In addition, the RIA-2, RIA-3 and RIA-6 monitors are not nuclear safety related and have no impact on any system. The replacement monitors are as good or better than the monitors being replaced. The new Portable Bridge Monitors are fully capable of performing their functions. These monitors which are used only during the fuel loading and refueling operations provide local audible alarm and visual indication of radiation levels to the personnel working in the area (the new RIA-3

and RIA-6 have a local audible alarm only). Therefore, the probability or consequences of an accident previously evaluated are not significantly increased.

(2) Create the possibility of a new or different kind of accident from any kind of accident previously evaluated

Replacement of RIA-2, RIA-[3] and RIA-6 with Portable Bridge Monitors, addition of two new extended range monitors near the Fuel Handling Canal, the spent fuel pool, and the proposed change to TS 3.8.1 will in no way create any failure modes not bounded by previously evaluated accidents. Consequently, this change will not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

(3) Involve a significant reduction in a margin of safety

As mentioned earlier, replacement of the obsolete and unreliable RIA-2, RIA-3, and RIA-6 monitors with the state-of-the-art Portable Bridge Monitors and addition of two new wall mounted monitors near the Fuel Transfer Canal and Spent Fuel Pool, designated as RIA-3 and RIA-6, respectively, is clearly an improvement. The proposed TS 3.8.1 is simply to address[es] these improvements. As such, all margins of safety are preserved. Therefore, there will be no reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691

Attorney for licensee: J. Michael McGarry, III, Winston and Strawn, 1200 17th Street, NW., Washington, DC 20036

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: May 22, 1990, as revised September 5, 1991

Description of amendment request: The proposed amendment would revise the Arkansas Nuclear One, Units 1 and 2 (ANO-1&2) Industrial Security Plan (ISP) due to the security perimeter improvement project at ANO.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1 - Does Not Involve a Significant Increase in the Probability or Consequences of an Accident Previously Evaluated

The proposed change would not create the possibility of a new or different kind of accident from any previously analyzed, since the accident mitigation features of the plant are not affected by the proposed revision. The integrity of the [emergency cooling pond] ECP intake and discharge structures, which will assure access to the ultimate heat sink, will be insured by substantial passive barriers, frequent monitoring by security personnel and continual posting by security personnel should the ECP be required to act as the heat sink due to loss of Lake Dardanelle. These measures will provide ample protection against a design basis security threat.

Criterion 2 - Does Not Create the Possibility of a New or Different Kind of Accident from any Previously Evaluated

The proposed change would not create the possibility of a new or different kind of accident from any previously analyzed, since it would not introduce new systems, modes of operation, failure modes or other plant pertubations. . . . The sluice gates are only utilized for maintenance activities and are only required to be open. The [existing] barriers . . . over the ECP intake and discharge structures [are] designed with sufficient spacing such that expected debris will not cause blockage should the ECP ever be required.

Criterion 3 - Does Not Involve a Significant Reduction in the Margin of Safety

The proposed change would not involve a significant reduction in the margin of safety, since an adequate level of protection will be provided at the ECP to guard against the design basis threat, as specified in 10CFR73.1(a).

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: John T. Larkins

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: September 11, 1991

Description of amendment request: The proposed amendment would modify the surveillance requirement for performance of a CHANNEL FUNCTIONAL TEST of the Reactor Protection System (RPS) Electrical Protection Assemblies to require that the test be performed each time that the plant is in the COLD SHUTDOWN mode for more than 24 hours, unless the test has been carried out within the previous 6 months. This change to the Grand Gulf Nuclear Station has been proposed in accordance with the guidance provided by the NRC staff in Generic Letter 91-09.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

(1) This change does not affect the design or operation of any plant system.

(2) The proposed amendment removes the requirement to perform a CHANNEL FUNCTIONAL TEST of the RPS Electrical Protection Assemblies during power operation. Removal of this requirement reduces the probability of subjecting the plant to unnecessary transients and resulting challenges to safety systems. These transients can result from inadvertent scrams while in the half scram condition required to perform this surveillance.

The surveillance interval proposed provides adequate assurance of the proper operation of these assemblies. Reducing the testing frequency of these assemblies such that testing is only performed when the plant is in COLD SHUTDOWN introduces a small additional risk. The benefit to safety by reducing the probability of inadvertent challenges to safety systems more than offsets the risk to safety resulting from removing the requirement to test the RPS Electrical Protection Assemblies during power operation.

(3) The probability or consequences of an accident previously evaluated is not significantly increased. The implementation of this change will result in a net benefit to safety.

b. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

(1) The proposed change does not add, delete or modify any plant hardware nor introduce any new modes of plant operation or testing.

(2) The proposed change does not modify the method by which any safety-related system performs its function.

(3) The proposed change does not modify the method of verifying component or system operability.

(4) Therefore, operating the plant with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. This change would not involve a significant reduction in the margin of safety.

(1) The proposed change does not affect the methodology used in the offsite dose analysis nor the acceptance criteria associated with any accident analysis.

(2) The proposed change does not modify the actuation setpoints or the operation of any plant system.

(3) Therefore, the proposed change will not involve a significant reduction in the margin of safety.

Based on the above evaluation, operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: John T. Larkins

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: September 11, 1991

Description of amendment request: The proposed amendment would modify Table 3.3.4.1-2 of the Cooper Nuclear Station Technical Specifications (TS) to increase the Trip Setpoint and Allowable Value for the Anticipated Transient Without Scram (ATWS) Recirculation Pump Trip System from 1095 psig to 1126 psig and from 1102 psig to 1139 psig, respectively.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

a. The increase in the ARI/RPT [Alternate Rod Injection/ Recirculation Pump Trip] setpoint does not affect the probability of an ATWS event occurring. The change is related only to the ability of these features to mitigate an ATWS event and not to event precursors. The only other type of FSAR [Final Safety Analysis Report] accident potentially impacted by this change is an inadvertent Recirculation Pump Trip (Section 15.3.1). The likelihood of this event occurring is actually lessened since raising the trip setpoint moves it farther above normal operating RPV [Reactor Pressure Vessel] pressure. Thus, the chances of a spurious RPT during normal operation, as well as during other plant transients, is decreased. The above is also true of an inadvertent reactor scram via ARI, although this event is not separately considered in the FSAR since reactor scram is a designed safety feature.

b. Raising the ATWS setpoint also does not affect accident consequences. The design of the ARI/RPT logic and hardware in unchanged. The system will still respond to adequately mitigate the consequences of an ATWS as described in the FSAR and remains in full compliance with the intent of 10CFR50.62. All analyzed ATWS events remain within established limiting parameters and there is no increase in radiological release due to raising the setpoint. No other plant equipment needed to mitigate the consequences of an accident is affected.

c. Thus, the probability or consequences of a previously analyzed accident are not significantly increased by the proposed change.

2. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

a. The proposed change does not install any new plant equipment or introduce any new failure mechanisms not already considered in UFSAR [Updated FSAR] safety analyses. No new plant procedures or operating modes are created. Plant monitoring capability is unaffected.

b. The ATWS-ARI/RPT system serves only as a backup to other existing safety-related systems. The increased setpoint ensures that the system is less likely to produce spurious RPTs while continuing to fulfill its intended function. Modification of the setpoint in no way creates the possibility of a malfunction of other plant equipment not already considered in the FSAR.

c. Therefore, there is no possibility of a new or different kind of accident from any previously analyzed.

3. This change would not involve a significant reduction in the margin of safety.

a. Safety margin is established through the GGNS [Grand Gulf Nuclear Station] safety analyses as reflected in the Technical Specifications and Bases. With the proposed change, the ATWS-ARI/RPT continues to provide adequate protection for anticipated transients in which the normal scram paths fail, as stated in the Bases for TS 3/4.3.4. The system continues to meet the letter and intent of 10CFR50.62. As shown by new and existing safety analyses, it also continues to meet established ATWS performance criteria limits for GGNS.

b. With regard to the margin of safety associated with other plant systems, this change has no impact except to increase the margin of safety related to those systems for which ARI/RPT serves as a backup.

c. Thus, this change will not involve a significant reduction in the margin of safety.

Based on the above evaluation, Entergy Operations, Inc. has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: John T. Larkins

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 26, 1991

Description of amendment request: The proposed request would change the requirements of Technical Specification 3.7.1.3, Auxiliary Feedwater Storage Tank. This proposed change would revise the minimum volume requirement for this tank from 518,000 to 485,000 gallons.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change cannot increase the probability of a previously evaluated accident because the AFST has no accident initiation potential. The proposed change has been evaluated by analysis and the bounding events have been chosen to assure that the AFST has an adequate volume of water prior to RHR cut-in. No AFW performance parameters are affected; therefore, the consequences of a previously evaluated accident do not increase.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The purpose of the AFST is to mitigate an accident and the proposed level change cannot create the possibility of a new or different accident. The limiting scenarios were analyzed and the proposed Technical Specification value was chosen to ensure that adequate AFST volume is available for previously evaluated accidents.

3. The proposed change does not involve a significant reduction in the margin of safety.

The original analysis utilized overly conservative assumptions in the calculation of the AFST required volume which resulted in a Technical Specification minimum required AFST volume of 518,000 gallons.

The current analysis determines the water requirements for various accident scenarios which are combined with water losses for the range of single failures postulated. This

results in a limiting case of 471,000 gallons. The current analysis is more accurate while remaining conservative and conforms with the regulatory requirements.

Margin of safety can be defined as the difference between the ultimate failure and the NRC acceptance criteria. Since the current analysis stays within the NRC acceptance criteria ([Standard Review Plan] SRP 10.4.9) the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: Suzanne C. Black

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 30, 1991

Description of amendment request: The proposed change would replace the two original toxic gas monitoring channels in each unit with three state-of-the-art toxic gas monitoring channels. The actuation logic would also be revised to provide a two out of three (2/3) logic for a High Toxic Gas actuation signal and monitor failure actuation logic, as opposed to the current one-out-of-two (1/2) and two-out-of-two (2/2) logic, respectively.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The addition of a third channel of toxic gas monitoring would not increase the probability of a previously evaluated accident because the toxic gas analyzers have no role in the initiation of an accident. Consequences of a previously evaluated accident would not increase because a third monitor would provide additional redundancy and reliability to the current monitoring system. Therefore, a more credible toxic gas monitoring system would be in place, and the probability or consequences of an accident previously evaluated would not be significantly increased.

2. The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change would not require the toxic gas monitoring system to perform any safety function for which it is not already designed or required to perform. Adding a third analyzer to the monitoring system for each Unit would provide additional redundancy in the detection of toxic gas release. For these reasons, the proposed change would not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The decrease in probability of actuation when required for the high toxic gas actuation signal and increase in probability of spurious actuation are slight and do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: Suzanne C. Black

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: August 30, 1991

Description of amendment request: There are three parts to the request:

(1) Axial Flux Difference (AFD). The AFD changes are administrative changes to clarify the ACTION statement for Specification 3.2.1 and 4.2.1.1. The wording of the ACTION statement is changed, but the function is not. All of the requirements of the specification remain intact. There is also a change made to the Surveillance Requirements so that unnecessary logging of AFD is not performed after the AFD monitor is made operable. The rationale for this is that determination of the operability of the AFD Monitor is made by the plant. The manual logging of AFD for 24 hours after the Monitor Alarm is determined operable is an unnecessary burden on the operators.

(2) Moderator Temperature Coefficient (MTC). The MTC limit has been relocated to the Core Operating Limits Report (COLR) by a previous amendment, so there is no explicit change to the Technical Specification MTC limit. The methodology by which the End-of-Life (EOL) moderator density coefficient (a safety analysis input), is calculated has been changed. This analysis specific to the South Texas Project (STP) is being added to the COLR references in Specification 6.9.1.6.b so that the MTC limit calculated by the new methodology can be used as a limit in the COLR. Since the MTC limit change does not affect the safety analysis inputs, the safety analysis remains bounding.

(3) Moveable Detection System Operability/Quadrant Power Tilt Ratio (QPTR). The proposed change is to explicitly allow the use of a unique set of four symmetric thimble pairs for QPTR verification. The Technical Specifications already specifically allow the use of these thimbles, but no provisions are made for the operability requirement that requires 75 percent of the thimbles be available before the Movable Detector System can be used for QPTR measurements. As presently written, if the 8 thimbles used for QPTR determination are operable, TS 3.3.3.2 would prevent them from being used if 75 percent of the thimbles are inoperable. Since the Bases and Technical Specifications allow the QPTR to be satisfied by 8 thimbles, there is no reason to require 75 percent in this specific circumstance. This is an administrative change only, and does not impact any operating parameters, or their limits. There is no safety implication from this change.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequence of an accident previously evaluated.

a. The AFD change requires operation within the target band in the same manner that the current specification does. This is only an administrative change for clarification.

b. The Incore Movable Detector System Operability/QPTR change is also an

administrative change to clarify the operability requirements for the Incore System, but does not affect the approved use of that system.

c. The MTC methodology change will allow STP to have a more negative EOL MTC than the present, but the actual safety analysis parameter, the moderator density coefficient, will remain unchanged. This has no accident probability impact, and the consequences remain bounded.

It is concluded that none of the components in this proposal involves a significant increase in the probability or consequences of a previously analyzed accident.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously analyzed.

a. The AFD component of this proposal does not allow operation of the plant in any way different from the current Specifications. The target band is not altered, and operation within the target band is required to the same degree as the current Specifications. This change is administrative in nature, and poses no functional change.

b. The Movable Detector System Operability/QPTR proposal is only an administrative clarification, and does not affect either plant operation or accident analyses in any way.

c. The MTC portion will expand the current EOL limit, but the parameters used in the safety analysis remain unchanged. The safety analysis remains bounding for any accident types.

Since there is no impact on plant operation from this proposal, and there is no change in safety evaluation assumptions, it is concluded that there is no possibility of a new or different kind of accident from those previously analyzed.

3. The proposed amendment does not result in a significant reduction in the margin of safety.

a. For the reasons given above, the AFD change does not impact the margin of safety. There is no change to the target band, or the requirements to be within the target band. The removal of the Surveillance Requirement to log AFD for 24 hours after the AFD Monitor is restored to operability is consistent with the MERITS improvement program. The rationale is that, once the AFD Monitor Alarm is determined to be fully operable, there is no reason to require continued logging by Technical Specifications.

b. The Movable Detector Operability/QPTR proposal is completely administrative. It clarifies that, when using the unique set of 8 symmetric detectors already allowed, there is no reason to access 75% of the incore thimbles to declare the system operable. This will have no impact on the margin of safety.

c. The last component of this proposal, the MTC methodology to relax the negative EOL limit, has no reduction in the margin of safety. The most negative EOL MTC limit is generated to assure that the moderator density coefficient, which is the parameter used in the safety analysis, remains below its limiting value. The new MTC methodology removes overly conservative assumptions made in converting between the MTC and MDC, but does not alter the safety analysis inputs.

It is concluded that there is no reduction in the margin of safety for this proposal.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: Suzanne C. Black

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: August 7, 1991 (Reference LAR 91-07)

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to change Section 6.0 of the TS regarding the offsite review committee. The specific TS changes proposed are as follows:

(1) TS 6.5, "Review and Audit," 6.6, "Reportable Event Action," 6.7, "Safety Limit Violation," and 6.10, "Record Retention," would be revised to change all references from General Office Nuclear Plant Review and Audit Committee (GONPRAC) to Nuclear Safety Oversight Committee (NSOC).

(2) TS 6.5.3.2, "Composition," would be revised to functionally describe the committee composition, appointment of members, and qualification requirements.

(3) TS 6.5.3.3, "Alternates," would be deleted.

(4) TS 6.5.3.5, "Meeting Frequency," would be revised to eliminate reference to the committee meeting frequency during the first year of plant operation.

(5) TS 6.5.3.6, "Quorum," would be revised to eliminate reference to alternates and to redefine the requirements for a quorum.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed TS changes are administrative in nature and specify requirements to ensure that committee members have a high degree of experience and technical capability. The proposed changes do not affect accident evaluations.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed TS changes are administrative in nature and do not affect any plant systems, plant operations, or the type of accidents that might occur at Diablo Canyon.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The proposed changes are administrative in nature and do not affect the margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: Theodore R. Quay

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388 Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: September 4, 1991

Description of amendment request: The proposed amendments would make changes to the technical specifications 4.5.1.c.2 such that the High Pressure Coolant Injection (HPCI) system is verified to develop a flow of at least 5000 gpm against a test line pressure of greater than or equal to 245 psig when measured at the pump discharge

centerline when steam is being supplied to the HPCI turbine at 150 ± 15 psig.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. This proposal does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The change addresses a condition where there exists an inadequate basis for a surveillance requirement to demonstrate HPCI operation at the low end of its available operating RPV pressure range. The change does not question the capability of the HPCI system to perform its intended design function and does not affect the ability of the plant to deal with a high or low pressure LOCA. High pressure operation is demonstrated under a different surveillance requirement which is unaffected by this change. While HPCI operation is assumed in the large break accident analysis for reactor pressures down to 150 psig, its contribution to core reflood rate and thus to peak cladding temperatures is small.

The change provides an acceptance parameter which is within the design capabilities of the HPCI system. The parameter is sufficient to meet the intent of the surveillance to demonstrate the HPCI system capability to inject 5000 gpm to the RPV at a nominal pressure of 150 psig.

II. This proposal does not create the possibility of a new or different type of accident from any accident previously evaluated.

Plant operation in accordance with the proposed change remains bounded by the existing safety analyses given in the FSAR. The change ensures the intent of the surveillance is met and that the HPCI system has the capability of performing as designed.

III. This change does not involve a significant reduction in a margin of safety.

The margin of safety maintained by this Technical Specification is a function of the operation of all ECCS operating in their prescribed modes. Protection against a low pressure LOCA is provided by the low pressure ECCS with only a minor contribution from HPCI under large break LOCA scenarios. The HPCI system is shown to be capable of providing the required flow at higher pressures by design and period tests.

No physical changes to the system or its initiation logic functions are proposed. The change provides only an acceptance parameter which is within the design capability of the HPCI system. This ensures the intent of the surveillance is met and that the HPCI system has the capability to perform as designed.

Periodic test performance will ensure that the system meets the revised requirements. Additionally, documented surveillance results show compliance with current Technical Specification requirements.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, D.C. 20037

NRC Project Director: Walter R. Butler

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of amendment request: April 12, 1991 as supplemented by letter dated July 12, 1991.

Description of amendment request: The proposed amendment would revise the Technical Specification (TS) limiting conditions of operation and surveillance requirements to permit repositioning of rod cluster control assemblies (RCCA's) between 225 and 232 steps withdrawn during power operation. This change is part of a program which is expected to yield even distribution of wear for RCCA's.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed RCCA repositioning program has been evaluated by Yankee Atomic Electric Company (YAEC) with respect to its affect on reactor physics, transient analysis (non-LOCA), LOCA analysis, mechanical analysis and fuel management. The evaluations by YAEC and NHY have determined that the proposed changes do not involve a Significant Hazards Consideration pursuant to 10 CFR 50.92 as discussed below:

a. Do the changes involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The affect of control rod bank and shutdown rod bank repositioning at Seabrook Station has been evaluated by the Yankee Atomic Electric Company (YAEC). The YAEC evaluation determined that allowing control rod banks and shutdown rod banks to have a variable fully withdrawn position between 225 steps withdrawn and 232 steps withdrawn, inclusive, versus the current parked position of 228 steps withdrawn will have an insignificant affect on the Updated Final Safety Analysis Report (UFSAR) Chapter 15 accident analyses (both non-LOCA and LOCA transients). The bases for this determination are as follows:

Reactor Physics Considerations

The proposed RCCA repositioning program involves the axial repositioning of both the control rod banks and the shutdown rod banks between 225 steps withdrawn and 232 steps withdrawn, inclusive. The program would replace the stationary parked position of 228 steps withdrawn, which is required by the current Technical Specifications 3.1.3.5, "Shutdown Rod Insertion Limit," and 3.1.3.6, "Control Rod Insertion Limits." The proposed RCCA repositioning program will consist of monthly repositioning of both the shutdown rod banks and the control rod banks (excluding Control Bank D) by one step within the 225 - 232 step withdrawn range during power operation. Control Bank D is excluded from the program since this control bank is used as required for small incremental reactivity changes such as boron dilutions or small load changes. This control bank is maintained within the requirements of the Technical Specification Figure 3.1-1 rod insertion limits. Since both control rod banks and shutdown rod banks would be allowed to be inserted further into the core, the potential impact on axial and radial power distribution profiles as well as temperature dependent shutdown margins have been evaluated by YAEC. The conclusions of the YAEC evaluation are as follows:

The 228th step withdrawn position is actually 1.48" above the top of the active fuel region. If rods were repositioned to the 225th step withdrawn position, they would be approximately .4" inserted into the active core region. Yankee Atomic Electric Company has determined that repositioning the control rod banks and the shutdown rod banks at the 225th step withdrawn position will have an insignificant affect which is not quantifiable within the accuracy of their computer model SIMULATE-3 for both axial and radial power distributions, critical boron concentrations and temperature dependent shutdown margins during Cycle 1 and Cycle 2. The YAEC Topical Report 1659 for the SIMULATE-3 computer model was accepted by the NRC for referencing on February 20, 1990.

