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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

NEW YORK, NY

WHEN: November 23, 9:00 am—12:00 pm

WHERE: National Archives—Northeast Region, 201 Varick Street, 12th Floor, New York, NY

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Presidential Documents

Title 3—

The President

Proclamation 6617 of October 21, 1993

National Consumers Week, 1993

By the President of the United States of America

A Proclamation

More than ever, as a Nation and as individual consumers, we need to make every dollar count. Yet, despite the consumer-oriented quality of the U.S. marketplace and the concerted efforts of our law enforcement agencies, marketplace fraud drains at least $100 billion from the economy every year. The loss is not just in dollars, but in consumer confidence—the driving force behind a strong economy.

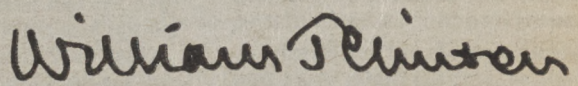
Fraud has the greatest impact on the most vulnerable consumers. No one, rich or poor, young or old, literate or illiterate, English-speaking or foreign-speaking, able-bodied or disabled, is exempt. What's more, in this electronic global marketplace, fraud has become a "borderless crime" that affects consumers around the world.

Since 1982, the President has designated one week of the year to spotlight consumer education as a vital tool in helping consumers make smart shopping decisions. This year, during "National Consumers Week," the focus is on fraud. Consumers can protect their resources and end the costly drain on the economy by knowing how to spot the signs of fraud and where to turn when they suspect fraud.

If you believe that you have been defrauded, the Better Business Bureau, representatives of Federal, State, and local governments, and even the media can help you. Exposing fraud not only helps you, but it can help prevent others from becoming victims in the future.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning October 24, 1993, as National Consumers Week. I urge business leaders, educators, professionals, public officials, consumer leaders, and members of the media to observe this week with appropriate activities that emphasize the important role smart consumers play in keeping our markets open, competitive, fair, and honest.

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



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Rules and Regulations

Federal Register
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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 Parts 55, 56, 59, and 70

[Docket No. PY–93–003]

RIN 0581–AA72

Increase in Fees and Charges for Egg Products Inspection and Egg, Poultry, and Rabbit Grading

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Agricultural Marketing Service (AMS) is increasing the fees and charges for Federal voluntary egg products inspection; voluntary egg, poultry, and rabbit grading; and overtime, holiday, and appeal services under mandatory egg products inspection. These fees and charges are increased to cover the increase in salaries of Federal employees, salary increases of State employees cooperatively utilized in administering the programs, and other increased Agency costs.

EFFECTIVE DATE: November 1, 1993.

FOR FURTHER INFORMATION CONTACT: Janice L. Lockard, Chief, Standardization Branch, 202–720–3506.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures implementing Executive Order 12291 and Department Regulation 1512–1 and has been classified a "non-major" rule under the criteria contained therein. It (i) will have an annual effect on the economy of less than $100 million; (ii) will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (iii) will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

The AMS Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because (i) the fees and charges merely reflect, on a cost-per-unit-graded/inspected basis, a minimal increase in the costs currently borne by those entities utilizing the services and (ii) competitive effects are offset under the major voluntary programs (resident shell egg and poultry grading) through administrative charges based on the volume of product handled; i.e., the cost to users increases in proportion to increased volume.

The information collection requirements that appear in the sections to be amended by this rule have been previously approved by the Office of Management and Budget and assigned OMB Control Numbers under the Paperwork Reduction Act of 1980 as follows: §56.52(a)(4)—No. 0581–0128; §59.126 and §59.128(a)—No. 0581–0113; and §70.77(a)(4)—No. 0581–0127.

Background and Proposed Changes

The Agricultural Marketing Act (AMA) of 1946 provides for the collection of fees approximately equal to the cost of providing voluntary egg products inspection and voluntary egg, poultry, and rabbit grading. Likewise, the Egg Products Inspection Act (EPIA) requires the collection of fees to cover costs of overtime, holiday, and appeal inspection services. Each fiscal year, these fees undergo a cost analysis to determine if they are adequate to recover the cost of providing the services. Grading and inspection fees were last increased effective November 1, 1992.