The Cycle 1 and Cycle 2 core designs each result in the 225th step withdrawn being approximately .4" inserted into the active core region. The fuel vendor will be informed that the RCCA repositioning program should be accounted for in subsequent core designs and safety analyses.

Transient Analysis Considerations

As stated above, YAEC has determined that there is no significant effect on axial or radial power distributions due to control rod banks and shutdown rod banks insertion at 225 steps withdrawn consistent with the proposed RCCA repositioning program. Since there is no significant effect on power distributions with insertion at 225 steps withdrawn, there will be no power distribution related effect on the UFSAR Chapter 15 accident analyses. Therefore, the proposed RCCA repositioning program does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The RCCA repositioning program also allows for the control rod banks and shutdown rod banks to be withdrawn to 232

steps, four steps higher than the current Technical Specification limit. Withdrawing control rod banks and shutdown rod banks further out of the core results in a longer time for insertion of these rod banks into the core. Technical Specification 3.1.3.4 states that for Modes 1 and 2:

The individual full-length (shutdown and control) rod drop time from the fully withdrawn position shall be less than or equal to 2.2 seconds from beginning of decay of stationary gripper coil voltage to dashpot entry with:

a. T_{avg} for each loop greater than or equal to 551° F, and

b. all reactor coolant pumps operating.

Rod drop times from 228 steps withdrawn have been measured twice at Seabrook Station. The maximum measured rod drop time from the 228th step withdrawn under the Technical Specification required conditions was 1.45 seconds. Yankee Atomic Electric Company has conservatively calculated the additional drop time related to the extra four steps withdrawn to be .048 seconds utilizing Updated Final Safety Analysis Report (UFSAR) Figure 15.0-4, RCCA Position Versus Time to Dashpot. The total calculated drop time of 1.498 seconds from a position of 232 steps withdrawn is still well within the 2.2 seconds requirement of Technical Specification 3.1.3.4, Rod Drop Time. Additionally, NHY will not implement the RCCA repositioning program for the positions above 228 steps withdrawn until rod drop times at these positions have been measured and have been determined to meet the drop time requirement of Technical Specification 3.1.3.4. Therefore, the proposed RCCA repositioning program does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Loss of Coolant Accident (LOCA) Considerations

The impact of the RCCA repositioning program on the following areas has been evaluated by YAEC:

Large and Small Break LOCA Analyses
Hot Leg Switchover Calculation
Post-LOCA Long-Term Core Cooling

The small break LOCA analysis considers a top-skewed power shape and, therefore, could potentially be affected if the most limiting axial power shapes were affected by the proposed RCCA repositioning program. It has been determined by YAEC, as asserted above in the Transient Analysis Considerations, that the affect on power distributions from the repositioning program are insignificant. Additionally, rod drop times as asserted above in the Transient Analysis Considerations are not significantly increased by the RCCA repositioning program. It can, therefore, be concluded that the small break LOCA analysis will not be affected by the proposed RCCA repositioning program and the probability or consequences of such accidents are not increased. Additionally, the RCCA repositioning program does not affect large break LOCA analysis since power distributions are not significantly affected and rod insertion is not credited during such an event.

The post-LOCA long-term core cooling analysis and the hot leg switchover calculation address the potential for recriticality and boron precipitation. The key parameters considered in this analysis are initial full power critical boron concentration and critical boron concentration under cold shutdown conditions (post-LOCA). It has been determined by YAEC as asserted above in the Reactor Physics Considerations that inserting the control rod banks and the shutdown rod banks .4" into the active core region has an insignificant impact on critical boron concentrations. Therefore, it is concluded that the post-LOCA long-term cooling analysis is not affected by the RCCA repositioning program.

Mechanical Considerations

The mechanical impact of implementations of the RCCA repositioning program has been evaluated by YAEC. This evaluation addressed the following areas:

RCCA Tip Characteristics
LOCA Hydraulic Forces
Mechanical Integrity

The evaluation of RCCA tip characteristics consisted of determining whether repositioning rods from 225 steps withdrawn to 232 steps withdrawn combined with the characteristics of the RCCA tips (geometry, material composition, etc.) would reduce the likelihood that the rods would perform their function during design basis events. Chapter 4 of Updated Final Safety Analysis Report and as-built drawings show that withdrawing rods to the 232th step withdrawn still ensures that the tips of the RCCAs remain engaged in the guide thimbles, thereby ensuring that alignment between the RCCA fingers and the guide thimbles is always maintained. At a position of 232 steps withdrawn, the tips of the RCCAs are approximately four inches below the top of the fuel rods and approximately eight inches below the top of the nozzle plate of the fuel assembly. This positioning ensures that the amount of bearing surface area at the tip of the RCCAs (against the inner surface of the guide thimbles) remains essentially unchanged compared to the 228 step withdrawn position.

The repositioning of the RCCAs within the 225th step withdrawn and 232th step withdrawn range could position the tips so as to accumulate a higher integrated flux and, therefore, a higher rate of embrittlement than would result at the 228th step withdrawn position. Based on discussions with the fuel vendor, it is their experience that the net affect on integrated flux for similar RCCA repositioning programs is insignificant and, therefore, the rate of embrittlement of the RCCA tips is unaffected. Additionally, as discussed above, inserting the RCCAs to the 225th step withdrawn has no significant affect on axial power shapes. This leads to the conclusion that repositioning the RCCAs to the 225th step withdrawn will not lead to a significant increase in integrated exposure or embrittlement. Therefore, there is no adverse affect on the RCCA tips resulting from the proposed RCCA repositioning program.

The hydraulic forces resulting from a LOCA are applied to the RCCAs through openings in the guide thimbles within the fuel assemblies and through openings in the guide tubes in the upper internals. In the upper internals, a series of horizontal card type structures provide lateral support for the RCCA fingers at regular intervals along the length of the guide tube. Fuel assembly guide thimbles provide lateral support within the core region. Since the span lengths between lateral support locations will not be changed due to the RCCA repositioning program, forces and stresses will not be increased significantly. Therefore, there is no adverse affect due to LOCA hydraulic forces resulting from the proposed RCCA repositioning program.

The mechanical integrity of the RCCAs during a design basis event has been evaluated. The RCCAs remain positively inserted in the guide thimbles by a safe margin even at the mechanical fully withdrawn position of 232 steps. The RCCAs and protective guide tubes (and thimbles) are subjected to the same mechanical stresses in any position from 225 steps withdrawn to 232 steps withdrawn due to the fixed lateral support locations in both the upper internals and the fuel assemblies. Therefore, the ability of the RCCAs to perform their design function during a design basis event is not affected by the proposed RCCA repositioning program.

Overall, implementation of the RCCA repositioning program will have no adverse impact on the mechanical integrity/operability of the control rod banks and the shutdown rod banks and they will be able to satisfactorily perform their design functions.

Fuel Management Considerations

Yankee Atomic Electric Company personnel have attended recent Electric Power Research Institute workshops related to RCCA fretting wear at which industry representatives reported that significant RCCA fretting wear has been experienced. Industry experience indicates that Seabrook's RCCAs are susceptible to such fretting wear. With this industry experience in mind, YAEC has advised NHY that the proposed RCCA repositioning program should be implemented as soon as possible to minimize the risk of potential damage to the Seabrook Station RCCAs. Secondly, YAEC advised that the RCCA repositioning program should initially avoid the current fully withdrawn position of 228 steps until operating time at the other positions in the 225 step withdrawn to 232 step withdrawn range approximates that of the 228 step withdrawn position. This would allow for an even distribution of fretting wear within the range.

b. Do the changes create the possibility of a new or different kind of accident from any previously evaluated.

No. The following aspects of the RCCA repositioning program have been evaluated by YAEC.

- The affect on rod drop times of withdrawing RCCAs further than allowed by the current Technical Specifications.
- The affect on power distributions, critical boron concentrations and temperature dependent shutdown margin of inserting RCCAs deeper than currently allowed by Technical Specifications.
- Whether withdrawal of RCCAs beyond the current Technical Specification limit may cause mechanical integrity/operability problems.

As asserted in the response to question a, above, the affect of withdrawing RCCAs another four steps beyond the current limit of 228 steps withdrawn has an insignificant increase on rod drop times. The total rod drop time has been conservatively calculated to increase by a total of .048 seconds from 1.45 seconds to a new value of 1.498 seconds which is still significantly less than the maximum rod drop time of 2.2 seconds required by Technical Specification 3.1.3.4, Rod Drop Time.

The affect of inserting RCCAs three steps deeper than the current limit of 228 steps withdrawn has also been determined to have an insignificant affect on power distributions, critical boron concentrations, and temperature dependent shutdown margin as asserted in the Reactor Physics Considerations response to question a. above.

An evaluation of the affect on the proposed RCCA repositioning program on the mechanical integrity/operability on the RCCAs, was performed. This evaluation determined that the proposed RCCA repositioning program does not introduce mechanical integrity/operability problems which might interfere with RCCA operation for the proposed repositioning range.

Therefore, the evaluations which have been performed have not identified any aspect of the proposed RCCA repositioning program that would lead to a new or different kind of accident from any accident previously evaluated.

c. Do the changes involve a significant reduction in the margin of safety?

No. The proposed RCCA repositioning program does not involve a significant reduction in the margin of safety. The margin(s) of safety, potentially affected by the proposed Technical Specification changes are related to Minimum Departure from Nucleate Boiling Ratio requirements for non-LOCA transients and to fuel failure assumptions included in the LOCA and rod ejection transient analyses. As discussed in response to question a. above, LOCA analyses and non-LOCA transient analyses are not significantly affected by the proposed RCCA repositioning program due to its insignificant effect on core power distributions, rod drop times and on the mechanical operability/integrity of the RCCAs. The margin of safety demonstrated by these analyses with respect to Minimum Departure from Nucleate Boiling Ratio requirements is therefore not significantly reduced by the proposed RCCA repositioning program. The mechanical integrity/operability of the RCCA's is also not affected by the proposed RCCA repositioning program. The RCCAs will satisfactorily perform their design function during normal or postulated accident conditions. RCCA mechanical integrity ensures that the margin of safety associated with potential fuel failure and fission product release is not reduced.

With consideration and evaluation of the above it has been determined that the proposed RCCA repositioning program does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire, 03833.

Attorney for licensee: Thomas Dignan, Esquire, Ropes & Gray, One International Place, Boston, Massachusetts 02110-2624

NRC Project Director: Walter R. Butler

Public Service Electric & Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of amendment request: April 2, 1990

Description of amendment request: The proposed change would increase the allowable isolation time associated with the feedwater control valves. Salem, Units 1 and 2 Technical Specification (TS) 3.3.2.1 Table 3.3-5 would be revised to a less than or equal to 10 seconds response time for all Feedwater Isolation functions except Steam Flow in Two Steam Line High - Coincident with Tavg - - Low Low. Its Feedwater Isolation would be changed to a less than or equal to a 15.0 seconds. The proposed amendment would also revise Unit 1 TS 3.6.2.1 Table 3.6.1 and Unit 2 TS 3.6.3 Table 3.6.1 to a less than or equal to 9 seconds response time for the Feedwater Isolation function.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes to the Technical Specifications:

1. Do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The effect of the increase in feedwater control valve closure time was evaluated with regard to LOCA, Non-LOCA and Containment Integrity analyses.

The increased closure time had no effect on the short term mass and energy release, and the short term subcompartment analysis. The long term mass and energy release, and the containment pressure response calculations following a LOCA improved with increased feedwater isolation times, due to the reduction in S/G secondary side temperature as the mass increased. The increase in valve closure time affected the steamline break containment analysis slightly. The current Salem Design Basis Containment Analysis for steamline break contains multiple failure assumptions. The most limiting analyses were reevaluated with the feedwater control valve closure time increased to 10 seconds. The containment pressure was maintained below the design pressure of 47 psig and the containment temperature was maintained below 340 degrees F for all analyses. It was also concluded that the single failure of a feedwater control valve is bounded by the single failure of a safeguards train assumed in the Salem Safety Analysis Report.

Therefore, it may be concluded that the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do not create the possibility of a new or different kind of accident from any accident previously evaluated.

No physical plant modifications or new operating configurations result from these changes. The proposed changes do not adversely affect the design or operation of any system or component important to safety. The increase in feedwater control valve closure time is justified by analysis and controlled by the Technical Specifications.

Therefore, no new or different accident from any previously evaluated will be created.

3. Do not involve a significant reduction in a margin of safety.

Existing LOCA, Non-LOCA and Containment Integrity analyses were evaluated to determine the affect of an increase in feedwater control valve closure time. The results of these analyses demonstrated that this increase does not reduce the existing margin of safety. The design limit valve [value] for DNBR is maintained in all cases (i.e. DNBR remains greater than or equal to 1.3). The most limiting containment integrity analyses, reevaluated with the increase in valve closure time, did not exceed the containment design pressure of 47 psig or a containment temperature of 340 degrees F.

The change also results in consistent Containment Isolation closure times specified in Salem, Units 1 and 2 Technical Specifications.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Salem Free Public library, 112 West Broadway, Salem, New Jersey 08079

Attorney for licensee: Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C., 20005-3502

NRC Project Director: Charles L. Miller

Southern California Edison Company, et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: September 17, 1991

Description of amendment request: The amendment application consists of Proposed Technical Specification Change No. 244 to Provisional Operating License No. DPR-13. The proposed change is a request to revise Technical Specifications Section 3.2, "Chemical and Volume Control System"; Section 3.3.1, "Operating Status for Safety Injection and Containment Spray Systems"; Section 3.3.3, "Minimum Boron Concentration in the Refueling Water Storage Tank (RWST) and Safety Injection (SI) Lines and Minimum RWST Water Volume"; and Section 4.2.1, "Safety Injection and Containment Spray System Periodic Testing." A new Technical Specification Section 3.3.6, "Trisodium Phosphate (TSP) in the Containment Racks" is to be created.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of any accident previously evaluated?

The proposed change results in the following three major changes to the Technical Specification: increase in the quantity of TSP to be stored in the containment racks, reduction to the RWST boron concentration upper limit, and provision for a maximum limit for the combined RWST, BAST, and RCS boron concentration. Action requirements are provided if the RWST boron concentration upper limit is exceeded. The proposed change represents increased Technical Specification requirements and are necessary to ensure that the containment water pH remains within the required limits following an accident. Reducing the RWST boron concentration upper limit and providing a maximum limit for the combined RWST, BAST, and RCS born concentration do not preclude these systems from performing any of their functions.

The probability of any accident previously evaluated is not dependent upon the quantity of TSP stored in the containment racks. Nor is it dependent upon the maximum potential boron inventory available to the post-accident containment. Therefore, the proposed change does not involve a significant increase in the probability of any accident previously evaluated.

The proposed change will ensure that the containment water pH will be maintained between 7.0 and 7.5 in a post-accident environment. The proposed change does not preclude any system from performing its post-accident functions. Nor does it have any adverse impact on containment equipment subject to spray or in contact with the containment water during various recirculation events. Therefore, the proposed change does not involve a significant increase in the consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change will ensure that the existing Technical Specification requirements for the containment water pH are satisfied. The existing minimum TWST boron concentration of 3,750 ppm satisfies the requirements for RWST function. Establishing an upper limit to the total boron inventory from the RWST, RCS, and the BAST has no adverse impact on these systems to perform their intended functions. Therefore, operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Requirements for minimum containment water TSP limits in the existing Technical Specifications are based on calculations that did not include BAST contents as potential source of borated water in the containment following a LOCA. Revised calculations including the BAST show that the pH could have been below the Technical Specifications lower limit. Any loss of margins due to the additional borated water will be restored by imposing limits on the total boron inventory in the RWST, BAST, and RCS, and by the additional TSP in the containment racks as proposed by this change. The post-accident containment water pH will remain within the range of 7.0 and 7.5. Therefore, operation of the facility in accordance with this proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713

Attorney for licensee: James A. Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770

NRC Project Director: James E. Dyer

Previously Published Notices of Consideration of Issuance of Amendments To Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Duke Power Company, et. al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: August 12, 1991

Description of amendment request: The proposed amendment would change the minimum allowed air flow through the Control Room Area Ventilation System filter unit from 5400 cfm to 4000 cfm.

Date of publication of individual notice in Federal Register: September 23, 1991 (56 FR 47969)

Expiration date of individual notice: October 23, 1991

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: September 25, 1991

Brief description of amendment request: The amendment changes the Technical Specifications by adding a note to the emergency diesel generator test frequency table to not require the test failure on August 20, 1991, to count for adjustment of test frequency of the "A" diesel.

Date of publication of individual notice in **Federal Register:** October 1, 1991 (56 FR 49802)

Expiration date of individual notice: Comment period expires October 31, 1991; Notice period expires October 16, 1991

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of application for amendment: October 30, 1990

Brief description of amendment request: The proposed amendments would replace Technical Specification 3/4.6.2.2, "Spray Additive System" with a new specification entitled "Recirculation Fluid pH Control System" to be consistent with a planned plant modification which would eliminate the containment spray additive system.

Date of individual notice in **Federal Register:** September 23, 1991 (56 FR 47971)

Expiration date of individual notice: October 23, 1991

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: May 31, 1991, as supplemented August 29, 1991.

Brief description of amendment request: The proposed amendment would change Technical Specification 5.3.1, "Fuel Assemblies," to allow limited substitution of stainless steel filler rods for fuel rods.

Date of individual notice in **Federal Register:** September 25, 1991 (56 FR 48591)

Expiration date of individual notice: October 25, 1991

Local Public Document Room location: Perry Public Library, 3753 Main Street, Perry, Ohio 44081.

Notice of Issuance of Amendment To Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Arizona Public Service Company, et al., Docket No. STN 50-529 Palo Verde Nuclear Generating Station, Unit No. 2, Maricopa County, Arizona

Date of application for amendment: July 13, 1991

Brief description of amendment: This amendment grants a one-time extension to the current surveillance requirement by allowing surveillance for the diesel generators to be deferred until the next refueling outage scheduled to begin October 17, 1991, but no later than December 31, 1991.

Date of issuance: September 19, 1991

Effective date: September 19, 1991

Amendment No.: 41

Facility Operating License No. NPF-51: This amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 7, 1991 (56 FR 37576)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 19, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529 and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2 and 3, Maricopa County, Arizona

Date of application for amendments: May 17, 1991

Brief description of amendments: These amendments clarify the basis and applicability of Limiting Condition for Operation (LCO) 3.4.8.1 during the time the reactor vessel head is fully detensioned and also add maximum allowable heatup and cooldown rate figures to supplement the existing pressure/temperature limit figures. These amendments will allow normal outage activities to be conducted which require the temperature of the reactor coolant system (RCS) to be below 93° F, currently prohibited within Technical Specification Table 3.4-3, "Maximum Allowable Heatup and Cooldown Rates."

Date of issuance: September 19, 1991

Effective date: September 19, 1991

Amendment Nos.: 55, 42, and 28

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31128)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 19, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: April 30, 1991.

Brief description of amendments: The amendments add a footnote to Table 4.3-8 "Radioactive Gaseous Effluent Monitoring Instrumentation Surveillance Requirements" of the Technical Specifications (TS) to allow the use of light emitting diodes (LEDs) as check sources for four noble gas activity monitors.