The costs for operating these programs are increasing. Federal employees' salaries increased by 3.7 percent in January 1993. Also, the cost of life insurance, health benefits, and Medicare increased by about 5 percent, Federal employee retirement fringe costs increased 7 percent, and salaries and fringe benefits of federally licensed State employees increased by about 6 percent. Additionally, for the first time, the costs of standardization activities and Office of the General Counsel assistance were added to the costs of providing grading and inspection services.

Fees for resident service will increase about 6 percent. Resident fees cover Federal and State employee salaries, fringe benefits, relief, and other in-plant service-related costs.

Administrative service charges apply to the costs of supervision and other overhead and administrative costs and are assessed on each case of shell eggs and each pound of poultry handled in plants using resident grading service. In 1992, these unit rates were established at $0.030 per case of shell eggs and $0.00025 per pound of poultry, with a minimum of $175 and maximum of $1,750 per monthly billing period for each official plant. The charges per case of shell eggs and pound of poultry will increase to $0.034 and $0.00029, respectively, with a monthly minimum charge of $200 and a maximum of $2,000.

The hourly rate for nonresident voluntary grading and inspection service will increase from $30.12 to $31.44. The hourly rate for such services performed on Saturdays, Sundays, or holidays will increase from $30.52 to $32.88. The hourly rate for voluntary appeal gradings or inspections will increase from $25.44 to $26.64. The hourly rates for mandatory egg products inspection services will increase from $22.72 to $23.80 for overtime inspection and from $16.04 to $16.24 for holiday inspection. The hourly rate will also increase from $25.44 to $26.64 for certain mandatory appeal inspections.

Administrative charges for resident voluntary rabbit grading, resident voluntary egg products inspection, and nonresident voluntary continuous poultry and egg grading will continue to be based on 25 percent of the grader's or inspector's total salary costs. The minimum charge per monthly billing period for these programs will increase from $175 to $200 per official plant.

Comments

Based on an analysis of costs to provide these services, a proposed rule to increase the fees for these services was published in the **Federal Register** (58 FR 37872) on July 14, 1993. Comments on the proposed rule were solicited from interested parties until August 13, 1993.

The Agency received four comments during the 30 day comment period. Comments received from two shell egg producers, an egg industry organization, and a State department of agriculture opposed the proposed increase in fees.

Commentors expressed a general concern about the economic impact the increase would have during this time of economic uncertainty. The AMA and the EPIA authorize user fees to recover the costs of providing services. The overall fee structure has been designed to be the most equitable and reasonable method to ensure recovery of the costs of providing services on a nationwide basis.

Commentors questioned the inclusion for the first time of the costs for standards work and legal services provided by the Office of the General Counsel, services previously funded by an appropriation. Both the AMA and the EPIA authorize that the costs of such activities be recovered on a user-fee basis. In addition, the Congress, in the 1994 Appropriations Bill, provided that standardization activities may be funded by user fees. The associated expense of these two activities accounts for over one-half of the increase in the administrative service charge that covers overhead expenses.

Commentors were also concerned that costs of services provided by the Agency were increasing at a more frequent rate than in the past. Periodic minimal increases in fees have been commensurate with increases in Federal pay costs authorized by Congress that normally occur in January. In 1990 and 1991, the fee increases became effective 4 months later, on May 1. In 1992, fee increases became effective November 1, and the Agency had to rely in part on reserves to cover its costs until the fee increases became effective.

Accordingly, no changes will be made in the proposal.

Pursuant to 5 U.S.C. 553, it is 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 fees need to be implemented on an expedited basis in order to minimize the period of time between the effective date of the Federal pay increase and the effective date of the fee increase. Also, the fee increases coincide with the next available billing cycle beginning on November 1, 1993.

List of Subjects

7 CFR Parts 55 and 56

Eggs and egg products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

7 CFR Part 59

Eggs and egg products, Exports, Food grades and standards, Food labeling, Imports, Polychlorinated biphenyls (PCB's), Reporting and recordkeeping requirements.

7 CFR Part 70

Food grades and standards, Food labeling, Poultry and poultry products, Rabbits and rabbit products, Reporting and recordkeeping requirements.

For reasons set forth in the preamble, title 7, Code of Federal Regulations, parts 55, 56, 59, and 70 is amended as follows.

PART 55—VOLUNTARY INSPECTION OF EGG PRODUCTS AND GRADING

1. The authority citation for Part 55 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. Section 55.510 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 55.510 Fees and charges for services other than on a continuous resident basis.

* * * * *

(b) Fees for product inspection and sampling for laboratory analysis will be based on the time required to perform the services. The hourly charge shall be $31.44 and shall include the time actually required to perform the sampling and inspection, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $32.88 per hour. Information on legal holidays is available from the Supervisor.

(d) The cost of an appeal grading, inspection, or review of a grader's or inspector's decision shall be borne by the appellant at an hourly rate of $26.64 for time spent performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, inspection, or review of a grader's or inspector's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

3. Section 55.560 is amended by revising paragraph (a)(3) to read as follows:

§ 55.560 Charges for continuous inspection and grading service on a resident basis.

* * * * *

(a) * * *

(3) An administrative service charge equal to 25 percent of the grader's or inspector's total salary costs. A minimum charge of $200 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 56—GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

4. The authority citation for part 56 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

5. Section 56.46 is amended by revising paragraphs (b) and (c) to read as follows:

§ 56.46 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform the services. The hourly charge shall be $31.44 and shall include the time actually required to perform the grading, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $32.88 per hour. Information on legal holidays is available from the Supervisor.

6. Section 56.47 is revised to read as follows:

§ 56.47 Fees for appeal grading or review of a grader's decision.

The cost of an appeal grading or review of a grader's decision shall be borne by the appellant at an hourly rate of $26.64 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading or review of a grader's decision discloses that a material error was made in the original determination, no fee or expenses will be charged.

7. Section 56.52 is amended by revising paragraph (a)(4) to read as follows:

§ 56.52 Continuous grading performed on a resident basis.

* * * * *

(a) * * *

(4) An administrative service charge based upon the aggregate number of 30-dozen cases of all shell eggs handled in the plant per billing period multiplied by $0.034, except that the minimum charge per billing period shall be $200 and the maximum charge shall be $2,000. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

8. Section 56.54 is amended by revising paragraph (a)(2) to read as follows:

§ 56.54 Charges for continuous grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $200 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

PART 59—INSPECTION OF EGGS AND EGG PRODUCTS (EGG PRODUCTS INSPECTION ACT)

9. The authority citation for part 59 is revised to read as follows:

Authority: 21 U.S.C. 1031–1056.

10. Section 59.126 is revised to read as follows:

§ 59.126 Overtime inspection service.

When operations in an official plant require the services of inspection personnel beyond their regularly assigned tour of duty on any day or on a day outside the established schedule, such services are considered as overtime work. The official plant shall give reasonable advance notice to the inspector of any overtime service necessary and shall pay the Service for such overtime at an hourly rate of $23.80 to cover the cost thereof.

11. Section 59.128 is amended by revising paragraph (a) to read as follows:

§ 59.128 Holiday inspection service.

(a) When an official plant requires inspection service on a holiday or a day designated in lieu of a holiday, such service is considered holiday work. The official plant shall, in advance of such holiday work, request the inspector in charge to furnish inspection service during such period and shall pay the Service therefor at an hourly rate of $16.24 to cover the cost thereof.

* * * * *

12. Section 59.370 is amended by revising paragraph (b) to read as follows:

§ 59.370 Cost of appeals.

* * * * *

(b) The costs of an appeal shall be borne by the appellant at an hourly rate of $26.64, including travel time and expenses if the appeal was frivolous, including but not being limited to the following: The appeal inspection discloses that no material error was made in the original inspection, the condition of the product has undergone a material change since the original inspection, the original lot has changed in some manner, or the Act or these regulations have not been complied with.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

13. The authority citation for part 70 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

14. Section 70.71 is amended by revising paragraphs (b) and (c) to read as follows:

§ 70.71 On a fee basis.

* * * * *

(b) Fees for grading services will be based on the time required to perform such services for class, quality, quantity (weight test), or condition, whether ready-to-cook poultry, ready-to-cook rabbits, or specified poultry food products are involved. The hourly charge shall be $31.44 and shall include the time actually required to perform the work, waiting time, travel time, and any clerical costs involved in issuing a certificate.

(c) Grading services rendered on Saturdays, Sundays, or legal holidays shall be charged for at the rate of $32.88 per hour. Information on legal holidays is available from the Supervisor.

15. Section 70.72 is revised to read as follows:

§ 70.72 Fees for appeal grading, or examination or review of a grader's decision.