Date of issuance: September 26, 1991

Effective date: September 26, 1991
Amendment Nos.: 56, 43, and 29
Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27037)
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 26, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: Phoenix Public Library, 12 East McDowell Road, Phoenix, Arizona 85004

Commonwealth Edison Company, Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of application for amendments: January 26, 1990, as supplemented April 8, 1991.
Brief description of amendments: The proposed amendment would revise the Action statement for Technical Specification 3.1.3.1, Moveable Control Assemblies, and the associated Bases section. The revision adds an Action statement to address the condition when more than one full-length control rod is inoperable but still capable of insertion into the core upon receipt of a reactor trip signal. The associated Bases section is, therefore, expanded to cover this new Action statement.
Date of issuance: September 24, 1991
Effective date: September 24, 1991
Amendment Nos.: 43, 43, 32, and 32
Facility Operating License Nos. NPF-37, NPF-66, NPF-72 and NPF-77: The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 3, 1991 (56 FR 13660)
The April 8, 1991, submittal provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 24, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P. O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: November 28, 1988, June 26, 1989, October 23, 1989, March 23, 1990 and July 26, 1991 (inadvertently published as October 10, 1989)
Brief description of amendments: The amendments revise the pressure/temperature limits in the Technical Specifications to reflect the requirements of Regulatory Guide 1.99, Revision 2.
Date of issuance: September 25, 1991
Effective date: September 25, 1991
Amendment Nos.: 132 and 127
Facility Operating License Nos. DPR-29 and DPR-30. The amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 21, 1990 (55 FR 10530)
The March 23, 1990, submittal provided additional clarifying information that did not change the initial proposed no signifcant hazards consideration determination. The July 26, 1991, submittal provided the Bases section and did not change the technical content.
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 1991.
No significant hazards consideration comments received: No
Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: February 20, 1991, as supplemented by letter dated August 6, 1991.
Brief description of amendment: The amendment lowered the pressure range at which the automatic isolation of the decay heat removal system is verified, and clarified the frequency of this surveillance from once every 18 months to once every refueling outage.
Date of issuance: September 26, 1991
Effective date: 30 days from the date of issuance
Amendment No.: 152
Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** April 3, 1991 (56 FR 13662)
The additional information contained in the supplemental letter dated August 6, 1991, was clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: June 20, 1991
Brief description of amendment: This amendment revises TS Section 4.6.1.2 to permit a one-time extension of the surveillance interval for Type B and C tests until the eighth refueling outage, currently scheduled to begin April 30, 1992.
Date of issuance: September 30, 1991
Effective date: September 30, 1991
Amendment No.: 137
Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 24, 1991 (56 FR 33956)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1991.
No significant hazards consideration comments received: No.
Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: May 28, 1991
Brief description of amendments: These amendments revise the Technical Specifications by (1) removing outdated material, (2) incorporating administrative clarifications, and (3) correcting typographical errors.
Date of issuance: September 25, 1991
Effective date: September 25, 1991
Amendment Nos.: 149, 144
Facility Operating License Nos. DPR-31 and DPR-41. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** July 10, 1991 (56 FR 31434)
The Commission's related evaluation of the amendments is contained in a

Safety Evaluation dated September 25, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units 1 and 2, Appling County, Georgia

Date of application for amendments: January 26, 1990, as supplemented January 15, 1991.

Brief description of amendments: The amendments revise Technical Specification (TS) 3/4.7 for Hatch 1 and TS 3/4.6.2.1 for Hatch 2 which would incorporate into the TSs a means for determining the suppression pool bulk temperature. The TS Bases for both units are also revised.

Date of issuance: October 2, 1991

Effective date: October 2, 1991

Amendment Nos.: 174 & 114

Facility Operating License Nos. DPR-57 and NPF-5. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 12, 1991 (56 FR 27044)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated October 2, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: July 14, 1989

Brief description of amendments: The amendments revise the radiological doses specified in the Updated Final Safety Analysis Report based on the recalculation of doses for a loss of cooling accident, a fuel handling accident, and a gaseous waste processing system failure. These recalculations reflect the original plant design without modification. The changes reflect increased doses, but remain substantially below the limits established in General Design Criteria 19, Standard Review Plan Sections 6.4 and 15.7.5, and 10 CFR Part 100.

Date of issuance: September 26, 1991

Effective date: September 26, 1991

Amendment Nos.: Amendment Nos. 128 and 19

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Updated Final Safety Analysis Report.

Date of initial notice in **Federal Register:** October 18, 1989 (54 FR 42857)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 26, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: October 15, 1990

Brief description of amendments: The amendments modify Section 6.2.2.g of the Technical Specifications deleting the requirement that the Plant Operations Manager hold a Senior Reactor Operator license.

Date of issuance: September 26, 1991

Effective date: September 26, 1991

Amendment Nos.: Amendment Nos. 29 and 20

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1990 (55 FR 53072)

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 26, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Niagara Mohawk Power Corporation, Docket No. 50-410, Nine Mile Point Nuclear Station, Unit No. 2, Scriba, New York

Date of application for amendment: April 24, 1991.

Brief description of amendment: The amendment revises the Technical Specifications 6.2.2.e and 6.2.4 to make the Shift Technical Advisor (STA) position a normally dedicated STA position, rather than the dual-role Assistant Station Shift Supervisor/Shift Technical Advisor (ASSS/STA) position currently specified. Additionally, the amendment corrects an error in Table 6.2.2-1 to alleviate potential ambiguity, and makes editorial changes in order to clarify Technical Specifications 6.2.2.e and 6.2.4.

Date of issuance: September 30, 1991

Effective date: September 30, 1991

Amendment No.: 34

Facility Operating License No. NPF-69: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** August 20, 1991 (56 FR 41584)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: December 24, 1990, as superseded April 1, 1991

Brief description of amendment: The amendment revises numerous areas of the Trojan Technical Specifications as a result of the transition to Babcock and Wilcox nuclear fuel. This change of nuclear fuel supplier for Trojan Nuclear Plant provides advanced fuel design features, improved access to the vendor's analyis, and reduced cost. Operation with the new fuel design results in increased neutron efficiency and better economy.

Date of issuance: September 30, 1991

Effective date: September 30, 1991

Amendment No.: 172

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 1, 1991 (56 FR 20043)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 30, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: February 15, 1991.

Brief description of amendment: This amendment would change the audit frequency for the Quality Assurance Program, described in Technical Specification 6.5.2.8(d), from "at least once per year" to "at least once per 24 months." This change will be consistent with the required audit frequency of 24 months identified in NUREG-0452, "Standard Technical Specifications for Westinghouse Pressurized Water Reactors."

Date of issuance: September 23, 1991

Effective date: September 23, 1991

Amendment No.: 46

Facility Operating License No. DPR-18: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 7, 1991 (56 FR 37588)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 23, 1991

No significant hazards consideration comments received: No

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: October 22, 1990, as supplemented July 30, 1991.

Brief description of amendments: The amendments clarify the TS requirements for controlling potentially flammable gases in the waste gas decay tanks.

Date of issuance: September 25, 1991

Effective date: September 25, 1991

Amendment Nos.: 148, 132

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications

Date of initial notice in **Federal Register:** December 26, 1990 (55 FR 53077)

The July 30, 1991 provided additional information which did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 25, 1991.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: August 24, 1990, as supplemented August 28, 1991.

Brief description of amendments: These amendments provide an alternative to the impractical requirement of hourly containment entries by a fire watch to compensate for an inoperable fire/smoke detector in containment. The alternative requires hourly monitoring of the containment resistance temperature detectors or containment inspections every 8 hours in the event that the required number of fire detectors are not operable within containment.

Date of issuance: September 26, 1991

Effective date: September 26, 1991

Amendment Nos. 163, 162

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1990 (55 FR 53078)

The August 28, 1991 letter provided supplemental information which did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated September 26, 1991.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Notice of Issuance of Amendment To Facility Operating License and Final Determination of No Significant Hazards Consideration and Opportunity For Hearing (Exigent or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance

with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By November 15, 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 request for a hearing and a petition for leave to intervene. Requests for a hearing and a 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 for the particular facility involved. 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 a 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.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

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 20555, 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 **(Project Director):** 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 the 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 upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: September 18, 1991, as supplemented September 18, 1991, and September 23, 1991

Description of amendment request: The amendment adds a footnote (d) to TS Table 3.5.3, Item 3a, that allows power operation to continue until an outage of sufficient duration to perform the surveillance test of TS Table 4.1-1, Item 32.a, and TS 4.6.1.2 to verify circuit adequacy, but no later than Refueling Outage No. 14.

Date of issuance: September 27, 1991

Effective date: September 27. 1991

Amendment No. 136

Facility Operating License No. DPR-23: Amendment revises the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards consideration are contained in a Safety Evaluation dated September 27, 1991.

Attorney for licensee: R. E. Jones, General Counsel, Carolina Power & Light Company, P. O. Box 1551, Raleigh, North Carolina 27602

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

NRC Project Director: Elinor G. Adensam

Dated at Rockville, Maryland, this 8th day of October 1991.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation

[FR Doc. 91–24751 Filed 10–15–91; 8:45 am]

BILLING CODE 7590–01–D

All Nuclear Power Reactors; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition of September 4, 1991, the U.S. Nuclear Control Institute and the Committee to Bridge the Gap requested the Nuclear Regulatory Commission (Commission) to institute an individual plant examination (IPE) program requesting licensees to evaluate the margin of nuclear power plants to withstand safeguards events beyond the current design basis. The Petition also submitted an Annex of September 20, 1991. The petitioner asserts as grounds for this request that (1) there is a risk from terrorist activities "beyond-the-design-basis," (2) the actual level of protection inherent in the structures and safety systems varies from plant-to-plant and that the level of physical protection inherent in security systems is likewise variable, (3) the ongoing IPE Program would be a very useful and cost-effective point-of-departure for a similar evaluation of terrorist threats, specifically, to demonstrate whether the compromise of certain collocated safety equipment from a terrorist attack still leaves adequate capability to shut down the plant and maintain it in a secure state, and (4) vulnerabilities that are identified can be eliminated or their effects reduced. The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. To meet the requirements of § 2.206, appropriate action will be taken on this request in a reasonable time.

A copy of the Petition is available for inspection in the Commission's Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555.

Dated at Rockville, Md., this 7th day of October 1991.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 91–24878 Filed 10–15–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–254 and 50–265]

Commonwealth Edison Co; Consideration of Issuance of Amendment to Facility Operating License, 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 Nos. DPR–29 and DPR–30 issued to Commonwealth Edison Company (the licensee) for operation of the Quad Cities Nuclear Power Station, Units 1 and 2, located in Rock Island County, Illinois.

The proposed amendments would change Technical Specification 4.8.H.2.b(2), which defines a differential temperature criteria for the control room emergency filtration system heater. The proposed change establishes a differential temperature requirement based upon flow, consistent with the design basis of the system.

Before issuance of the proposed license amendments, 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 amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments 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. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The safety objective of the control room air filtration unit is to provide filtered air to pressurize the control room after a design basis accident to limit control room doses within the limits of GDC-19. To accomplish this objective, outside air is passed through a roughing filter, heated to assure that relative humidity is below 70%, filtered through a HEPA filter/charcoal absorber combination and routed to a booster fan and the "B" train of the control room HVAC (heating, ventilation and air conditioning). The 70% relative humidity criteria assures that the charcoal absorbers will function efficiently to limit control room doses.

The proposed amendment provides revised operability criteria for the differential temperature requirement of the CREF (control room emergency filtration) system heater. This revised criteria is based upon the flow at which the heater operability test is performed.

The proposed Technical Specification does not involve any new operation of the plant or affect any accident initiators or precursors. The change does not involve the new installation of equipment. As such, the probability of the accident remains unchanged.

The proposed amendment does not affect the consequences of the accident. The design bases for the heater is to reduce the relative humidity of the atmosphere to the inlet of the charcoal absorbers to less than 70% to assure efficient charcoal absorber performance. To achieve a relative humidity of less than 70%, assuming that the incoming air supply is less than 95 °F wet-bulb temperature, a 12 °F[delta]T is required. The Technical Specification requirement of 15 °F[delta]T ensures that the relative humidity of the inlet air to the charcoal absorbers is less than 70% under all flow conditions. This is unnecessarily conservative when the system is successfully tested at flows grater than 1800 cfm. The proposed amendment revises the differential temperature requirement to establish a [delta]T range of 15 °F to 12 °F based on a system flow of 1800 cfm to 2200 cm, respectively. This proposed differential temperature and associated flow requirement will ensure that the relative humidity at the charcoal absorber inlet remains below 70%, provided that the incoming air supply remains below 95° wet-bulb temperature. As such, the proposed differential temperature requirement will ensure that relative humidity will be maintained at less than 70%. This in turn will ensure efficient charcoal absorber performance and thus maintain control room doses below the requirements of GDC–19.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

The design objective of the CREF System is to provide filtered outside air to pressurize the control room to limit the control room

dose during and after the design basis accident. The control room air filtration unit does not affect any accident precursors or accident initiators. The proposed amendment requests revised differential temperature criteria based on flow conditions, in order to assure that relative humidity to the inlet of the charcoal aborbers is maintained below 70%, thereby assuring control room doses are maintained below GDC–19 requirements. As such, the proposed amendment does not involve any new modes of operation and does not involve the installation of new equipment. Consequently, the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in the margin of safety.

The CREF System is designed to ensure that control room occupants are not subject to excessive radiation doses during an accident. The limiting dose which can be received by control room occupants is defined in GDC–19. The control room dose is dependent on the efficiency of the charcoal adsorbers which in turn is dependent upon the relative humidity at the inlet of the charcoal adsorbers. Regulatory Guide 1.52, "Design, Testing and Maintenance Criteria for Post Accident Engineered-Safety-Feature Atmosphere Cleanup Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants" requires that the relative humidity is maintained at less than 70%.

The existing Technical Specification requires that the heater maintain a 15°[delta]T to assure that the atmosphere at the inlet of the charcoal adsorber is maintained at less than 70% to assure efficient charcoal adsorber performance thereby maintaining control room doses within the limits of GDC–19. The 15°[delta]T is valid for the range of all temperature/humidity conditions up to an outside air temperature of 95 °F wet-bulb temperature.

The proposed amendment requests a revised criteria for the differential temperature requirement which will ensure that inlet relative humidity will be limited to less than 70%, based on outside air temperature/humidity conditions which correspond to 95° wet-bulb temperature. The requested differential temperature criteria provides a range of [delta] Ts required for the range of operable flows. As a result, control room doses will remain below GDC–19 limits.

The margin of safety is not significantly reduced with this proposed change since control room doses will be maintained below GDC–19 limits.

The proposed amendment does not involve a significant relaxation of the criteria used to establish safety limits, a significant relaxation of the bases for the Limiting Safety System Settings or a significant relaxation of the bases for the Limiting Conditions for Operation. Therefore, based on the criteria of 10 CFR 50.92(c), the proposed change does not constitute a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (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 receive 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 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 15, 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 request for a hearing and a petition for leave to intervene. Requests for a hearing and a 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 the Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021. 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 amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request 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 circumstance 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 in the Federal Register 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 20555, 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 Richard J. Barrett: 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 Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690, attorney for the licensee.

Nontimely filing 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 upon 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 September 24, 1991, 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 Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Dated at Rockville, MD, this 8th day of October 1991.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 91–24879 Filed 10–15–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–440–A, 50–346–A (Suspension of Antitrust Conditions); ASLBP No. 91–644–01–A]

October 8, 1991.

Hearing; (Staff Denial of Applications to Amend Facility Operating Licenses by Suspending Antitrust Conditions)

In the Matter of

Ohio Edison Co. (Perry Nuclear Power Plant, Unit 1, Facility Operating License No. NPF–58).

The Cleveland Electric Illuminating Co., The Toledo Edison Co. (Perry Nuclear Power Plant, Unit 1, Facility Operating License No. NPF–58) (Davis-Besse Nuclear Power Station, Unit 1, Facility Operating License No. NPF–3)

On May 1, 1991, the NRC Staff published in the Federal Register a notice stating that it had denied the September 1987 and May 1988 applications of Ohio Edison Company, Cleveland Electric Illuminating Company, and Toledo Edison Company (hereinafter referred to as "licensees") to amend the operating licenses for the Perry Nuclear Power Plant, Unit 1, and the Davis-Besse Nuclear Power Station, Unit 1, by suspending the antitrust conditions in those licenses as applied, respectively, to them. (56 FR 20,057). The notice provided that licensees or any person whose interest may be affected by the proceeding could file a request for a hearing or petition for leave to intervene by May 31, 1991.

In response to this notice, licensees filed timely hearing requests and the City of Cleveland, Ohio, (Cleveland) and the Alabama Electric Cooperative (AEC) submitted timely intervention petitions. On June 7, 1991, the Commission referred these filings to the Atomic Safety and Licensing Board Panel for the appointment of a presiding officer to rule on those submissions and to conduct any necessary proceedings. On June 13, 1991, the Chief Administrative Judge of the Panel appointed this Board pursuant to the Commission's referral.

After a prehearing conference, this Board issued a prehearing conference order (LBP–91–38) on October 7, 1991, that memorialized various preliminary rulings made at the prehearing conference, including (1) this Board has jurisdiction to conduct this proceeding; (2) the hearing requests of licensees, the timely intervention petitions of Cleveland and AEC, and the late-filed intervention petitions of American Municipal Power-Ohio, Inc., and the United States Department of Justice are granted; (3) the late-filed intervention petition of the City of Brook Park, Ohio, is denied; (4) issues put forth by licensee Ohio Edison alleging decisional bias by the NRC staff are admitted for further litigation; and (5) the parties (at their suggestion) are afforded an opportunity to submit a joint statement setting forth the "bedrock" legal issue (or issues) in this proceeding that thereafter will be the subject of summary disposition motions.

Please take notice that a hearing will be conducted in this proceeding. This hearing will be governed by the hearing procedures set forth in 10 CFR part 2, subpart G (10 CFR 2.700–.790). The Atomic Safety and Licensing Board designated to preside over the proceeding consists of Charles Bechhoefer, G. Paul Bollwerk, III, and Marshall E. Miller, who will serve as Chairman of the Board.

During the course of the proceeding, the Board may conduct an oral argument, as provided in 10 CFR 2.755, and may hold additional prehearing conferences pursuant to 10 CFR 2.752. The public is invited to attend any oral argument, prehearing conference, or evidentiary hearing, which may be held pursuant to 10 CFR 2.750–.751. The Board will establish the schedules for any such sessions at a later date, through notices to be published in the

Federal Register and/or made available to the public at the NRC Public Document Rooms.

In accordance with 10 CFR 2.715(a), any person, not a party to the proceeding, may submit a written limited appearance statement setting forth his or her position on the issues in this proceeding. These statements do not constitute evidence but may assist the Board and/or parties in the definition of the issues being considered. Persons desiring to submit a written limited appearance statement should send it to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. A copy of the statement also should be served on the Chairman of the Atomic Safety and Licensing Board. The Board will make a determination at a later date whether oral limited appearance statements will be entertained.

Documents relating to this proceeding are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC 20555; the Perry Public Library, 3753 Main Street, Perry, Ohio 44081; and the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Bethesda, Maryland, October 8, 1991.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 91-24882 Filed 10-15-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by section 2(a) of Public Law 87-693 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the three sets of rates outlined below are hereby established. These rates are for use in connection with the recovery, from tortiously liable third persons, of the cost of hospital medical care and treatment furnished by the United States (part 43, chapter I, title 28, Code of Federal Regulations) through three separate Federal agencies. The rates have been established in accordance with the requirements of OMB Circular A-25, requiring reimbursement of the full cost of all services provided. The rates are established as follows:

(1) Department of Defense

Historical costs and workload data developed through the Medical Expense and Performance Reporting System (MEPR) provide an operating cost base to which are added non-allocable costs and allowances for actual inflation and pay raises to obtain the estimates for the fiscal year under review. Costs were also added for retirement for civilian personnel and for an asset charge in lieu of a specific depreciation cost of fixed assets.

(2) Department of Veterans Affairs

The actual costs and per diem rates by type of care for the previous year are added to the estimated costs for depreciation of buildings and equipment, administrative overhead, interest on capital investment, and Government employee retirement and disability charges. These computed rates are then adjusted by the budgeted percentage change to arrive at the estimated rates for the fiscal year under review.

(3) Department of Health and Human Services

The sum of obligations for each cost center providing medical service is broken down into amounts attributable to inpatient care of the basis of the production of staff devoted to each cost center. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. In calculation of the rates, the Department's unfunded retirement liability cost and capital and equipment depreciation cost were incorporated to conform to requirements set froth in OMB Circular A-25. In addition, each cost center's obligations include all costs for accounts, such as Medicare and Medicaid collections and Contract Health funds used to support direct program operation. Inclusion of these funds yield a more accurate indication of the cost of care in HHS facilities.

These rates represent the reasonable cost of hospital, nursing home, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished by the United States in Florida hospitals, nursing homes and outpatient clinics administered by the Department of Defense, the Department of Veterans Affairs, or the Department of Health and Human Services.

For such care and treatment furnished at the expense of the United States in a facility not operated by the United States, the rates shall be the amounts expended for such care and treatment.

	Effective October 1, 1991, and thereafter		
	DOD	VA	HHS
Hospital care inpatient day:			
General medical care	701	687	1,032
Surgical care		982	
Psychiatric care		297	
Intermediate care		250	
Neurology		584	
Rehabilitation medicine		476	
Blind Rehabilitation		533	
Alcohol and drug treatment		242	
Prescription		20	
Nursing home care		204	
Spinal cord injury care		661	
Burn Center, U.S. Army Institute of Surgical Research, Brooke Army Medical Center, Fort Sam Houston, Texas	2,347		
Outpatient medical and dental treatment:			
Outpatient visit	76	148	135
Dental outpatient visit		94	

For the period beginning October 1, 1991, the rates prescribed herein superseded those established by the Director of the Office of Management and Budget on October 5, 1990 (55 CFR 40963).

Dated: October 8, 1991.

Richard Darman,

Director, Office of Management and Budget.

[FR Doc. 91-24821 Filed 10-15-91; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: John Daley, (202) 606–0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR part 213 on September 13, 1991 (55 FR 12973). Individual authorities established or revoked under Schedules A and B and established under Schedule C between August 1 and August 31, 1991, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30, 1991, will be published in a forthcoming notice.

Schedule A

The following exception was established:

Department of the Army—Army War College, Carlisle Barracks, PA

Positions of professor, instructor or lecturer, associated with courses of instruction of at least 10 months duration for employment not to exceed up to 5 years, which may be renewed in 1, 2, 3, 4, or 5-year increments indefinitely thereafter. Effective August 26, 1991.

The following exceptions were revoked:

Department of the Army—Army War College, Carlisle Barracks, PA

Five positions of Educational Specialist for employment of not to exceed 1 year: Provided, that such employment may, with the prior approval of OPM, be extended for not to exceed one additional year. Effective August 26, 1991.

Five research oriented faculty positions, GS–14/15, with appointments to be made initially for up to 3 years and thereafter extended annually if needed. Effective August 26, 1991.

Schedule B

No Schedule B authorities were established or revoked during August.

Schedule C

Department of Agriculture

One Special Assistant to the Director, Office of Public Affairs and Press Secretary. Effective August 7, 1991.

One Confidential Assistant to the Director, Office of Public Affairs, and Press Secretary. Effective August 9, 1991.

One Staff Assistant to the Manager, Federal Crop Insurance Corporation. Effective August 16, 1991.

Department of Commerce

One Special Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective August 6, 1991.

One Congressional Liaison Assistant to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective August 6, 1991.

One Special Assistant to the Secretary. Effective August 22, 1991.

One Director, Office of Consumer Affairs, to the Director, Office of Public Affairs. Effective August 27, 1991.

One Confidential Assistant to the Assistant Secretary for Export Administration. Effective August 27, 1991.

One Congressional Liaison Specialist to the Deputy Assistant Secretary for Legislative Intergovernmental Affairs. Effective August 28, 1991.

One Congressional Liaison Assistant to the Deputy Assistant Secretary for Legislative and Intergovernmental Affairs. Effective August 29, 1991.

One Confidential Assistant to the Assistant Secretary for Oceans and Atmosphere, National Oceanic and Atmospheric Administration. Effective August 29, 1991.

One Confidential Assistant to the Deputy Assistant Secretary for Trade Development, International Trade Administration. Effective August 29, 1991.

Consumer Product Safety Commission

One Special Assistant (Legal) to the Chairman. Effective August 16, 1991.

Department of Defense

Two Law Clerks to Judges, U.S. Court of Military Appeals Effective. August 16, 1991.

Department of Energy

One Director, Office of External Affairs, to the Deputy Assistant Secretary for Intergovernmental and Public Liaison. Effective August 16, 1991.

One Intergovernmental Affairs Specialist to the Deputy Assistant Secretary for Intergovernmental and Public Liaison. Effective August 18, 1991.

One Staff Assistant to the Deputy Assistant Secretary for Export Assistance, Office of International Affairs and Energy Emergencies. Effective August 27, 1991.

Department of Education

One Special Assistant to the Deputy Assistant Secretary for Student Financial Assistance Programs. Effective August 6, 1991.

One Congressional Liaison Specialist to the Director of Legislation and Congressional Affairs. Effective August 7, 1991.

One Special Assistant to the Deputy Under Secretary for Management. Effective August 7, 1991.

One Special Assistant/Operations Coordinator for America 2000, to the Chief of Staff. Effective August 9, 1991.

One Special Assistant to the Chief of Staff. Effective August 22, 1991.

One Confidential Assistant to the Executive Secretary. Effective August 22, 1991.

One Special Assistant to the Executive Secretary. Effective August 22, 1991.

One Confidential Assistant to the Executive Assistant, Office of Elementary and Secondary Education. Effective August 22, 1991.

One Confidential Assistant to the Special Advisor to the Secretary on America 2000. Effective August 22, 1991.

One Confidential Assistant to the Chief of Staff. Effective August 29, 1991.

One Confidential Assistant to the Director, Scheduling and Briefing Staff, Office of the Secretary. Effective August 30, 1991.

Department of Transportation

One Staff Assistant to the Assistant Secretary for Policy and International Affairs. Effective August 7, 1991.

One Special Assistant for External Affairs to the Administrator, Saint Lawrence Seaway Development Corporation. Effective August 16, 1991.

One Staff Assistant to the Assistant Secretary for Governmental Affairs. Effective August 21, 1991.

One Special Assistant to the Administrator, Saint Lawrence Seaway Development Corporation. Effective August 21, 1991.

One Special Assistant to the Secretary for Special Projects. Effective August 21, 1991.

One Special Assistant to the Administrator, National Highway Traffic and Safety Administration. Effective August 23, 1991.

One Public Affairs Specialist to the Director of Public Affairs, Office of the Administrator, Federal Railroad Administration. Effective August 29, 1991.

Environmental Protection Agency

One Staff Assistant to the Assistant Administrator, Office of Pesticides and

Toxic Substances. Effective August 7, 1991.

One Special Assistant to the Deputy Associate Administrator, Office of Communications and Public Affairs. Effective August 9, 1991.

One Special Assistant to the Associate Administrator for Regional Operations and State/Local Relations. Effective August 9, 1991.

One Staff Assistant to the Director, External Relations and Education Division, Office of Communications and Public Affairs. Effective August 19, 1991.

One Staff Assistant to the Deputy Administrator. Effective August 23, 1991.

Federal Emergency Management Agency

One Confidential Assistant to the Associate Director, External Affairs Directorate. Effective August 27, 1991.

Department of Health and Human Services

One Deputy to the Director, Office of Refugee Resettlement. Effective August 9, 1991.

One Confidential Assistant to the Director, Office of Coordinated Care Policy and Planning, Health Care Financing Administration. Effective August 16, 1991.

Department of Housing and Urban Development

One Staff Assistant (Speech Writer) to the Assistant Secretary for Public Affairs. Effective August 22, 1991.

One Intergovernmental Relations Officer to the Deputy Assistant Secretary for Intergovernmental Relations. Effective August 22, 1991.

One Special Assistant to the Deputy Assistant Secretary for Economic Development, Office of Community Planning and Development. Effective August 29, 1991.

Department of Justice

One Staff Assistant to the Director, Office of Americans with Disabilities. Effective August 18, 1991.

One Staff Assistant to the Deputy Assistant Attorney General, Office of Legislative Affairs. Effective August 27, 1991.

One Assistant to the Attorney General. Effective August 29, 1991.

Department of Labor

One Staff Assistant to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective August 7, 1991.

One Assistant to the Secretary's Representative, Chicago, IL. Effective August 7, 1991.

One Senior Legislative Officer to the Deputy Assistant Secretary for Congressional and Intergovernmental Affairs. Effective August 27, 1991.

National Endowment for the Humanities

One Special Assistant to the Director of Communications Policy. Effective August 7, 1991.

Office of Management and Budget

One Special Assistant to Associate Director for Legislative Affairs. Effective August 22, 1991.

One Secretary (Typing) to the Deputy Director of External Affairs. Effective August 22, 1991.

Office of National Drug Control Policy

One Confidential Assistant to the Chairman, President's Drug Advisory Council. Effective August 9, 1991.

One Staff Assistant to the Deputy Director for Demand Reduction. Effective August 16, 1991.

One Associate to the General Counsel. Effective August 23, 1991.

Occupational Safety and Health Review Commission

One Counsel to a Commissioner. Effective August 27, 1991.

Office of Science and Technology Policy

One Confidential Assistant to the Director, Office of Science and Technology Policy. Effective August 9, 1991.

Small Business Administration

One Special Assistant to the Counselor to the Administrator. Effective August 20, 1991.

Department of State

One Information Program Advisor to the Assistant Secretary, Bureau of Diplomatic Security. Effective August 30, 1991.

Department of the Treasury

One Staff Assistant (Correspondence Review) to the Executive Secretary. Effective August 7, 1991.

One Review Analyst to the Executive Secretary. Effective August 7, 1991.

One Review Officer to the Executive Secretary, Office of the Assistant Secretary for Policy Management. Effective August 8, 1991.

United States Information Agency

One Special Assistant to the Associate Director for Broadcasting. Effective August 6, 1991.

One Senior Advisor to the Director. Effective August 29, 1991.

One Staff Assistant to the Director, Office of Public Liaison. Effective August 29, 1991.

United States Tax Court

One Trial Clerk to a Judge.

Effective August 7, 1991.

Authority: 5 U.S.C. 3301; E.O. 10555, 3 CFR 1954–1958 Comp, P. 218.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91–24869 Filed 10–15–91; 8:45 am]

BILLING CODE 6325–01–M

Meeting

The Office of Personnel Management announces the following meeting:

Name: Performance Management and Recognition System Review Committee Meeting.

Date and Time: October 18, 1991, 9 a.m. to 1 p.m.

Place: Room 1350, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

Type of Meeting: Open.

Point of Contact: Ms. Doris Hausser, Chief of the Performance Management Division, room 7454, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

Purpose of Meeting: To review the Performance Management and Recognition System and make recommendations for a fair and effective performance management system for Federal managers.

Agenda: Committee goals and objectives; basic issues and challenges facing the committee; committee administration; comments and observations; public input; closing.

SUPPLEMENTARY INFORMATION: At its October 8, 1991, meeting (notice published in the **Federal Register** on July 18, 1991), the committee could not complete the day's agenda. The committee decided to convene an emergency meeting to complete the business of October 8. An additional meeting is necessary to complete the remainder of the meetings on schedule and to meet the committee's deadline for submission of recommendations to the Director of the Office of Personnel Management by November 7, 1991.

The committee welcomes written data, views, or comments concerning systems for managing and recognizing the performance of Federal managers. All such submissions received by close of business (COB) on October 16, 1991, will be provided to the committee members and included in the record of the meeting. If time permits, the committee will consider oral presentations relating to agenda items. Persons wishing to address the committee orally at a meeting should submit a written request to be heard by the deadline listed above. The request

must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and an estimate of the amount of time needed.

All communications regarding this committee should be addressed to the Point of Contact named above.

Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 91-24870 Filed 10-15-91; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-88]

Initiation of Section 302 Investigation and Request for Public Comment: Barriers To Access to the Market of the People's Republic of China

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation under section 302(b)(1)(A) of the Trade Act of 1974, as amended (19 U.S.C. 2412(b)(1)(A); request for written comments.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under section 302(b)(1)(A) of the Trade Act of 1974, as amended (the Trade Act), with respect to certain acts, policies and practices of the People's Republic of China that restrict or deny imports into the Chinese market of products from the United States. USTR invites written comments from the public on the matters being investigated.

DATES: This investigation was initiated on October 10, 1991. Written comments from the public are due on or before 12 noon, on Thursday, November 14, 1991.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Lee Sands, Director, China and Mongolian Affairs (202) 395-5050, or Holly Hammonds, Associate General Counsel (for legal issues), (202) 395-7305.

SUPPLEMENTARY INFORMATION: Section 302(b)(1)(A) of the Trade Act authorizes the USTR to initiate an investigation under chapter 1 of title III of the Trade Act (commonly referred to as "section 301"), with respect to any matter in order to determine whether the matter is actionable under section 301. Matters actionable under section 301 include, *inter alia,* acts, policies, and practices of a foreign country that are unreasonable or discriminatory and burden or restrict U.S. commerce. An act, policy or practice is unreasonable if the act, policy or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair or inequitable. Unreasonable acts, policies or practices include denial of fair and equitable market opportunities.

On October 10, 1991, the USTR determined that an investigation should be initiated to determine whether specific market access barriers in China are unreasonable or discriminatory and burden or restrict U.S. commerce. The barriers subject to investigation include barriers that would appear to be inconsistent with the multilateral rules and trade liberalization principles of the General Agreement on Tariffs and Trade (GATT) and to the multilateral codes negotiated under GATT auspices, if the People's Republic of China were a contracting party to the GATT and its related codes. In the course of the investigation, consultations will also address market access barriers that would not necessarily be inconsistent with GATT rules but which nevertheless pose significant impediments to trade. The investigation will include the following practices, where they are found to affect major U.S. export interests:

(1) Failure to publish laws, regulations, judicial decisions and administrative rulings of general application pertaining to customs requirements, or to requirements, restrictions or prohibitions on imports or affecting their sale or distribution in China;

(2) Selected product-specific and sector-specific import prohibitions, and quantitative restrictions;

(3) Selected restrictions on imports made effective through restrictive import licensing requirements;

(4) Selected technical barriers to trade, including standards, testing and certification requirements, and policy toward veterinary and phytosanitary standards that create unnecessary obstacles to trade;

In addition, we would continue to hold consultations on China's prohibitively high tariffs, some of which range from 120 to 170 percent *ad valorem.*

Investigation and Consultations

Pursuant to section 303(a) of the Trade Act, the USTR has requested consultations with the Chinese Government concerning the issues under investigation. USTR will seek information and advise from the appropriate representative provided for under section 135 of the Trade Act in preparing the U.S. presentations for such consultations.

Within 12 months after the date on which this investigation was initiated (i.e., on or before October 10, 1992.), pursuant to section 304 of the Trade Act the USTR must determine, on the basis of the investigation and the consultations, whether any act, policy, or practice described in section 301 of the Trade Act exists and, if that determination is affirmative, determine what action, if any, to take under section 301 of the Trade Act.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments on the acts, policies and practices of the Government of People's Republic of China that are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act.

Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and are due no later than 12 noon, Thursday, November 14, 1991. Comments must be in English and provided in twenty copies to: Dorothy Balaban, Office of the General Counsel, room 223, USTR, 600 17th Street, NW., Washington, DC 20506.

Comments will be placed in a file (Docket 301-88) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. (Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked "Business Confidential" in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection.)

Joshua B. Bolten,

General Counsel.

[FR Doc. 91-24860 Filed 10-15-91; 8:45 am]

BILLING CODE 3190-01-M

OVERSIGHT BOARD

National Advisory Board Meeting

AGENCY: Oversight Board.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act 5 U.S.C.(A), announcement is hereby published for a meeting of the National Advisory Board. The meeting is open to the public.

DATES: The meeting is scheduled for Tuesday, October 29, 1991, from 1 to 3 p.m.

ADDRESSES: The meeting will be held in the Office of Thrift Supervision, Amphitheater, Second Floor, 1700 G Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Oversight Board for RTC, 1777 F Street, NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENTARY INFORMATION: Section 501(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (the ACT), Public Law No. 101-73, 103 Stat. 183, 382-383, directed the Oversight Board to establish one national advisory board and six regional advisory boards.

Purpose

The purpose of the National Advisory Board is to provide information and advice to the Oversight Board and the RTC on the disposition of real property assets.

Agenda

A detailed agenda will be available at the meeting. There will be briefings from the chairman of each of the six regional advisory boards on the regional meetings held throughout the country between September 20 and October 16, 1991. Discussion will focus on the key topics from the meetings; contracting; "hard-to-sell" assets; seller financing; property taxes; properties with natural, cultural, recreational or scientific value or special significance; and selling multi-family affordable housing.

Statements

Interested persons may submit, in writing, data, information, or views on the issues pending before the National Advisory Board prior to or at the meeting. The meeting is open to the public. Seating is available on a first come first served basis.

Dated: October 9, 1991.

Jill Nevius,

Committee Management Officer, Oversight Board, Advisory Board Affairs.

[FR Doc. 91-24794 Filed 10-15-91; 8:45 am]

BILLING CODE 2222-01-M

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

Meeting

Notice is hereby given of the meetings of the Prospective Payment Assessment Commission on Tuesday and Wednesday, October 29-30, 1991, at The Madison Hotel, 15th & M Streets, Northwest, Washington, DC.

The Subcommittee on Hospital Inpatient Care will meet in Drawing Rooms I and II at 9 o'clock a.m., October 29, 1991. The Subcommittee on Hospital Outpatient and other Facility Services will convene at the same time and date in executive Chambers 1, 2 and 3.

The Full Commission will convene at 1:30 p.m. on October 29, 1991 and at 9 o'clock until 12 noon on October 30, 1991 in Executive Chambers 1, 2 and 3.

All meetings are open to the public.

Donald A. Young,

Executive Director.

[FR Doc. 91-24950 Filed 10-15-91; 8:45 am]

BILLING CODE 6820-BW-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 270-57 Regulation 14C, File No. 270-132 Rule 20a-1]

Forms Under Review by Office of Management and Budget

Agency Clearance officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request: Copy Available From: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, 450 Fifth Street, NW., Washington, DC 20549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq*), the Securities and Exchange Commission ("Commission") has submitted for OMB approval revision of the following: Regulation 14C under the Securities Exchange Act of 1934 ("Commission Act") and rule 20a-1 under the Investment Company Act of 1940. These rules set forth various requirements for the solicitation of proxies and the transmission of information statements by issuers of securities registered under Exchange Act Section 12 and by registered investment companies. With respect to: (i) Regulation 14C, approximately 95 respondents are affected for a total of 9,215 burden hours; and (ii) rule 20a-1, approximately 970 respondents are affected for a total of 94,284 burden hours. The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the tasks of the Commission's rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Projects 3235-0059, and—0158), room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 30, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-24797 Filed 10-15-91; 8:45 am]

BILLING CODE 8010-01-M

[File No. 270-104, Rule 12g3-2, File No. 270-270, Form F-6]

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272-2141.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, Washington, DC 20549.

Extension

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval extension of the following: rule 12g3-2 and Form F-6. The rule and form provide a basis for the Commission to fulfill its statutory responsibility to ensure that issuers of publicly traded securities provide investors and the marketplace with adequate information. Rule 12g3-2 affects approximately 1800 filers for a total of 1800 burden hours. Form F-6 affects approximately 339 filers for a total of 339 burden hours. The estimated burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey of the cost of the Commission's rules and forms. Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and

Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–0119, 0292), room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 4, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–24798 Filed 10–15–91; 8:45 am]

BILLING CODE 8010–01–M

[File Nos. 270–3, Regulation S–X, 270–249, Form F–1, 270–250, Form F–2, 270–250, Form F–2, 270–288, Form F–4]

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, Washington, DC 20549.

Revision

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval revision of the following: Regulation S–X; Form F–1; Form F–2; Form F–3; and Form F–4. The rules, forms and regulations provide a basis for the Commission to fulfill its statutory responsibility to ensure that issuers of publicly traded securities provide investors and the marketplace with adequate information. As proposed to be revised, Form F–1 affects 13 filers for a total of 20,965 burden hours; Form F–2 affects 6 filers for a total of 5,160 burden hours; Form F–3 affects 5 filers for a total of 1,550 burden hours; Form F–4 affects 2 filers for a total of 2,804 burden hours; and Regulation S–X does not directly affect filers but indirectly affects filers through each of the forms enumerated above. The estimated burden hours are made solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the cost of the Commission's rules and forms. Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Securities and Exchange Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549 and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235– 0258, 0257, 0256, 0325, 0009), room 3208, New Executive Office Building, Washington, DC 20503.

Dated: September 27, 1991.

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34–29797; File No. SR–CBOE–88–24]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change Regarding Certain Member Business Transactions

October 8, 1991.