The costs of an appeal grading, or examination or review of a grader's decision, will be borne by the appellant at an hourly rate of $26.64 for the time spent in performing the appeal and travel time to and from the site of the appeal, plus any additional expenses. If the appeal grading, or examination or review of a grader's decision, discloses that a material error was made in the original determination, no fee or expenses will be charged.

16. Section 70.76 is amended by revising paragraph (a)(2) to read as follows:

§ 70.76 Charges for continuous poultry grading performed on a nonresident basis.

* * * * *

(a) * * *

(2) An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $200 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

17. Section 70.77 is amended by revising paragraphs (a)(4) and (a)(5) to read as follows:

§ 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.

* * * * *

(a) * * *

(4) For poultry grading: An administrative service charge based upon the aggregate weight of the total volume of all live and ready-to-cook poultry handled in the plant per billing period computed in accordance with the following: Total pounds per billing period multiplied by $0.00029, except that the minimum charge per billing period shall be $200 and the maximum charge shall be $2,000. The minimum charge also applies where an approved application is in effect and no product is handled.

(5) For rabbit grading: An administrative service charge equal to 25 percent of the grader's total salary costs. A minimum charge of $200 will be made each billing period. The minimum charge also applies where an approved application is in effect and no product is handled.

* * * * *

Dated: October 20, 1993.

Kenneth C. Clayton,

Acting Administrator

[FR Doc. 93–26327 Filed 10–25–93; 8:45 am]

BILLING CODE 3410–02–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 704 and 741

Corporate Credit Unions; Requirements for Insurance

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The Board is issuing this final rule to provide separate fidelity bond requirements for corporate credit unions. Until issuance of this rule, corporate credit unions were subject to the same fidelity bond requirements as

natural person credit unions. This rule gives corporate credit unions more options in purchasing fidelity bond coverage, allows higher deductibles, and requires higher limits for some corporate credit unions.

DATES: Effective October 26, 1993. Compliance by February 22, 1994.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, or Ronald Alf, Corporate Supervisory Examiner, Office of Examination and Insurance (703) 518–6360, or Allan Meltzer, Associate General Counsel, Office of General Counsel (703) 518–6540, at 1775 Duke Street, Alexandria, VA 22314–3428.

SUPPLEMENTARY INFORMATION:

Part 704

A. Background

On May 19, 1993, the National Credit Union Administration (NCUA) Board issued a proposal with a 60 day public comment period to amend the regulations governing fidelity bond coverage for corporate credit unions. In response to a subsequent request, the NCUA Board extended the comment period another four (4) days to July 30, 1993.

B. Comments

There were twelve (12) comment letters: Two (2) from national credit union trade associations, one (1) from a trade association, one (1) from a state league, eight (8) from corporate credit unions, and one (1) from a state regulator. All commenters supported separate requirements for corporate credit unions. Two (2) supported the proposed application of the requirements to state-chartered, as well as federally chartered corporate credit unions. Four (4) supported the proposed levels of required coverage and deductibles. Three (3) stated that asset size should not be the sole factor that determines bond coverage. Six (6) suggested revisions to the proposed asset brackets. Six (6) recommended that compliance with the rule be made optional until one hundred and eighty (180) days after publication.

C. Section-by-Section Analysis

Section 701.20 sets forth the requirements for fidelity bond coverage for federal credit union employees and officials, and for general insurance coverage for losses caused by persons outside the credit union. Section 741.1 applies these same requirements to state-chartered federally insured credit unions. On May 19, 1993, the Board issued a proposed rule, amending parts 704 and 741, which would establish separate fidelity bond requirements for corporate credit unions, both federally and state-chartered. *See* 58 FR 30719, (May 27, 1993). While the comment period initially ran until July 26, 1993, it was extended to July 30, 1993, in response to a request. *See* 58 FR 33783 (June 21, 1993).