On August 21, 1989, the Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b–4 thereunder,[2] a proposed rule change that, among other things would require a member that clears market maker trades to provide the Exchange prior written notice of a significant business transaction ("proposed transaction") and, in some instances, obtain prior approval by the Exchange for the proposed transaction. The proposal was noticed in Securities Exchange Act Release No. 27307 (September 27, 1989), 54 FR 41545. One comment letter was received on the proposal. An amendment to the proposal by the CBOE was noticed in Securities Exchange Act Release No. 28958 (March 11, 1991), 56 FR 11474. One comment letter was received on the amendment to the proposal. More recently, the CBOE filed a second amendment to the proposal which was noticed in Securities Exchange Act Release No. 29246 (May 29, 1991), 56 FR 25708. No comment letters were received on the second amendment to the proposal.

I. Description of the Proposed Rule Change

The CBOE proposes to add new paragraph (b) to Exchange rule 4.10 to establish its authority to review and approve significant business transactions of member clearing firms. The proposal is designed to address the concerns raised by the potential concentration of options market maker clearing business on the CBOE.

Currently, CBOE rule 4.10 provides the Chairman or President of the Exchange with the authority to suspend summarily a member or impose conditions and restrictions upon a member if the member is deficient in some manner, such as a failure to perform its contracts or insolvency. The proposal, as amended, adds paragraph (b), which applies to members that clear market maker trades. In general, the proposal provides that CBOE members clearing for market makers must provide the CBOE fifteen calendar days written notice of any proposed Significant Business Transaction ("SBT"), as that term is defined in the proposal. In addition, for certain CBOE members proposing to engage in three specific types of SBTs, the CBOE must receive 30 calendar days written notice and the CBOE may disapprove or impose conditions on the SBT. The proposal also provides, among other things, that the CBOE may impose additional financial and/or operational requirements on a member that clears market maker trades when the Exchange determines that the member's continuance in business without such requirements has the potential to threaten the financial or operational integrity of Exchange market maker transactions.

The proposal, as amended, defines an SBT as follows:

(1) The combination, merger or consolidation between a member and another person engaged in the business of effecting, executing, clearing or financing transactions in securities or futures products;

(2) The transfer to a member from another person of market maker, broker-dealer, or customer securities or futures accounts which are significant in size or number to the business of the member;

(3) The assumption or guarantee by a member of liabilities, of another person engaged in the business of effecting, executing, clearing or financing transactions in securities and futures products, in connection with a direct or indirect acquisition of all or substantially all of that person's assets;

(4) The sale by a member of a significant part of its assets to another person;

(5) A change in the identity of any general partner or a change in the beneficial ownership of 10% of any class of the outstanding stock of any corporate general partner (if the member is a partnership);

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1989).

(6) A change in the beneficial ownership of 20% of any class of the outstanding stock of a member or the issuance of any capital stock of the member (if the member is a corporation); or

(7) The acquisition by a member of assets of another person that would constitute a "business" that is "significant," as those terms are defined in section 11–01 of Regulation S-X.[3]

The proposal provides that a member must give 15 calendar days prior written notice to the President of the Exchange, or his designee ("President"), of SBTs in categories (1) through (3), above. In addition, a proposed SBT of a member in these categories would be subject to prior approval by the Exchange's Office of the Chairman ("OOC") when the member's market maker clearance activities exceed, or would exceed as a result of the proposed SBT, certain levels.[4] If an SBT exceeds the parameters, the member must give 30 days written notice to the President.

A member effecting an SBT in categories (4) through (7), above, regardless of the member's size, would only be required to give the President written notice of the SBT not later than 5 business days from the date on which the SBT becomes effective.

In considering a proposed SBT for which pre-approval is required, the OOC may consider, among other relevant matters, the following factors: (1) The effect of the proposed business transaction on the resulting clearing member organization in terms of capitalization and operational efficiency; (2) the effect of the proposed SBT upon the overall concentration of options market makers; (3) the regulatory history of the affected member organization(s), specifically as it may indicate a tendency to financial or operational weakness; and (4) the history of the affected member organization(s) with respect to late trade matching or other operational deficiencies as determined by the Clearing Procedures Committee.

Within the 30 day period, the OOC must approve the proposed SBT or disapprove or condition the proposed SBT. If the OOC disapproves or conditionally approves an SBT it must do so upon the determination that the SBT has the potential to threaten the financial or operational integrity of Exchange market maker transactions. An OOC decision disapproving or conditionally approving a proposed SBT must be delivered to the member in writing and must include a statement setting forth the grounds for the OOC's decision. The OOC also must promptly notify a member if it determines prior to the expiration of the 30 day period that a proposed transaction is approved unconditionally.

A member may appeal an OOC decision directly to the Exchange's Board of Directors ("Board") by filing an application for review with the Secretary of the Exchange within 15 days of the date of service of the decision. The review shall be conducted in accordance with CBOE rule 19.5, except that the member may waive the development of a record. The review process will not act as a stay of the decision during the pendency of the review. The Exchange will file with the Commission, pursuant to section 19(d)(1) of the Act, all final decisions to disapprove or conditionally approve a proposed SBT.

In addition to the requirements regarding proposed SBTs, the proposal also contains provisions affecting members that clear market maker trades regardless of whether they are proposing to engage in an SBT. First, the proposal provides that the OOC may impose additional financial and/or operational requirements on a member that clears market maker trades when it determines that the member's continuance in business without such requirements has the potential to threaten the financial or operational integrity of Exchange market maker transactions. Such a decision must be delivered to the member in writing and must include a statement setting forth the grounds for the OOC's decision. As in the case of a disapproved or conditionally approved SBT, the member may appeal a decision to impose additional financial or operational requirements to the Board. Second, the proposal requires a member that clears market maker trades to provide 15 calendar days written notice to the President of any proposal to terminate all or any material part of such business.

The provisions of the proposal do not preclude the CBOE from taking any other actions provided within the Exchange rules. In addition, the Exchange may exempt a member from the requirement of providing notice of a proposed SBT based on the limited proportion of market maker trades on the Exchange that are cleared by the member or on the limited importance that the clearing of market maker trades bears to the total business of the member.

II. CBOE's Rationale

CBOE states that the proposal is consistent with section 6(b)(5) of the Act in that it serves to protect investors and the public interest through the maintenance of a strong financial and operational system for the clearance of market maker transactions, and that it is not designed to permit unfair discrimination among customers, issuers, brokers, or dealers.

The CBOE states that the proposal is designed to deal with concerns raised by the concentration of options market maker business cleared through a limited number of member clearing firms. The CBOE states that the failure, or even temporary suspension, of a major clearing firm's ability to clear its market maker customers, could impair the Exchange's ability to maintain a liquid options market and might possibly cause irreparable injury to the options market as a whole.

In support of its proposal, the CBOE noted that several rules of other self-regulatory organizations ("SROs") serve as precedents for the proposal. For example, the CBOE notes that New York Stock Exchange ("NYSE") rule 325(d) allows the NYSE to raise member net capital requirements at any time. The CBOE also cites as a relevant precedent Interpretation .02 of NYSE rule 342, which involves the approval, supervision, and control of offices of a member, and Interpretation .04 of NYSE rule 401, which provides that members are expected to notify the NYSE when planning important organizational or operational changes, such as a merger or acquisition of a significant number of new customers. In addition, the CBOE notes that article III, section 38 of the National Association of Securities Dealer's ("NASD") Rules of Fair Practice provides the NASD with the power to regulate the activities of members that may have financial and/or operational problems. Finally, the CBOE suggests that the NYSE pilot program for review of specialist concentration is analogous to its proposal.[5]

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[3] 17 CFR 210 (1989).

[4] The levels triggering the pre-approval requirement are as follows: (1) 15% of cleared Exchange market maker contract volume for the most recent three months; (2) an average of 15% of the number of Exchange registered market makers as of each month end for the most recent three months; or (3) 25% of Exchange market maker gross deductions (haircuts) defined by Commission rule 15c3–1(a)(6) or (c)(2)(x) (17 CFR 240.15c3–1 (1989)) carried by the clearing member(s) in relation to the aggregate of such haircuts carried by all other market maker clearing organizations for any month end within the most recent three months.

[5] *See* Securities Exchange Act Release No. 24411 (May 12, 1987), 52 FR 17870.

III. Comments Received

A. First Options of Chicago, Inc. Letter

First Options of Chicago, Inc. ("First Options") submitted a comment on the original, unamended proposal.[6] First Options clears for a substantial number of CBOE market makers. In general, First Options recommends that the Commission disapprove the proposal as originally filed because First Options believes it imposes an undue burden on competition, is designed to permit unfair discrimination between brokers or dealers, fails to establish appropriate standards (making it incapable of fair and consistent application), and fails to provide adequate hearing procedures.[7] The following is a summary of First Options' arguments on the original, unamended proposal.

First, First Options argues that the proposal violates section 6(b)(5) of the Act because the proposal unfairly discriminates against certain CBOE members by subjecting a few of them to the prior approval procedures on a wide array of transactions involving matters unrelated to any business of the CBOE, while other members are free to engage in such transactions unburdened by the prior approval process.[8] In addition, First Options argues that even if the prior approval process were applied to all members, the proposal is overly broad and vague and lacks meaningful, articulated standards under which decisions can be rendered consistently and fairly over time as to different members. First Options also argues that the lack of standards for review of proposed business transactions will: (1) Create a substantial likelihood that decisions "will be susceptible to the vicissitudes of the Exchange staff and Board of Directors as constituted from time to time," and (2) make it impossible for an affected member to challenge effectively the OOC's findings through the review procedure.[9]

Second, First Options argues that the proposal violates section 6(b)(8) of the Act, which provides that the rules of the CBOE not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. First, First Options argues that the proposal goes beyond its stated purpose as contained in the CBOE's rule filing. According to First Options, the purpose of the proposal is to deal with Exchange concerns about increased concentration of CBOE market maker clearing in a small number of clearing firms.[10] First Options argues that the proposal requires the reporting to and approval by the Exchange of proposed transactions that may have nothing to do with increased market maker clearing concentration. For example, First Options argues that the merger or consolidation between a member and another person may not result in increased market maker clearing concentration on the Exchange.[11] In addition, First Options argues that some of the transactions covered by the proposed rule, while they deal with clearing market makers, are not limited to transactions where the affected member would increase market maker clearing business on the CBOE.[12]

First Options also argues that imposition of the approval process on only a select group of members would place these members at a severe competitive disadvantage in responding to various growth opportunities.[13] Specifically, First Options argues that the timing and ultimate outcome of business opportunities may be affected by the regulatory contingency created by the proposal. First Options believes this concern is exacerbated because the Exchange's Board of Directors, the body to whom the Chairman of the Exchange reports and the body which reviews initial decisions under the proposal, is composed of representatives of organizations that may be competing with First Options in transactions covered by the proposal or in some other way that would cause one or more of them to seek to prohibit or severely condition a proposed transaction.[14] In addition, First Options argues that the proposal raises serious concerns because it enables the Exchange to prohibit or condition transactions that may be beneficial to another exchange if the OOC determines that the transaction potentially threatens the Exchange.[15]

In addition, First Options argues that the proposal is inconsistent with section 6(b)(8) because it gives the Exchange the power to impose higher financial and/or operational standards on an *ad hoc* and anti-competitive basis.[16] First Options argues that no member, simply because it conducts a level of business on the Exchange that the Exchange believes constitutes "concentration," should be required to maintain extraordinary net capital determined on a basis different than other members and different than that required by the financial responsibility rules of the Commission or the Exchange.

Third, First Options argues that the proposal violates section 6(c)(3) of the Act, which section states that an exchange may only deny membership to, or condition the membership of, a broker-dealer if the "broker or dealer does not meet such standards of financial responsibility or operational capability * * * as are prescribed by the *rules of the exchange.*" [17] Specifically, First Options states that the proposal improperly gives the Exchange the ability to impose on certain members more onerous financial responsibility requirements than are contained in the Exchange's rules in instances where the broker-dealer is in full compliance with all applicable financial and operational standards, and, therefore, is inconsistent with section 6(c)(3).[18] In support of this

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[6] *See* letter from the law firm of Gardner, Carton and Douglas, to Jonathan G. Katz, Secretary, Commission, dated October 31, 1989 ("First Options letter"). The CBOE's filing for the proposed rule change also contained a letter dated October 11, 1988, from Jim R. Porter, Chairman, First Options, to the CBOE's Board of Directors. This letter raised arguments identical to those raised in the First Options letter.

[7] First Options letter, *supra* note 6, at 2.

[8] Section 6(b)(5) of the Act requires that the rules of an exchange, among other things, not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers or to regulate matters not related to the purposes of the Act or the administration of the exchange.

[9] First Options letter, *supra* note 6, at 8.

[10] *Id.* at 10.

[11] More specifically, First Options argues that the transactions covered by clauses four through nine of paragraph (b)(1) of the proposed rule require prior approval by the OOC, "even though such transactions do not need to result in increased market maker participation." *Id.* at 11. As originally filed, the CBOE's proposal contained nine definitions of an SBT. The CBOE's first amendment to the filing deleted two of them: (1) a merger or consolidation between a member and another person and (2) the entry into the business of clearing market maker trades by an affiliate of a member. See *infra* note 38 and accompanying text for a fuller description of the first amendment to the proposal.

[12] In particular, First Options cites clauses one through three of paragraph (b)(1) of the proposed rule. *Id.* Because the CBOE eliminated one of these clauses in its first amendment to the proposal, First Options' comment now only applies to SBTs within items (1) and (2) noted above in the proposal description section.

[13] *Id.* at 12. As discussed *infra* at note 38 and accompanying text, the CBOE amended its proposal to provide that only three types of SBTs would be subject to the pre-approval process.

[14] *Id.* at 13.

[15] *Id.* For example, First Options provides the scenario where a proposed transaction involving the combination of a CBOE clearing member and a clearing member of another exchange is disapproved because the OOC determines that the transaction potentially threatens the financial and operational integrity of CBOE market maker transactions (*e.g.*, by reducing available capital committed to the CBOE), even though the proposed transaction would benefit the other exchange by increasing the capitalization of one of its clearing members.

[16] *Id.* at 15.

[17] *Id.* at 17 (emphasis in original).

[18] *Id.* at 18.

argument, First Options maintains that Congress, in authorizing exchanges to condition membership on financial responsibility grounds, contemplated that a member would be held to specific standards contained in non-discriminatory exchange rules approved by the Commission in accordance with Section 6(b)(5) of the Act.[19]

Fourth, First Options argues that the proposal violates sections 6(b)(7) and 6(d)(2) of the Act, which Sections both require that the rules of an exchange provide a fair procedure for, among other things, the denial of membership or the imposition of a limitation on any person by the exchange with respect to access to services offered by the exchange or a member thereof.[20] First Options argues that the proposal is inconsistent with the Act because it does not provide for an oral hearing before the OOC decision and, therefore, if information is misunderstood or misinterpreted, members do not have an opportunity through cross examination, oral arguments, or the presentation of witnesses to correct mistakes that may affect the OOC's deliberation.[21] First Options further argues that an opportunity for review after an OOC decision is rendered does not correct this deficiency because there is no stay pending the appeal and it is unclear under the proposed rule whether the member has an absolute right to a hearing.[22]

Finally, First Options argues that the rules of other SROs that the CBOE cites in support of its proposal, especially NYSE rule 325(d) and article III, section 38 of the NASD's Rules of Fair Practice, bear little resemblance in purpose, effect or content to the proposal.[23] First Options argues that each of these rules does not support the Exchange's proposal because they are sufficiently different from the proposal or do not withstand scrutiny under Section 6 of the Act.[24]

B. CBOE's Response

The CBOE sent a letter to the Commission responding to First Option's comment letter.[25] During a significant market disruption, the CBOE stated, even large and well capitalized clearing firms can and do encounter financial difficulty, which in turn can limit or prevent the market makers cleared by such firms from continuing to make markets. The CBOE stated, "(i)f as few as one or two of the largest clearing firms experience financial problems, this could disrupt the activity of market makers accounting for as much as 40 or 50 percent of CBOE's volume, placing in jeopardy CBOE's ability to continue to maintain orderly and liquid markets for the benefit of investors. Obviously, the greater the percentage of market maker activity cleared by any single firm, the greater this problem becomes." [26] The CBOE re-emphasized that the primary purpose of the proposal is to prevent undue concentration of market-maker clearing business in any one clearing firm.[27]

The CBOE disagreed with First Option's assertion that the proposal should be disapproved because it is susceptible to being administered in a way that unfairly discriminates against certain CBOE members. The CBOE stated that it is necessary to provide the OOC with flexibility in reviewing transactions that have the potential to further concentrate market-maker clearing because it is not possible to foresee the many variables that may pertain to such transactions and which may be relevant to a decision of whether or not the transaction should be approved.[28] The CBOE argued that any possibility of abuse of discretion is adequately provided for in the review procedures embodied in the proposal. In addition, the CBOE asserted that, if regulatory rules were allowed to "contain only nondiscretionary and rigid standards, much of the authority of the Commission under the (Act) and the rules and regulations thereunder, as well as of the self-regulatory authorities under their rules, would be invalid." [29]

In addition, the CBOE disagreed with First Option's argument that the proposal should be disapproved because it subjects only the largest clearing members to the pre-approval procedures. The CBOE stated that only transactions by large clearing members would be likely to have any significant effect on market maker clearing concentration and that subjecting small clearing members to the requirements of the proposal would serve no useful purpose.[30] As an analogy, the CBOE cited provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("Hart-Scott-Rodino Act") [31] that apply only to certain business transactions exceeding specified size parameters. Moreover, the CBOE stated that, if the proposal were to be characterized as a burden on competition, it is one which is necessary or appropriate in furtherance of the purposes of the Act and thus permissible under Section 6(b)(8) of the Act.

The CBOE also believes that the fact that the proposal calls for pre-transaction approval, rather than after-the-fact approval, is not a reason for disapproval of the proposal. The CBOE stated that many "regulatory approval requirements apply on a before-the-fact basis, especially where, as here, they deal with significant business transactions that, once consummated, can be unwound only with difficulty." [32] The CBOE acknowledged that the need to satisfy regulatory requirements and obtain necessary approvals may affect the timing of a transaction, but that this must be taken into account when a member is determining the timetable for the transaction.

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[19] *Id.*

[20] Section 6(d)(2) specifically requires that in any such proceeding the exchange notify the respondent of, and give him an opportunity to be heard upon, the specific grounds for the action, and further requires that the exchange keep a record of such hearing.

[21] First Options letter, *supra* note 6, at 19.

[22] Under the proposal, appeals will be conducted in the manner prescribed by CBOE rule 19.5(b). First Options argues that under CBOE rule 19.5(b) it is unclear whether a member who appeals has the right to a hearing *de novo*. *Id.*

[23] *Id.*

[24] *Id.* at 20. First Options argues that NYSE Rule 325(d) "has nothing to do with business transactions of the nature that are covered by the Proposed Rule and does not impose a chilling pre-approval condition on a member's activity." (First Options letter at 20.) In addition, First Options argues that, to the extent that the NYSE Rule authorizes the NYSE to impose different net capital requirements on particular members, it is not in compliance with Sections 6(b)(5), 6(b)(8), and 6(c)(3) of the Act. First Options also argues that interpretations to NYSE rules 342 and 401 are not remotely similar to the CBOE's proposal in that the interpretations only require that the member notify the NYSE prior to effecting certain types of transactions. In addition, First Options, believes there are important distinctions between the CBOE's proposed rule and Article III, section 38 of the NASD's Rules of Fair Practice, which gives the NASD power to regulate the activities of members that may have financial and/or operational problems. First Options argues that the NASD rule, unlike the proposal, does not impose a blanket pre-approval requirement for a whole host of member business transactions but provides specific standards for determining when a member may be considered to be in or approaching financial and/or operational difficulty. Finally, First Options distinguishes the NYSE policy on specialist concentration because "allocating a monopoly privilege on a national securities exchange is a very different matter than restricting a member from engaging in free trade * * *." (First Options letter at 22.) Further, First Options argues that even if the two rules were to be treated similarly, the NYSE rule is much more narrowly drafted and only reaches situations which will result in increased concentration of specialists on the NYSE.

[25] *See* letter from Charles J. Henry, President, CBOE, to Howard L. Kramer, Assistant Director, Division of Market Regulation, Commission, dated January 25, 1990 ("CBOE letter").

[26] *Id.* at 1.

[27] *Id.* at 1.

[28] *Id.* at 2.

[29] *Id.*

[30] *Id.*

[31] 15 U.S.C. 1311 (1988).

[32] CBOE letter, *supra* note 25, at 2. For example, the CBOE cites the pre-approval requirements of NYSE rule 301(b), applicable to the transfer or lease of a membership, and the Hart-Scott-Rodino Act.

With respect to the First Options argument that the rule should be disapproved because it does not provide for a full hearing before the OOC acts to approve or disapprove a transaction, the CBOE stated that to do so may cause a long delay and that aggrieved parties would have a right of appeal to the CBOE's Board of Directors, as well as a review by the Commission pursuant to section 19(d)(2) of the Act. Nevertheless, the CBOE stated that an interested party may request a hearing so long as it understood that any such request would extend the time for OOC action beyond the normal 30 day period.[33]

The CBOE also disagreed with First Option's assertion that no clearing member should be subject to more stringent financial or operational requirements "simply because it conducts a level of business on the CBOE that the CBOE believes constitutes 'concentration'." The CBOE stated that there is "nothing either unusual or objectionable about imposing special requirements on either categories of members or individual members where there is a legitimate regulatory need to do so." [34] For example, the CBOE cites the Commission's net capital rule, rule 15c3–1, as well as the financial responsibility rules of individual SROs, as illustrations of rules that impose different requirements upon members depending on the type or volume of business they do, or permit "case-by-case variations in these requirements depending on particular circumstances that are not limited to 'emergencies'." [35]

The CBOE further asserts that the provision that an appeal of a decision by the OOC does not operate as a stay is necessary to preserve the status quo until the appeal is finally decided. Otherwise, a firm could consummate a transaction simply by filing an appeal, exposing the CBOE to potential harm from increased concentration as well as creating the problem of how to unwind the transaction if the appeal is denied.[36]

Finally, the CBOE disagreed with First Option's argument that the scope of certain provisions included within the definition of "significant transaction" goes beyond the stated purpose of avoiding undue concentration of market maker clearing business. The CBOE stated that the First Option letter construes too narrowly the intended purpose of the proposal and that all of the situations included within the definition have the potential of exacerbating the problems resulting from the high degree of concentration of market maker clearing business that already exists.[37] Therefore, the CBOE believes that all of these transactions properly fall within the stated purpose of the proposal. Moreover, the CBOE, in response to First Options' comment letter filed an amendment to the proposal to limit the type of SBTs that the Exchange may require to be submitted for prior approval.[38] Whereas the original CBOE proposal would have subjected all SBTs to OOC approval if the concentration threshold were triggered, the amendment limited the Exchange's authority under the proposal to consider only those transactions which involve:

(a) Mergers, combinations or consolidations between a member engaged in the clearance of options market making transactions and other persons engaged in the business of effecting, executing, clearing or financing transactions in securities or futures products;

(b) The transfer from another person of market maker, broker dealer, or customer securities or futures accounts which are significant in size or number to the business of the member, or

(c) The assumption or guarantee by a member of liabilities, otherwise than in the ordinary course of business, of another person engaged in the business of effecting, executing, clearing, or financing transactions in securities or futures products.

Otherwise, for all other SBTs, only fifteen calendar days written notice is required.

C. First Options' Second Comment Letter

First Options submitted a comment to the CBOE's amendment to the proposal.[39] In general, First Options states that "[w]hile the Amended Proposed Rule is an improvement over the Initial Proposal, we continue to believe that, for the reasons set forth in our Prior Letter, the Amended Proposed Rule suffers from the same defects as the Initial Proposal and should not be approved." [40]

With regard to the amendment, First Options states that it is concerned with the unnecessary breadth of the third definition of an SBT.[41] First Options states that to subject any guarantee of liabilities outside the ordinary course of business to the prior notice and review procedures of the proposal would far exceed what is necessary or appropriate and does not comport with what the CBOE states as its purpose for the rule change. Specifically, First Options states that the third clause:

> "purports to cover any type of guarantee or assumption of liability without regard to whether it is in connection with a 'combination or consolidation,' as contemplated by the CBOE in its Statement of Purposes for the Amended Proposed Rule. If (the third clause) were further revised so that it was limited to the assumption of liabilities of another broker-dealer or futures commission merchant in connection with an acquisition of all or substantially all of that person's assets, then it would be consistent with the stated purposes of the CBOE and include only those transactions that might warrant the prior review and approval procedures the CBOE is seeking to impose." [42]

D. CBOE's Second Amendment

In response to First Options second letter, the CBOE filed a second amendment to the proposal with the Commission.[43] The amendment addresses the concern First Options raised in its second comment letter by adding to the end of the third definition of an SBT the phrase "in connection with a direct or indirect acquisition of all or substantially all of that person's assets." The Exchange stated that the purpose of the amendment is to limit the Exchange's review of a guarantee or assumption of liabilities of another entity engaged in the securities and futures business only to those that are in connection with a direct or indirect acquisition of all or substantially all of that entity's assets.

IV. Discussion

The Commission has considered carefully the opinions of the commentator and the CBOE, and finds, for the following reasons, that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.

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[33] *Id.* at 3.

[34] *Id.* at 2.

[35] See NYSE rule 325(d) and CBOE rule 13.3.

[36] *Id.* at 3.

[37] *Id.*

[38] See Securities Exchange Act Release No. 28958 (March 11, 1991), 56 FR 11474.

[39] See letter from the law firm of Gardner, Carton & Douglas, to Jonathan G. Katz, Secretary, Commission, dated April 8, 1991 ("First Options second letter").

[40] *Id.* at 1.

[41] The clause provides that an SBT shall constitute the "assumption or guarantee by the member of liabilities, otherwise than in the ordinary course of business, of another person engaged in the business of effecting, executing, clearing or financing transactions in securities or futures products."

[42] First Options second letter, *supra* note 39, at 2.

[43] See Securities Exchange Act Release No. 29246 (May 29, 1991), 56 FR 25708.

The Commission agrees with the CBOE that the potential for a concentration of market maker clearing in a relatively small number of Exchange members raises serious concerns.[44] The failure, or even temporary suspension, of a major clearing firm's ability to clear market maker trades could impair the Exchange's ability to maintain fair and orderly markets because Exchange market makers most likely would be restricted in their ability to provide market depth and liquidity. This could prove to be especially disruptive during a period of extreme market volatility or of increased volume of trading. In addition, the concentration of market maker clearing business in a relatively small number of clearing members makes the Exchange's market vulnerable to market disruptions and illiquidity as a result of even a rumor of default or insolvency of one of its large clearing members.

The CBOE has attempted to strike a reasonable balance between limiting the potential harm from undue concentration in the market maker clearing business and permitting large clearing firms, after CBOE review, to engage in SBTs. Only proposed SBTs that may have a direct effect on the ability of market maker clearing firms to perform as such will be subject to review and approval by the Exchange. In addition, only those proposed transactions filed by a member whose market maker clearing activities exceed, or would exceed as a result of the proposed transaction, certain levels of clearing concentration are subject to the prior approval of the CBOE.

Likewise, the Commission believes that it is within the regulatory purview of the CBOE to be apprised of the significant business transactions of its market maker clearing firms. These firms support the whole structure of options trading by guaranteeing the performance of market makers. The financial or operational difficulties of any market maker clearing firm could jeopardize the ability of a number of market makers to function. Consequently, it is reasonable for the CBOE to require these firms to provide advance notice to the Exchange of activities that could significantly impact their financial or operational condition. Based on this information, the CBOE could then determine what, if any, action was appropriate to take.[45]

Finally, the Commission finds that it is consistent with the Act to allow the CBOE to impose additional financial and/or operational requirements on market maker clearing firms in order to ensure the financial or operational integrity of Exchange market maker transactions.

For the reasons stated above, and as discussed below, the Commission finds that the proposed rule change is consistent with sections 6(b)(5), (7), and (8), 6(c)(3), and 6(d)(2) of the Act, and, therefore, disagrees with the arguments raised by First Options.

Section 6(b)(5) of the Act requires that the rules of an exchange be designed to, among other things, protect investors and the public interest and not permit unfair discrimination between brokers and dealers. Because the proposal is designed to ensure the financial and operational integrity of Exchange market maker transactions, in particular, and the Exchange's marketplace, in general, the Commission finds that it is consistent with the protection of investors and the public interest. Moreover, the Commission believes that the CBOE has a duty, pursuant to section 6(b)(5), to ensure that market makers will be able to provide liquidity to the market. The Commission believes that the proposal, by seeking to ensure the continued viability of market maker clearing firms, is a reasonable means to help the Exchange fulfill that duty.

The Commission disagrees with First Options' argument that the proposal unfairly discriminates against large clearing firms by subjecting them to prior approval procedures for their SBTs, while smaller clearing firms are free to engage in SBTs without approval. Because the stated purpose of the proposal is to address the concerns raised by a concentration of market maker clearing business on the CBOE, it is not necessary to subject all market maker clearing members to the prior approval requirement, only the larger members. Imposition of the prior approval procedures on small clearing firms would provide little regulatory benefit. Similarly, the Commission disagrees with First Options' argument that the proposal unfairly discriminates against certain members by authorizing the CBOE to impose higher financial and operational requirements. SROs have many rules that allow them to impose operational conditions on individual members.[46] Moreover, under the CBOE proposal, such requirements would only be imposed when necessary to ensure the viability of firms clearing market maker transactions.

In addition, the Commission does not agree with First Option's argument that the proposal unfairly discriminates against large clearing members and subjects them to inconsistent OOC decisions because it lacks specific standards by which a proposed SBT may be judged. First, the proposal does contain guidelines to be followed in evaluating SBTs. These standards are sufficiently detailed as to provide affected member firms and the OOC with adequate guidance to conduct a review. Imposing more specific standards would not provide the CBOE with the flexibility necessary to reasonably evaluate the wide variety of possible proposed transactions that may be filed. Second, the proposal contains several procedural safeguards designed to eliminate the possibility of discriminatory or capricious decisions, such as the right of any party aggrieved by an OOC decision to appeal that decision to the Exchange's Board [47] and ultimately to the Commission.

Section 6(b)(8) of the Act prohibits an exchange from "imposing any burden on competition not necessary or appropriate" in furtherance of the purposes of the Act. The Commission realizes that the CBOE proposal places special notification requirements on market maker clearing firms and restrictions on the business activities of the larger of these clearing firms. Although such requirements and restrictions may pose a burden the CBOE has demonstrated that they are necessary and appropriate in

[44] Currently, there are 15 clearing members that clear CBOE market maker trades. Of these 15, four members clear over 78% of CBOE market maker trades by contract volume and over 50% of all CBOE trades by contract volume. An inability by any of these firms to clear market maker trades would have a profound effect upon Exchange trading. Further concentration of market maker clearing volume by one of these four firms only would heighten these concerns.

[45] The authority of the CBOE to be apprised of SBTs of firms clearing for market makers is similar to that granted to the Commission by the Market Reform Act of 1990 (S. 648, H.R. 3656 and H.R. 3657, 101st Cong., 2nd Sess. (1990)). In this legislation, the Commission is provided the authority to promulgate rules to enable it to perform a risk assessment of the holding companies of brokerdealers.

[46] See *e.g.*, NYSE rule 325(d) and section 38 of the NASD's Rules of Fair Practice. The Commission disagrees with First Options that these rules are not analogous to the CBOE proposal. The common principle behind these rules and the CBOE proposal is that each enables an SRO to impose certain financial or operational conditions on a member or group of members in order to address an important regulatory need.

[47] In this regard, the Commission notes that section 6.1 of the CBOE's Constitution sets forth the requirements regarding the composition of the Board. These requirements ensure that there is a fair representation of the Exchange community on the Board, and that, in turn, the Board's decisions are fair and impartial. In addition, section 6.10 of the CBOE's Constitution provides that no Director shall participate in the adjudication of any matter in which he is personally interested.

furtherance of the Act. Specifically, the Commission has weighed the fact that the proposal seeks to alleviate concerns resulting from increased concentration of market maker clearing business (*i.e.*, the Exchange's ability to provide fair and orderly markets despite the financial or operational failure of a market maker clearing member) against the potentially anti-competitive effect of the proposal that certain large clearing members would be unable to engage freely in a wide range of business transactions. The Commission finds that the proposal is consistent with section 6(b)(8) of the Act because any burdens on competition imposed by the rule are necessary and appropriate in furtherance of the purposes of the Act, mainly the protection of the financial and operational integrity of the market maker clearing system on the Exchange. This system is integral to the operation of the Exchange, and the CBOE has shown that the concentration of market maker clearing has risen to such a level that the failure of a major firm could result in substantial harm to the system.[48]

In addition, the proposal does not impose absolute barriers to growth or mergers. It does not prohibit SBTs of large market maker clearing firms, but only requires that they obtain prior approval of SBTs. Of course, it is within the CBOE's authority under the proposal to disapprove or conditionally approve a SBT, but this could only be done "if the OOC determines that such SBT has the potential to threaten the financial and operational integrity of Exchange market maker transactions," after reviewing the proposal pursuant to specific factors set forth in the proposed rules. Because an SBT only can be disapproved if it satisfies this standard, the proposal provides only a limited burden on competition and only those SBTs which would be potentially harmful to the Exchange's marketplace and investors will be prohibited. Moreover, the proposal is crafted to minimize the burden on competition because only certain large clearing firms are subject to the pre-approval requirement. Finally, for the same reasons noted above, the Commission finds that the provision of the rule that allows the CBOE to impose higher financial or operational requirements on clearing firms is consistent with section 6(b)(8) of the Act.

The Commission disagrees with First Option's argument that the proposal exceeds it stated purposes or that the pre-approval process will put some members at a competitive disadvantage. First Options argues that the proposed transactions subject to the pre-approval process have little or nothing to do with increasing market maker clearing concentration. The Commission believes that the amendments to the proposal render this argument moot. The Commission believes that each category subject to the notice and approval procedures directly affects the financial or operational integrity of a clearing firm. The Commission believes the categories of transactions subject to the approval process are sufficiently connected to a member's market maker clearing function and that, therefore, they do not exceed the proposal's stated purpose.[49]

The Commission also does not believe that the proposal will place a member at a significant competitive disadvantage in responding to business growth opportunities. The 15 day notice period is sufficiently short so as not to unduly disrupt the business planning of a market maker clearing firm while at the same time providing CBOE with adequate time to review and react to the information. As to the procedure for the OOC to approve or disapprove certain proposed transactions within 30 calendar days, this length of time should enable the CBOE to conduct a swift review so as to minimize the impact on the affected member's business opportunities. While the review process will need to be built into the firm's timetable for structuring a SBT, this procedure does not in and of itself restrict a clearing firm's ability to pursue a business opportunity.

The Commission disagrees with First Option's argument that the proposal may serve as the basis for *ad hoc* and anti-competitive determinations as to required levels of net capital. Under the proposal, the CBOE contemplates raising the financial requirements of a member only where it needs to do so in order to maintain the financial integrity of the Exchange. The proposal is similar to NYSE Rule 325(d), which provides that the NYSE may prescribe greater financial requirements upon a member. The Commission believes that it is consistent with the Exchange's regulatory responsibilities for the Exchange to require a member to hold additional net capital where there is a reasonable and justifiable need to do so.[50]

Sections 6(b)(7) and 6(d)(2) of the Act require a national securities exchange to provide a fair procedure for the disciplining of members, the denial of membership, the barring of a person from becoming associated with a member thereof, and the prohibition or limitation of a person with respect to access to services offered by the exchange or a member thereof. The CBOE proposal contains procedures that (1) provide a member with the opportunity to submit materials to the OOC; (2) permits a member to seek a hearing before an OOC decision is made; (3) require the OOC to release a written description of its determination, and (4) enable a member to appeal to the Board and the Commission. The Commission finds that these procedures bring the proposal in compliance with sections 6(b)(7) and 6(d)(2) of the Act.

First Options argues that the proposal is deficient because it does not provide for a hearing before the OOC makes its decision on a proposed SBT and that it is not evident that a member will have an absolute right to a hearing at any time during the process. The CBOE letter, however, states that "if an interested party wanted to request a hearing in connection with the submission for approval of a particular transaction, the Exchange would honor such a request so long as it was understood that any such request would extend the time for OOC action beyond the normal 30-day period." [51] Under

[48] In this regard, the Commission specifically notes that it is only addressing in this context whether the CBOE has the authority to require pre-review of SBTs. The Commission cannot address whether the use of that authority in a particular situation is anti-competitive until such situation is before the Commission on appeal. The Commission expects that, the CBOE, in using its authority under the proposed rule change will be sensitive to the pro-competitive requirements of the Act. Indeed, under Section 19(f) of the Act, the Commission would have to evaluate not only whether an SRO's rules were appropriate but also whether these rules "were applied" in a manner which imposed any unnecessary burden on competition which was not otherwise justified by the purposes of the Act.

[49] First Options also raised the argument that disapproval of an SBT may prevent the consummation of transactions beneficial to another exchange. In fact, the opposite is more likely. Many of the large CBOE clearing firms clear for market makers on other exchanges. By disapproving a potentially harmful SBT of a large clearing firm, the CBOE would not only be seeking to preserve the integrity of CBOE market maker transactions, but also could be reducing the risk that the financial failure of a large CBOE clearing firm could have a "spill over" effect onto other exchanges' floors. Nevertheless, the Commission expects that the CBOE will administer the Rule without regard to the effect it might have vis-a-vis the CBOE's competitive position with other markets.

[50] The Commission notes that it approved NYSE Rule 325(d) in 1976, and in doing so found that it was consistent with the Act. See Securities Exchange Act Release No. 11970 (January 2, 1976), 41 FR 1551 The Commission has no reason to believe that rule 325(d) is not equally valid today

[51] CBOE letter, *supra* note 25, at 3.

CBOE rule 19.4, a member requesting a hearing is entitled to make an opening statement, present witnesses and documentary evidence, cross-examine opposing witnesses and present closing arguments orally or in writing.

The Commission disagrees with First Options' argument that the proposal is deficient because there is no stay pending appeal to the Board. The appeal procedures for decisions rendered under the proposal are the same as those for an appeal from a variety of Exchange actions, all of which do not grant an automatic stay pending appeal. These include appeals from decisions regarding a person's or organization's denial of membership, bar from becoming associated with a member, or prohibition or limitation with respect to Exchange services. The proposal does not prevent, however, a member from requesting a stay pending appeal from the Exchange or the Commission.

Finally, Section 6(c)(3) of the Act provides that an exchange may deny membership to, or condition the membership of, a registered broker or dealer if, among other things, "* * * the broker or dealer does not meet such standards of financial responsibility or operational capability * * * as are prescribed by the rules of the exchange." Under the proposal, the CBOE would have the authority to deny or condition the membership of an applicant or condition the membership of an already existing member. Under section 6(c)(3), such an action must be made pursuant to an Exchange rule. The CBOE proposal, however, is a rule of the Exchange. As discussed above, the proposal sets forth several specific guidelines for the OOC to follow in considering whether to approve or disapprove a proposed SBT. Those guidelines substantially focus on the financial and operational aspects of a proposed SBT. Therefore, the Commission believes that a disapproval or conditional approval of a proposed SBT under the proposal that, in effect, acts as a denial or conditioning of membership, will be done pursuant to an Exchange rule setting forth standards of financial responsibility or operational capability.

V. Conclusion

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[52] that the proposed rule change (SR–CBOE–88–24) is approved.

[52] 15 U.S.C. 78s(b)(2) (1982).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[53]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–24872 Filed 10–15–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. SIPA–156; File No. SIPC 91–1]

Securities Investor Protection Corporation; Notice of Proposed Bylaw Change Relating to SIPC Fund Assessments on SIPC Members

October 11, 1991.

Pursuant to section 3(e)(1) of the Securities Investor Protection Act of 1970 ("SIPA"), 15 U.S.C. 78ccc(e)(1), notice is hereby given that on September 27, 1991, the Securities Investor Protection Corporation ("SIPC") filed with the Securities and Exchange Commission ("Commission") a proposed bylaw change. The Commission is publishing this notice to solicit comments on the proposed bylaw change from interested persons.

I. Description of Proposed Bylaw Change

The proposed bylaw change would amend Section 1 of Article 6 of SIPC's bylaw regarding SIPC Fund assessments on SIPC's members.[1] The proposed bylaw provides that the amount of each member's assessment for the member's fiscal year beginning in 1991 and subsequent fiscal years shall be the product of the member's net operating revenues from the securities business for such fiscal year and the assessment rate established by SIPC for such fiscal year.[2] The assessment rate shall be that percent of each member's net operating revenue from the securities business required to bring the SIPC Fund [3] to a specified target balance on the next April 1.