Proposed § 704.17(c) provides that the minimum amount of bond coverage will be computed based on the corporate credit union's net assets. The proposed requirements are as follows:

Net assets	Minimum bond (million)
Less than $100 million	$2.0
$100–$499 million	4.0
$500–$999 million	6.0
$1.0–$1.999 billion	8.0
$2.0–$4.999 billion	10.0
$5.0–$9.999 billion	15.0
$10.0–$24.999 billion	20.0
$25 billion plus	25.0

Six (6) commenters, including the national trade associations, expressed concern about the requirements. Three (3) stated that asset size should not be the sole factor that determines bond coverage. They suggested that internal risk review and the board of directors' review are factors that should also be considered. Four (4) of the six (6) commenters stated that the proposed levels of coverage are too high for larger corporates. One commenter argued that since proposed § 704.17(g) allows the Board to require additional coverage on a case-by-case basis, it is not necessary to require all large corporates to obtain what some feel to be excessive coverage. Three (3) commenters suggested that the three highest of the proposed categories be merged into two, as follows: (1) Assets of $5.0–9.999 billion—minimum bond coverage of $12 million; and (2) assets over $10 billion—minimum bond coverage of $15 million. Another asked that the recommendations of the Bonding Task Force be reconsidered. One commenter suggested that corporate credit unions with less than $50 million in net assets be required to obtain only $1 million worth of fidelity bond coverage.

In the final rule, the NCUA Board implemented the recommendation that corporates with less than $50 million in net assets be required to have minimum bond coverage of $1 million. The NCUA Board did not adopt the recommendations of lower bond coverage for the largest corporate credit unions. Catastrophic risk exposure is greater for the larger corporate credit unions, and higher minimum bond coverages are needed.

The supplementary information section of the proposed rule noted that the proposed bond limits were minimums. It stated that each corporate credit union would be expected to have a risk management program that would evaluate the adequacy of its coverage, at least annually, and increase it above the minimums if necessary. Two (2) commenters requested guidance regarding this requirement.

The NCUA Board's position is that each corporate should have a process for identifying risks to their operations, having the procedures to manage these risks, and deciding on the appropriate measure to treat a particular risk. A corporate can reduce risk through appropriate internal controls. Significant and catastrophic risks should not be retained.

Proposed § 704.17(d) provides that the maximum deductible will be based on the corporate credit union's primary capital to risk asset ratio. One (1) commenter noted that § 701.20 establishes a deductible cap of $200,000 for natural person credit unions and suggested that such a cap be considered for corporate credit unions.

The NCUA Board did not adopt this recommendation. One of the major factors in changing the fidelity bond regulation for corporates is to allow them to have higher deductibles so that premiums can be lowered along with providing for higher bond coverages.

Proposed § 704.17(g) provides that the NCUA Board may require additional coverage for any corporate when, in the opinion of the Board, current coverage is insufficient. One commenter asked that the regulation or preamble indicate the procedure for a corporate to either appeal an examiner's order to obtain additional coverage (assuming the Board delegates its authority) or have input into the Board's determination. Two (2) commenters recommended that the Examiner's Guide include supervisory procedures to review coverage for adequacy. Another asked for the establishment of parameters under which additional coverage would be required.

The authority to require additional coverage is consistent with the authority in § 701.20(i). This authority has rarely been implemented. It would only be used in situations in which the fidelity bond coverage is clearly inadequate. The NCUA Board agrees with the commenters that the Examiner's Guide should include supervisory procedures to review coverage for adequacy.

Proposed § 704.17(h) provided that the rule be effective ninety (90) days after publication in the **Federal Register**. Six (6) commenters stated that

this was not enough time for corporates to assess alternative insurance possibilities. They recommended that the rule be made effective immediately upon publication in the **Federal Register** but that compliance be made optional for another one hundred and eighty (180) days.

The NCUA Board agrees with the commenters and has changed the rule to be effective immediately but that compliance would not be required until one hundred and eighty (180) days after publication in the **Federal Register**.

One (1) commenter stated that the real impediment to reducing cost while providing sufficient coverage was the lack of standardization in underwriting standards. The commenter argued that for corporates to be able to obtain fidelity bonds from a number of providers, "form 24" underwriting standards need to be acceptable.

The supplementary information section of the proposed rule asked for comments on fidelity bond issues relating to natural person credit unions. Two commenters expressed concern about the lack of competition for credit union fidelity bonds. They stated that insurers seem to be unwilling to offer faithful performance coverage. They also expressed concern about the size of the bond an approved insurer may be willing to write.

The Director of the Office of Examination and Insurance, pursuant to delegated authority, has approved two bond forms for use by corporate credit unions—the Corporate Credit Union Discovery Bond (NCUA 100) and Standard Form 24, with Credit Union Bond Conversion Endorsement. Credit Union Blanket Bond Form 581, and Form 23—Extended Form, may also be utilized by corporate credit unions. The NCUA Board believes that the surety bond marketplace contains sufficient alternatives for corporate credit unions to choose surety bonds, but it stands ready to consider all other proposed bonds for corporates that meet similar underwriting standards.

Proposed § 741.1(b) makes the proposed requirements applicable to state-chartered corporate credit unions. Two (2) commenters were in favor of this provision. The Board adopted this provision as proposed.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that this final rule will not have a significant impact on a substantial number of small credit unions (those under $1 million in assets) because the rule only applies to corporate credit unions, which number 45 nationally. All corporate credit unions have assets well in excess of $1 million. Accordingly, the NCUA Board had determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

This final rule will impose no additional collection requirements since corporate credit unions are already subject to fidelity bond requirements. The rule only changes the amount of coverage and deductibles required. Therefore, it was not sent to the Office of Management and Budget for approval.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. It states that: "Federal action limiting the policy-making discretion of the states should be taken only where constitutional authority for the action is clear and certain, and the national activity is necessitated by the presence of a problem of national scope."

The issue of corporate credit unions and their risks to federally insured credit unions are concerns of national scope. This regulation increases the fidelity bond coverage of corporate credit unions. This action will afford greater protection for both federally and state-chartered corporate credit unions. Additionally, the NCUA Board believes that the protection of the NCUSIF warrants these new coverages. They will not unduly burden federally insured state-chartered corporate credit unions. This rule does not impose additional costs or burdens on the state, nor does it affect the states' ability to discharge traditional state government functions. The benefits provided and protection afforded by the NCUSIF are the same for federally insured state-chartered corporate credit unions as for federally chartered corporate credit unions. It is protection afforded through a federal system. The responsibility for administering that system lies with the NCUA Board. The NCUA Board believes that all federally insured corporate credit unions should continue to be subject to the same fidelity bond requirements. The NCUA Board, pursuant to Executive Order 12612, has determined that this rule may have an occasional direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. However, the potential risk to the NCUSIF without these changes justifies them.

List of Subjects

12 CFR Part 704

Credit unions, Reporting and recordkeeping requirements.

12 CFR Part 741

Bank deposit insurance, Credit unions, reporting and recordkeeping requirements.

By the National Credit Union Administration Board on October 7, 1993.

Becky Baker,

Secretary of the Board.

Accordingly, NCUA amends 12 CFR Parts 704 and 741 as set forth below:

PART 704—CORPORATE CREDIT UNIONS

1. The authority citation for part 704 continues to read as follows:

Authority: 12 U.S.C. 1762, 1766(a), 1781 and 1789.

2. A new § 704.17 is added follows:

§ 704.17 Fidelity bond coverage.

(a) *Scope.* This section provides the fidelity bond requirements for employees and officials in corporate credit unions.

(b) *Review of coverage.* The board of directors of each corporate credit union shall, at least annually, carefully review the bond coverage in force to determine its adequacy in relation to risk exposure and to the minimum requirements in this section.

(c) *Minimum coverage.* Approved Forms. Every corporate credit union will maintain bond coverage with a company holding a certificate of authority from the Secretary of the Treasury. All bond forms, and any riders and endorsements which limit the coverage provided by approved bond forms, must receive the prior written approval of the NCUA Board. The Corporate Credit Union Discovery Bond (NCUA 100) and Standard Form 24 with Credit Union Bond Conversion Endorsement are approved for use by corporate credit unions. Credit Union Blanket Bond Form 581 and Form 23—Extended Form, may also be utilized by corporate credit unions. Fidelity bonds must provide coverage for the fraud and dishonesty of all employees, directors, officers, and supervisory and credit committee members. Notwithstanding the foregoing, all bonds must include a provision, in a form approved by the NCUA Board, requiring written notification by surety to the Board: (1) When the bond of a credit union is terminated in its entirety; or (2) when bond coverage is terminated, by issuance of a written notice, on an

employee, director, officer, supervisory, or credit committee member. Said notification shall be sent to the Secretary of the NCUA Board or designee and shall include a brief statement of cause for termination.

(d) *Minimum coverage amounts.* The minimum amount of bond coverage will be computed based on the corporate credit union's net assets. The following table lists the minimum requirements.