The term "net operating revenues from the securities business" means gross revenues from the securities business less interest and dividend expenses. The total deduction of interest and dividend expenses will not be allowed to exceed the total of all interest and dividend income. As an alternative to the proposed net operating revenues assessment base, SIPC will continue its current practice of allowing members to deduct from their gross revenues from the securities business 40 percent of interest earned on customers' securities accounts.[4]

A formula will be used to arrive at the assessment rate. Pursuant to the formula, the projected SIPC Fund will be deducted from the SIPC Fund target balance as of the next April 1 to determine the needed assessment income. The projected SIPC Fund will be determined by taking the SIPC Fund balance as of September 30 with the following adjustments: (i) deducting SIPC's assessment collections for the period from the prior April 1 to September 30, (ii) adding the amount of SIPC's estimated interest income from September 30 to the end of the next March, and (iii) deducting SIPC's estimated liquidation costs and operating expenses from September 30 to the end of the next March. The assessment rate will equal the amount of needed assessment income divided by the projected assessable revenues of New York Stock Exchange members.[5] However, if the assessment determined under the formula exceeds ½ of 1 percent of a member's gross revenues from the securities business, the assessment shall be ½ of 1 percent of that member's gross revenues from the securities business.[6]

The specified annual target balance for the SIPC Fund will be based on a net annual growth rate of 10 percent selected by the SIPC Board. This growth rate will enable the SIPC Fund to reach $1 billion by April 1, 1997.[7]

[53] 17 U.S.C. 200.30–3(a)(12) (1986).

[1] All broker-dealers registered under Section 15(b) of the Securities Exchange Act of 1934, with some minor exceptions, are SIPC members.

[2] The minimum assessment will continue to be $150 per annum.

[3] The SIPC Fund consists of cash and amounts invested in U.S. government or agency securities. As of August 31, 1991, the SIPC Fund totalled $658.9 million. In addition, SIPC has access to a $500 million line of credit established by SIPC with a consortium of banks. Further, the SIPA authorizes SIPC to borrow, through the Commission, up to $1 billion from the United States Treasury Department.

[4] As to the 40 percent deduction, SIPC indicated that its Board of Directors ("SIPC Board") will consider within the next year whether the alternative deduction should be eliminated. SIPC states that the SIPC Board did not believe that it had sufficient information as to the impact on its members had it chosen to eliminate the deduction. The SIPC Board directed the SIPC staff to gather additional information on this matter.

[5] Currently, each SIPC member is required to pay assessments at the rate of 3/16 of 1 percent of the member's gross revenues from the securities business with certain permitted deductions, with a minimum assessment of $150.

[6] The bylaw change also provides that if SIPC determines that the SIPC Fund totals or is reasonably likely to total less than $150 million, the amount of each member's assessment shall be the amount determined under the formula or ¼ of one percent per annum of such member's gross revenues from the securities business, whichever is greater. If the SIPC Fund totals or is reasonably likely to total less than $100 million, the amount of each member's assessment shall be ½ of 1 percent per annum of such member's gross revenues from the securities business.

[7] The SIPC Board also decided to pursue the possibility of an increase in the size of SIPC's current line of credit.

SIPC indicated that the SIPC Board's actions described above were based principally on the "Report and Recommendations of the SIPC Task Force on Assessments," and on the data gathered and analyzed by the task force. The task force was composed of representatives of SIPC members, self-regulatory organizations, securities industry associations, U.S. Government agencies, and the SIPC staff. The task force's principal recommendations were that: (1) The fund grow at an annual rate of 8 percent to reach the $1 billion level targeted by the SIPC Board and (2) the assessment basis be changed from gross revenues from the securities business to net operating revenue from the securities business while, in the alternative, allowing firms to continue deducting 40 percent of margin interest income if this amount were greater than the dividend and interest expense deduction.[8]

II. Need for Public Comment

Section 3(e)(1) of the SIPA provides that SIPC must file with the Commission a copy of proposed bylaw changes. That section further provides that bylaw changes shall take effect 30 days after filing, unless the Commission either: (i) Disapproves the change as contrary to the public interest or the purposes of SIPA, or (ii) finds that the change involves a matter of such significant public interest that public comment should be obtained. Thus, under section 3(e)(1) of the SIPA, a proposed bylaw change does not have to be noticed for public comment. However, under section 3(e)(1)(B) of SIPA, the Commission can find that "such proposed change involves a matter of such significant public interest that public comment should be obtained," in which case, the Commission may, after notifying SIPC in writing of such finding, require that the proposed bylaw change be considered by the same procedures as a proposed rule change including, among other things, publication in the **Federal Register** and opportunity for public comment.

The SIPC Fund, which is built from assessments on its members and the interest earned on the Fund, is used for the protection of customers of members liquidated under SIPA to maintain investor confidence in the securities markets. In light of this fact and that the bylaw change provides for a new assessment basis to reach a targeted annual fund balance, the Commission finds, pursuant to section 3(e)(1)(B) of SIPA, that the proposed bylaw change involves a matter of such significant public interest that public comment should be obtained and that the procedures applicable to proposed SIPC rule changes in section 3(e)(2) of SIPA should be followed. As required by section 3(e)(1)(B) of the SIPA, the Commission has notified SIPC of the Commission's finding in writing.

III. Date of Effectiveness of the Proposed Bylaw Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission will:

(A) By order approve such proposed bylaw change, or

(B) Institute proceedings to determine whether the proposed bylaw change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file three 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 bylaw change that are filed with the Commission, and all written communications relating to the proposed bylaw 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 public inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. All submissions should refer to File Number SIPC 91–1 and must be received on or before November 6, 1991.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–25010 Filed 10–15–91; 8:45 am]

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[8] The task force recommended that assessments continue to be based on revenues rather than any other basis.

[Release No. 34–29796; File No. SR–Amex–89–18]

October 8, 1991.

Self-Regulatory Organizations; the American Stock Exchange; Order Approving Proposed Rule Change and Notice and Order Granting Accelerated Approval to Amendment No. 1 Relating to Independent Directors and Audit Committees

I. Introduction

On July 26, 1989, the American Stock Exchange ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend section 121 of the Company Guide to require that all Amex-listed companies: (1) Have at least two independent directors; and (2) establish and maintain an audit committee comprised of a majority of independent directors.[3] Amendment No. 1, submitted on March 18, 1991, proposed additional changes to the proposed rule change.[4]

The proposed rule change was published for comment in Securities Exchange Act Release No. 27153 (August 21, 1989), 54 FR 35551 (August 28, 1989). No comments were received on the proposal.

II. Description of the Proposal

The Amex is proposing to amend Section 121, entitled Independent Directors, of its *Company Guide*. Section 121 currently recommends that Amex-listed companies have at least two independent directors on their respective boards of directors.[5] It

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1990).

[3] In this rule filing, the Amex also proposed to amend Sections 140, 141, and 213 of its *Company Guide* dealing with warrant listing fees, listing fee refunds, and listing application exhibits. On March 6, 1990, the Commission partially approved this rule filing with respect to Sections 140, 141, and 213 of the Company Guide. See Securities Exchange Act Release No. 27768 (March 6, 1990), 55 FR 9379. Accordingly, this order discusses and grants approval only to that portion of the filing pertaining to Section 121 of the Company Guide.

[4] Amendment No. 1 is a technical amendment that restores to Section 121 language that originally was proposed to be deleted. See letter from Michael S. Emen, Vice President and Counsel, Securities Division, Amex, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated March 18, 1991. *See infra* note 6.

[5] Section 121 of the Amex Company Guide defines an independent director as a director who: Is not an officer of the company; is neither related to its officers nor representing concentrated or family holders of its shares; and who, in the view of the

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further recommends that every Amex-listed company establish and maintain an audit committee composed solely of independent directors.

Under the current proposal, the Amex proposes to upgrade its existing independent director and audit committee recommendations to requirements. First, the Exchange proposes to amend Section 121 to require that all domestic listed companies have at least two independent directors. Second, the Amex proposes to amend this Section to require that all Amex-listed companies establish and maintain an audit committee comprised of a majority of independent directors. Although the Amex's existing audit committee recommendation calls for an audit committee comprised entirely of independent directors, only a majority of independent directors would be required to serve on the audit committee under the Amex proposal. Section 121 would continue to recommend, however, that every Amex-listed company establish and maintain an audit committee composed solely of independent directors.[6]

The Amex also has proposed several exceptions to its new independent director and audit committee requirements. First, the Exchange's proposed audit committee requirement will not apply to foreign issuers if the requirement is inconsistent with the custom and/or practice in the company's country of domicile. The Exchange states that this foreign country exception is contemplated by the Exchange's foreign issuer guidelines [7] and consistent with the audit committee rules of the other marketplaces.[8] Second, under the Amex proposal, the proposed audit committee and independent director requirements will not apply, as a condition to listing, to any entity which is not structured along traditional corporate lines. In explaining its rationale in creating this exception to the proposal, the Amex states that its proposed audit committee and independent director requirements are not intended to be applicable to an issuer of preferred stock or debt securities whose common stock is privately held. The Exchange states that, in circumstances where the legal rights of the security holders are expressly provided for and limited by a document such as a partnership agreement or an indenture, the Exchange does not believe that independent directors or audit committees should be required.[9] The Exchange emphasizes, however, that the proposal would require all listed companies with public common stockholders to establish an audit committee.[10]

Finally, to allow sufficient time for companies that are currently listed on the Exchange to comply with these new requirements, and, if necessary, to secure added outside directors, the Exchange proposes a phase-in period of 12–18 months following Commission approval. New companies that apply for listing after Commission approval would be expected to have, or to establish, an audit committee meeting the requirements of the new rule within approximately 90 days following the commencement of trading.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[11] In particular, the Commission believes that the proposal is consistent with the section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts, and, in general, protect investors and the public interest. The Commission believes that the establishment of audit committees by public companies serves as an invaluable means of ensuring accurate disclosure of corporate information. Because an effective audit committee can assist a board of directors in providing oversight of a company's management and financial reporting process, requiring public companies to have audit committees should enhance significantly the integrity of financial information and help to ensure compliance with the financial reporting requirements of the Federal securities laws. The Commission believes that the establishment of audit committees is an important step toward increasing the accuracy and reliability of corporate financial information, thereby furthering the purposes of sections 12, 13, and 14 of the Act, among other sections.[12]

The Commission believes that the Amex's proposal to require its listed companies to have audit committees comprised of a majority of independent directors should help prevent fraudulent and manipulative acts and should further corporate accountability by providing top management with added assurance that accounting controls are effective and are being properly monitored, and that financial statements are reliable and complete. In addition, the Commission believes that the Amex's proposal should enhance issuer compliance with the federal securities laws by strengthening the independence of the internal audit function.

As stated *supra*, the Commission believes that requiring public companies to have audit committees enhances the reliability of financial information. The Commission, therefore, supports the establishment of audit committees by public companies. With regard to the effectiveness of audit committees, the Commission emphasizes the importance of maintaining the truly independent character of audit committees.[13] To this

company's board of directors, is free of any relationship that would interfere with the exercise of independent judgment.

[6] *See* Amendment No. 1 which restores to Section 121 language recommending that listed companies establish and maintain audit committees composed solely of independent directors. The Amex had proposed originally to delete this language from Section 121.

[7] Section 110 of the Amex Company Guide, which sets forth the Exchange's listing criteria for securities of foreign companies, states that the Exchange will consider the laws, customs and practices of an applicant's country of domicile regarding such matters as: (1) The election and composition of the Board of Directors; (2) the issuance of quarterly earnings statements; (3) shareholder approval requirements; and (4) quorum requirements for shareholder meetings in evaluating the eligibility for listing of a foreign based entity.

[8] See, *e.g.*, New York Stock Exchange ("NYSE") Listed Company Manual, Sections 103.00, 303.00

[9] Under this exception, publicly traded partnerships without a corporate general partner would not be required to establish a special structure solely to accommodate an audit committee. Although publicly traded partnerships with corporate general partners also would fall within this exception and not be subject to the new independent director and audit committee requirements, the Exchange states that all partnerships with corporate general partners would be strongly encouraged by the Exchange to have two independent directors and to establish audit committees. In addition, Amex staff has committed to recommending to the Exchange's Board of Governors that the new independent director and audit committee requirements be made applicable to the corporate general partners of limited partnerships. See letter from Michael S. Emen, Vice President and Counsel, Securities Division, Amex, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated September 17, 1991.

[10] See letter from Michael S. Emen, Vice President and Counsel, Securities Division, Amex, to Mary Revell, Branch Chief, Branch of Exchange Regulation, Division of Market Regulation, SEC, dated January 3, 1991.

[11] 15 U.S.C. 78f(b)(5) (1988).

[12] 15 U.S.C. 781, 78m, and 78n (1988).

[13] For many years, the Commission, along with the accounting profession and many major corporations, has recognized the advantages of corporate audit committees. As early as 1940, the Commission urged the formation of audit committees composed of non-officer directors to participate in arranging corporate audits. See In re McKesson & Robbins, Inc., Accounting Series Release ("ASR") No. 19 (December 5, 1940). In 1972, the Commission endorsed the establishment of

Continued

end, the Commission believes audit committees are most effective when comprised entirely of independent directors.[14] In his or her capacity as an independent overseer of management, a director is often required to ask discerning questions of management. This may be difficult if the director has any type of relationship with management or has a direct or indirect interest in the company that could influence his or her decision-making. The Commission believes that a director who is independent of any relationship with management or the company that may influence his or her independent judgment is in the best position to make unbiased decisions regarding the management and/or operation of the company.

The Commission notes that, in its approval of a proposal by the Chicago Board Options Exchange ("CBOE") to establish rules governing the trading of stocks, warrants, and securities other than options, the CBOE promulgated a rule requiring all CBOE-listed companies to establish and maintain audit committees comprised of completely independent directors.[15] The Commission also notes that the NYSE currently requires its listed companies to have completely independent audit committees.[16] The Commission continues to encourage the adoption of independent audit committees by the remaining SROs and remains confident that this is a beneficial step toward strengthening the U.S. securities market.

Although the Amex proposal does not mandate completely independent audit committees, the Commission believes that, by upgrading its audit committee recommendation into a requirement, the Exchange is taking a first step toward increasing the reliability of the financial reporting process for its listed companies. Further, under the proposal, section 121 will continue to recommend that listed companies establish and maintain audit committees composed solely of independent directors. Moreover, the Amex proposal is consistent with the current requirement of the National Association of Securities Dealers, Inc. ("NASD") which requires that all National Market System ("NMS") issuers have audit committees composed of a majority of independent directors.[17]

The Commission notes that the Amex's rule filing refers to a recent survey of Amex-listed company proxy statements which revealed that approximately 85% of all Amex domestic listed companies with a traditional corporate board structure already have audit committees. While the data submitted by the Amex does not reveal the composition of these audit committees (*e.g.*, how many of them are comprised of a majority of independent directors and how many are comprised solely of independent directors), the high percentage of companies which have established audit committees underscores the desirability of having such a committee serve as an independent check on management.

The Commission further believes that the portion of the Amex proposal requiring that all Amex-listed companies have at least two independent directors is designed to promote just and equitable principles of trade and to prevent fraudulent and manipulative acts and practices. The Commission believes that, as is the case with audit committees, independent directors who have no relationship with management or no direct or indirect interest in the company can serve as an independent check on management and can help to ensure issuer compliance with the federal securities laws. The Amex's rule filing refers to a recent survey of Amex-listed company proxy statements which found that nearly 93% of all Amex-listed domestic companies have two or more independent directors. As with audit committees, the Commission believes that this high percentage of companies that already have at least two independent directors on their board of directors emphasizes the effectiveness of this requirement. Moreover, the Amex proposal is consistent with the current NASD requirement which requires that all NMS issuers maintain a minimum of two independent directors on their board of directors.[18]

Finally, the Commission believes that the exceptions to these two new requirements proposed by the Exchange are not inconsistent with the Act. First, as the Amex stated, the fact that its proposed audit committee requirement will not apply to foreign issuers if the requirement is inconsistent with the custom and/or practice in the company's country of domicile is consistent with the Exchange's foreign issuer guidelines. Second, the Commission believes that the Amex's proposal to make its new audit committee and independent director requirements inapplicable to companies that are not structured along traditional corporate lines will not substantially impede the effectiveness of these requirements. If a company does not have a traditional board of governors or similar structural hierarchy, or if the company does not have public common stockholders, then it would be impractical for the Exchange to require that company to establish a formal board or audit committee.[19] Finally, the Commission believes that the Exchange's decision to permit listed companies a 12–18 month phase-in period to comply with its new requirements is reasonable in that it will allow sufficient time to adjust to the proposed changes.

Finally, the Commission finds good cause for approving Amendment No. 1 prior to the thirtieth day after the date of publication of notice of filing thereof. Amendment No. 1 merely reinserts into section 121 of the Company Guide language which had previously existed, but had been deleted in the original rule filing. The Commission believes it is appropriate to approve Amendment No. 1 on an accelerated basis so that the Amex's new audit committee rule can become effective without delay. In addition, the Commission believes that,

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completely independent audit committees by all publicly held companies. See ASR No. 123 (March 23, 1972) [37 FR 6850]. In addition, there have been many enforcement cases in which the Commission required a corporate defendant to establish an audit committee comprised of outside directors. See e.g. SEC v. American Biomaterials Corp., Accounting and Auditing Enforcement Release ("AAER") No. 187 (April 19, 1988); SEC v. Gemcraft Inc., AAER No. 107 (July 31, 1986); and SEC v. Oak Industries, Inc., AAER No. 63 (June 25, 1985).

[14] The Commission's position is consistent with the findings of the October 1987 Report of the National Commission on Fraudulent Financial Reporting ("Treadway Commission Report"), which recommended that all public companies establish audit committees comprised entirely of independent directors. It is also consistent with a report by the General Accounting Office ("GAO") entitled CPA Audit Quality: Status of Actions Taken to Improve Auditing and Financial Reporting of Public Companies (GAO–AFMD–89–38) (March 1989) (restated in Status of Open Recommendations (GAO–AFMD–89–38 (February 1990)) which took the same position as the Treadway Commission and recommended that all public companies establish completely independent audit committees. In the past, the Commission often has advocated the establishment of completely independent audit committees.

[15] See Securities Exchange Act Release No. 28556 (October 19, 1990), 55 FR 43233.

[16] See NYSE Listed Company Manual, Paragraph 303.00.

[17] See Schedule D, part III, section 5(d) of the NASD By-Laws.

[18] See Schedule D, part III, section 5(c) of the NASD By-Laws. The NYSE also requires all domestic companies listing on the NYSE to have at least two outside directors on their boards. See NYSE Listed Company Manual, Section 303.00

[19] The Commission notes that, although under the new rule publicly traded partnerships with corporate general partners would not be subject to the new independent director and audit committee requirements, the Amex staff has committed to recommending to the Exchange's Board of Governors that these requirements be made applicable to the corporate general partners of limited partnerships. *See supra* note 9.

although the Amex's new requirement will only require that audit committees for public companies be comprised of a majority of independent directors, it is still preferable to have audit committees composed entirely of independent directors. Therefore, the Commission believes that retaining this recommendation in the Amex audit committee rule will put issuers on notice that requiring audit committees to be composed entirely of independent directors is preferable to a requirement that they be composed of a majority of independent directors. The Commission also notes that the insertion of language recommending that audit committees be composed solely of independent directors into section 121 merely restores language previously deleted by the original rule change and adds no new requirements to that Rule. For these reasons, the Commission finds that accelerated approval of Amendment No. 1 is appropriate and consistent with the Act.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. 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 the Amex. All submissions should refer to File No. SR-Amex-89-18 and should be submitted by November 6, 1991.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-24871 Filed 10-15-91; 8:45 am]

BILLING CODE 8010-01-M

[20] 15 U.S.C. 78s(b)(2) (1988).

[21] 17 CFR 200.30-3(a)(12) (1990).

[Release No. 34-29798; File No. SR-Amex-91-18]

October 8, 1991.

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the American Stock Exchange, Inc., Relating to a Reduction of the Value of the Major Market Index

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 [2] thereunder, the American Stock Exchange, Inc. ("Amex" or "Exchange") has proposed to (i) reduce the Major Market Index ("XMI" or "Index") to one-half its present value by doubling the divisor used in calculating the Index; (ii) correspondingly amend Exchange Rule 904C to double the position and exercise limits for XMI options; and (iii) modify the calculation of the LT-20 Index ("LT-20") so that it represents one-tenth, rather than one-twentieth, the value of the reduced XMI. In addition, the Amex proposed non-substantive changes to Exchange Rule 904C to specifically identify position and exercise limits for each of its broad-based index options.

The proposal was published for comment in Securities Exchange Act Release No. 29534 (August 8, 1991), 56 FR 40649. The Commission received no comments on the proposal.

I. Description of the Proposal

A. Reducing the XMI's Value

The XMI, a broad market index based on 20 leading blue-chip stocks measuring the performance of U.S. industrial corporations, was created by the Exchange to serve as an underlying index for standardized options trading. XMI options trading commenced on the Amex in April 1983. Historically, the XMI has correlated closely with the Dow Jones Industrial Average as well as other broad market stock indexes.

In July 1984, concurrent with the commencement of XMI futures trading on the Chicago Board of Trade, the Index's then-current value was doubled.[3] Over the past seven years, the Index's value has nearly tripled (as have other broad market indexes) from approximately 220 to 640, and, as a result, premiums for XMI options have risen substantially. The Amex explains that XMI options, especially near-the-money contracts, in comparison to other standardized stock index options, are the most expensive index options to trade. In order to lower the cost of the premiums for XMI options, the Amex plans to double the divisor used to calculate the Index, thereby reducing the Index's value by one-half. The composition of the Index, the method of calculation (other than the change in the divisor), the expiration style of the options and other Index specifications will remain the same.

To implement the change in the value of the Index, the Exchange will adjust outstanding XMI series in a manner similar to the way equity options are adjusted for a 2-for-1 stock split. On the effective date of the split, "ex-date," the number of outstanding XMI option contracts will be doubled and the exercise price of each contract will be reduced by one-half. Accordingly, an investor at the 17,000 contract limit will, as a result of the Index value reduction, automatically hold 34,000 contracts when the adjustment ("split") is made. The Amex states that effecting the adjustment in this manner will avoid any confusion associated with having "old" and "new" XMI series and symbol codes.

In addition, the Exchange will modify the calculation of its LT-20 Index ("LT-20"), which is currently computed to represent one-twentieth of the XMI's value. The LT-20 will remain at the same level but will be modified to represent one-tenth (instead of one-twentieth) of the value of the XMI. Accordingly, contract sizes, exercise prices and position and exercise limits for outstanding LT-20 contracts will remain unchanged.

B. Increasing the XMI's Position and Exercise Limits

Currently, position and exercise limits for the XMI are 17,000 contracts on the same side of the market, with no more than 10,000 of such contracts in series with the nearest expiration months. In conjunction with the reduction of the Index's value, the Amex proposes to double the XMI's position and exercise limits to 34,000 contracts on the same side of the market, with no more than 20,000 of such contracts in series with the nearest expiration month. Since these new limits will be economically equivalent to the XMI's present limits, the Exchange believes that there will be no additional potential for manipulation of the Index or the underlying securities.

In calculating position limits, the Exchange will continue to aggregate positions in LT-20 option contracts and XMI option contracts. Under the amended rules, ten LT-20 contracts will equal one XMI contract.

[1] 15 U.S.C. 78(b)(1) (1986).

[2] 17 CFR 240.19b-4 (1990).

[3] See Securities Exchange Act Release No. 21141 (July 12, 1984), 49 FR 29182 (order approving SR-AMEX-84-18).

C. Identification of Applicable Stock Index Option Position and Exercise Limits

The Amex also proposes to make non-substantive amendments to Exchange Rule 904C to identify specifically the position and exercise limits for each of its broad-based stock index options. Specifically, the position limit for LT–20 options will be 340,000 contracts on the same side of the market with no more than 200,000 contracts in series with the nearest expiration month and the position limit for Institutional Index options and Japan Index options will be 25,000 contracts on the same side of the market with no more than 15,000 contracts in series with the nearest expiration.

II. Discussion

The Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6.[4] Specifically, the Commission believes that the proposed rule changes will reduce the cost of purchasing XMI options, thereby facilitating investor participation in the market for XMI options and making more accessible an investment vehicle which provides investors with a means to hedge equity portfolios against market risk. Specifically, the reduced level of XMI options' premiums will allow investors to hedge or speculate in market movements with a smaller outlay of capital. Moreover, by facilitating transactions in XMI options, the lower option premiums will help the Amex to maintain the depth and liquidity of the market for XMI options, thereby protecting investors and the public interest.

The Commission believes that doubling the Index's divisor will not have an adverse market impact or make trading in XMI options susceptible to manipulation. Previously, the Commission determined that the XMI is a broad-based index.[5] The Commission does not believe that merely changing the divisor alters this determination. The XMI will contain the same stocks with the same weightings and will be calculated in the same manner (except for the change in the divisor). Likewise, surveillance procedures will remain the same.

The Commission also finds that the Exchange's proposal to implement the adjustment in the XMI in the manner of a 2-for-1 stock split provides a simple, orderly and efficient means to effect the adjustment. Previously, in approving the Amex'x proposal to double the value of the XMI, the Commission found the Amex's use of procedures applicable to options on individual stocks that have undergone reverse stock splits was consistent with the Act.[6]

The doubling of the XMI's position and exercise limits in conduction with the reduction of the Index's value will establish position and exercise limits that are economically equivalent to the current limits. Thus, the increase in position and exercise limits should not present additional opportunities for manipulation of the Index or the underlying securities. Accordingly, the Commission finds that the increased position and exercise limits for XMI options are appropriate.

Likewise, the Commission finds that the Amex's modifications of the LT–20 are appropriate and consistent with the Act. Although the LT–20 will now represent one-tenth (instead of one-twentieth) of the XMI's value, the Amex will continue to aggregate positions in LT–20 option contacts with positions in XMI option contracts. Thus, the change in the proportional value of the LT–20 should not have an adverse market impact, nor should it present additional opportunities for manipulation of the XMI or the underlying securities.

Finally, the Commission finds that the Amex's non-substantive amendments to Exchange Rule 904C to identify specifically the position and exercise limits for XMI options, LT–20 options, Institutional Index Options, and Japan Index Options is consistent with the Act. Because the amendments are a clarification of the Exchange's current position and exercise limits and will not result in a limit increase, the amendments do not raise concerns regarding disruption or manipulation of the securities markets.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (SR–Amex–91–18) is approved. For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–24800 Filed 10–15–91; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78f(b)(5) (1988).

[5] See Securities Exchange Act Release No. 19264 (November 22, 1982), 47 FR 53981 (order approving SR–Amex–82–8).

[6] See Securities Exchange Act Release No. 21141, *supra* note 3.

[7] 15 U.S.C. 78s(b)(2) (1982).

[8] 17 CFR 200.30–3(a)(12) (1990).

DEPARTMENT OF TRANSPORTATION

Coast Guard

[GGD–91–052]

National Boating Safety Advisory Council; Subcommittee Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. 1), notice is hereby given of meetings of the National Boating Safety Advisory Council's Subcommittees on Consumer Affairs and Standards Review, Navigation Lights, Multiple-Use Waterways and Propeller-Driven Personal Watercraft to be held on Saturday, November 9, 1991 at the Norfolk Airport Hilton Hotel, 1500 North Military Highway, Norfolk, Virginia. The Consumer Affairs and Standards Review Subcommittee will begin at 1 p.m. and end at 3 p.m. The Navigation Light Subcommittee will begin at 1:30 p.m. and end at 3:30 p.m. The Multiple-Use Waterways Subcommittee will begin at 3 p.m. and end at 5 p.m. The Propeller-Driven Personal Watercraft Subcommittee will begin at 3:30 p.m. and end at 5:30 p.m. The agenda for each meeting will be to review the status of various projects undertaken by the subcommittee.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Mr. Albert J. Marmo, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Dated: October 10, 1991.

A. Cattalini,

Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 91–24886 Filed 10–15–91; 8:45 am]

BILLING CODE 4910–14–M

[GGD–91–053]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. app. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Monday,

November 11, 1991 at the Norfolk Airport Hilton Hotel, 1500 North Military Highway, Norfolk, Virginia, beginning at 8:45 a.m. and ending at 4 p.m. The agenda for the meeting will be as follows:

1. Review of action taken at the 47th meeting of the Council.
2. Executive Director's Report.
3. Report of the Consumer Affairs and Standards Review Subcommittee.
4. Presentation on Coast Guard Approval Logo.
5. Report on the National Association of State Boating Law Administrators (NASBLA) Annual Conference.
6. Navigation Light Subcommittee Report.
7. Report on a Study of Boating Safety Trends in the 90's.
8. Update on Recreational Boating Standards and Product Assurance.
9. Report by the Multiple-Use Waterways Subcommittee.
10. Briefing on Waterways Management.
11. Presentation on Hybrid Personal Flotation Devices.
12. Propeller-Driven Personal Watercraft Subcommittee Report.
13. Presentation on Backfire Flame Control.
14. Remarks by Deputy Chief, Office of Navigation Safety and Waterway Services.
15. Chairman's Session.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Mr. Albert J. Marmo, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-NAB), Washington, DC 20593-0001, or by calling (202) 267-0997.

Dated: October 10, 1991.

A. Cattalini,

Acting Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 91-24885 Filed 10-15-91; 9:45 am]

BILLING CODE 4910-14-M

Sunshine Act Meetings

Federal Register

Vol. 56, No. 200

Wednesday, October 16, 1991

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).

COMMODITY CREDIT CORPORATION

TIME AND DATE: 2:00 p.m., October 22, 1991.

PLACE: Room 104–A Administration Building, U.S. Department of Agriculture, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Minutes of Open Meeting of July 2, 1991.
2. Resolution re: Amendment of Commodity Credit Corporation Bylaws.
3. Memorandum re: Debt Forgiveness Update.
4. Memorandum re: Update of Commodity Credit Corporation (CCC)-Owned Inventory.
5. Resolution re: Termination of Obsolete CCC Board Dockets.
6. Docket WCX–312, Revision 1, Food Security Wheat Reserve.
7. Resolution re: CZ–266, Resolution No. 29, Ratification of Commodities Available for Public Law 480 During Fiscal Year 1992.
8. Resolution re: Ratification of CCC Funding for Programs to Share Agricultural Expertise with Emerging Democracies.

CONTACT PERSON FOR MORE INFORMATION: James V. Hansen, Secretary, Commodity Credit Corporation, Room 3603 South Building, U.S. Department of Agriculture, Post Office Box 2415, Washington, D.C. 20013; telephone (202) 475–5490.

Dated: October 10, 1991.

James V. Hansen,

Secretary, Commodity Credit Corporation.

[FR Doc. 91–25015 Filed 10–11–91; 2:02 pm]

BILLING CODE 3410–05–M

INTERNATIONAL TRADE COMMISSION

[USITC SE–91–31]

TIME AND DATE: October 28, 1991 at 2:00 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and complaints:
5. Inv. No. 731–TA–497 (Final) (Tungsten ore concentrates)—briefing and vote.
6. Inv. No. 731–TA–335 (Final) (Remand) (Steel wheels)—briefing and vote, if not previously acted on by action jacket.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 205–2000.

Dated: October 7, 1991.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–25033 Filed 10–11–91; 2:03 pm]

BILLING CODE 7020–02–M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10:00 a.m., Tuesday, October 22, 1991.

PLACE: Eighth Floor,1120 Vermont Avenue, NW., Washington, DC. 20419.

STATUS: The meeting will be closed to the public under Exemption 2 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED: Internal personnel rules and practices.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653–7200.

Dated: October 11, 1991.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 91–25035 Filed 10–11–91; 2:05 pm]

BILLING CODE 7400–01–M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 14, 21, 28, and November 4, 1991.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 14

Thursday, October 17

2:00 p.m.
Briefing on Staff Recommended Course of Action on Adhering to 10 CFR Part 52 (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule Entitled "Material Control and Accounting Requirements for Uranium Enrichment Facilities Producing Special Nuclear Material of Low Strategic Significance" and Conforming Amendments to 10 CFR Parts 2, 40, 70, and 74

Friday, October 18

9:00 a.m.
Briefing on IIT Report on Nine Mile Point (Public Meeting)

10:00 a.m.
Briefing on GE-Wilmington Incident (Public Meeting)

Week of October 21—Tentative

Tuesday, October 22

2:00 p.m.
Briefing on Status of Yankee Rowe (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 28—Tentative

Tuesday, October 29

1:30 p.m.
Briefing on Status of Advanced Reactor Programs (Public Meeting)

Wednesday, October 30

10:00 a.m.
Briefing on Site Decommissioning Management Plan (Public Meeting)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

4:30 p.m.
Briefing on Status of Emergency Planning Issues for Pilgrim (Public Meeting)

Week of November 4—Tentative

Tuesday, November 5

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

ADDITIONAL INFORMATION: By a vote of 4–0 on October 7, the Commission determined pursuant to U.S.C. 552b(e) and Sec. 9.107(a) of the Commission's rules that "Discussion of Management-Organization and Internal Personnel Matters' (Closed—Ex. 2), be held on October 8, and on less than one week's notice to the public.

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: October 10, 1991.

William M. Hill, Jr.,

Office of the Secretary.

[FR Doc. 91–25034 Filed 10–11–91; 2:04 pm]

BILLING CODE 7590–01–M

Federal Register

Wednesday
October 16, 1991

Part II

Department of Education

Vocational Rehabilitation Service Projects Program for Migratory Agricultural and Seasonal Farmworkers with Handicaps; Notice

DEPARTMENT OF EDUCATION

Vocational Rehabilitation Service Projects Program for Migratory Agricultural and Seasonal Farmworkers with Handicaps

AGENCY: Department of Education.

ACTION: Notice of proposed priority for fiscal year 1992.

SUMMARY: The Secretary proposes a priority for fiscal year (FY) 1992 under the Vocational Rehabilitation Service Projects Program for Migratory Agricultural and Seasonal Farmworkers with Handicaps. The Secretary takes this action to focus Federal financial assistance on identified national needs. This priority is intended to improve the provision of vocational rehabilitation services to individuals with handicaps who are migratory agricultural and seasonal farmworkers by expediting the eligibility determination and service delivery processes, improving communications through the use of bilingual counselors, and coordinating services for these individuals across State lines to facilitate continuity and completion of rehabilitation plans.

DATES: Comments must be received on or before November 15, 1991.

ADDRESSES: All comments concerning this proposed priority should be addressed to Mark Shoob, U.S. Department of Education, 400 Maryland Avenue SW., room 3038 Switzer Building, Washington, DC 20202–2575.

FOR FURTHER INFORMATION CONTACT: Edward Hofler, U.S. Department of Education, 400 Maryland Avenue SW., room 3318 Switzer Building, Washington, DC 20202–2649. Telephone: (202) 732–1332. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Grants under the Vocational Rehabilitation Service Projects Program for Migratory Agricultural and Seasonal Farmworkers with Handicaps are authorized by title III, section 312 of the Rehabilitation Act of 1973, as amended. The purpose of this program is to provide grants to State or local vocational rehabilitation agencies to establish service delivery systems for the vocational rehabilitation of migratory and seasonal farmworkers with handicaps.

An evaluation of this program completed in 1987 found that the migratory and seasonal farmworker population requires special services for their rehabilitation. This evaluation reported that 23 of the 50 States have a migratory and seasonal farmworker population. This evaluation highlighted the need for more bilingual counselors to work with this population.

In addition, migratory farmworkers are required to move often as the work in a particular area is completed. These frequent moves pose special problems in determining eligibility for services, providing services, maintaining agency contact, and completing rehabilitation plans. Development of innovative service models to expedite and coordinate the provision of services across State lines to this population may result in more individuals successfully completing the rehabilitation process.

The Secretary will announce the final priority in a notice in the **Federal Register**. The final priority will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priority, and the quality of the applications received. The publication of this proposed priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements.

Note.—This notice of proposed priority does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priority.

Priority

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet this priority. The Secretary proposes to fund under this competition only applications that meet this priority:

Proposed Priority—Service Models To Expedite the Rehabilitation Process

Priority will be given to projects that will develop and implement service models for expediting the eligibility determination process and accelerating the provision of necessary and appropriate services to migratory and seasonal farmworkers. In view of the extreme mobility of many migratory agricultural and seasonal farmworkers and the short time that they are available for receiving services in any one location, projects must use innovative methods to accelerate the provision of services to this population, such as revising and streamlining administrative procedures, pre-approval of routine case service expenditures, and coordination of services across State lines as migrant and seasonal farmworkers follow the available work.

Projects responding to this priority must also demonstrate the use of easily administered assessment tools as a component of the service model. Efforts must be directed to the modification of these tools to assure that the instruments take into account the unique characteristics and traits of the migratory agricultural and seasonal farmworkers, such as their ethnicity, language, and socioeconomic level. In addition, the project must utilize bilingual intake workers, liaison persons, and vocational rehabilitation counselors who are able to communicate with the particular migratory and seasonal farmworker population to be served, and who possess the knowledge of and sensitivity to the unique rehabilitation needs of this population due to its unique characteristics.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding this proposed priority.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3038, Mary Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

34 CFR parts 369 and 375.

Program Authority: 29 U.S.C. 777b.

(Catalog of Federal Domestic Assistance

Number 84–128, Vocational Rehabilitation Service Projects Program for Migratory Agricultural and Seasonal Farmworkers with Handicaps)

Dated: July 12, 1991.

Lamar Alexander,

Secretary of Education.

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H.J. Res. 189/Pub. L. 102–125

Designating October 8, 1991, as "National Firefighters Day". (Oct. 10, 1991; 105 Stat. 617; 1 page) Price: $1.00

H.J. Res. 305/Pub. L. 102–126

To designate the month of October 1991, as "Country Music Month". (Oct. 10, 1991; 105 Stat. 618; 1 page) Price: $1.00

S. 868/Pub. L. 102–127

Veterans' Educational Assistance Amendments of 1991. (Oct. 10, 1991; 105 Stat. 619; 5 pages) Price: $1.00

S.J. Res. 132/Pub. L. 102–128

To designate the week of October 13, 1991, through October 19, 1991, as "National Radon Action Week". (Oct. 10, 1991; 105 Stat. 624; 1 page) Price: $1.00

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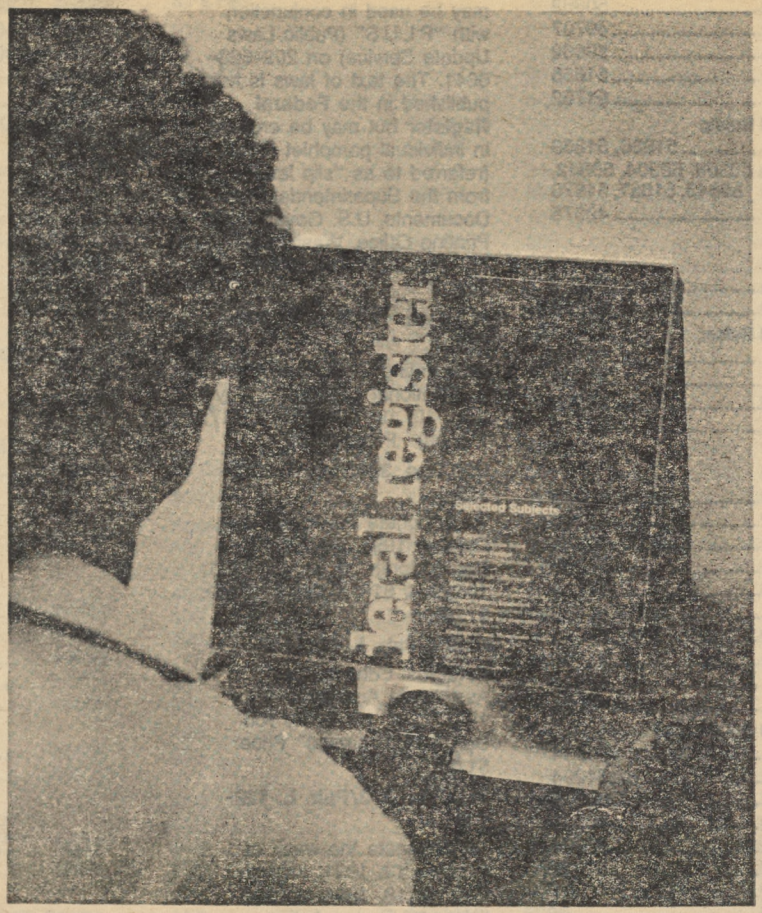

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