Net assets	Minimum bond (million)
Less than $50 million	$1.0
$50–$99 million	2.0
$100–$499 million	4.0
$500–$999 million	6.0
$1.0–$1.999 billion	8.0
$2.0–$4.999 billion	10.0
$5.0–$9.999 billion	15.0
$10.0–$24.999 billion	20.0
$25.0 billion plus	25.0

It is the duty of the board of directors of each corporate credit union to provide adequate protection to meet its unique circumstances by obtaining, when necessary, bond coverage in excess of the above minimums.

(e) *Reduced coverage:* NCUA Approval. Any proposal for reduced coverage must be approved in writing by the NCUA Board at least 20 days in advance of the proposed effective date of the reduction.

(f) *Deductibles.*

(1) The maximum amount of deductibles allowed are based on the corporate credit union's primary capital to risk asset ratio as defined in § 704.11(j)(1). The following table sets out the maximum deductibles.

Primary capital to risk assets ratio	Maximum deductible
Less than 4.0 percent	7.5 percent of primary capital.
4.0–7.99 percent	10.0 percent of primary capital.
8.0–11.99 percent	12.0 percent of primary capital.
Greater than 12.0 percent.	15.0 percent of primary capital.

(2) A deductible may be applied separately to one or more insuring clauses in a blanket bond. Deductibles in excess of those showing in this section must have the written approval of the NCUA Board at least 20 days prior to the effective date of the deductibles.

(g) *Additional coverage.* The NCUA Board may require additional coverage for any corporate credit union when, in the opinion of the Board, current coverage is insufficient. The board of directors of the corporate credit union must obtain additional coverage within 30 days after the date of written notice from the NCUA Board.

PART 741—REQUIREMENTS FOR INSURANCE

1. The authority citation for part 741 continues to read as follows:

Authority: 12 U.S.C. 1757, 1766, 1781 through 1790.

Section 741.11 is also authorized by 31 U.S.C. 3717.

2. Section 741.1 is revised to read as follows:

§ 741.1 Minimum fidelity bond requirements.

(a) Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act must possess the minimum fidelity bond coverage stated in Section 701.20 of this Chapter in order for its application for such insurance to be approved and for such insurance coverage to continue. A federally insured credit union whose fidelity bond coverage is terminated shall mail notice of such termination to the regional director not less than 35 days prior to the effective date of such termination.

(b) Corporate credit unions must comply with § 704.17 of the NCUA Rules and Regulations in lieu of § 701.20.

[FR Doc. 93–26057 Filed 10–25–93; 8:45 am]
BILLING CODE 7535–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 93–ASW–4; Special Condition 29–ASW–11]

Special Condition: Aerospatiale Model SA–365N1, and AS–365N2 "Dauphin" Helicopters, Electronic Flight Instrument System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition.

SUMMARY: This special condition is issued for the Aerospatiale Model SA–365N1 and AS–365N2 "Dauphin" helicopters. These helicopters will have a novel or unusual design feature associated with the Electronic Flight Instrument System. This special condition contains additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that provided by the applicable airworthiness standards.

EFFECTIVE DATE: October 26, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCallister, FAA, Rotorcraft Directorate, Policy and Procedures Group, Fort Worth, Texas 76193–0112; telephone (817) 624–5121.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 1993, American Eurocopter Corporation, Grand Prairie, Texas, notified the FAA that they intended to issue a Supplemental Type Certificate under their Designated Alteration Station authorization for installation of an Electronic Flight Instrument System in Aerospatiale Model SA–365N1 and AS–365N2 "Dauphin" helicopters. Each of these models is a 13 passenger, two engine, 9,370 pound transport category helicopter.

Type Certification Basis

The certification basis established for the Aerospatiale Model SA–365N1 and AS–365N2 "Dauphin" helicopters includes: Federal Aviation Regulation (FAR) section 21.29 and part 29 effective February 1, 1965, Amendments 29–1 through 29–11; Airworthiness Criteria for Helicopter Instrument Flight dated December 15, 1978, for Instrument Flight Rule (IFR) certification. Aerospatiale has elected to comply with part 29 Amendments 29–12 through 29–16 except for section 29.397 relating to rotor brakes and section 29.173 for longitudinal static stability.

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these helicopters because of a novel or unusual design feature, special conditions are prescribed under the provisions of section 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with FAR section 11.49 after public notice, as required by sections 11.28 and 11.29(b), and become part of the type certification basis in accordance with section 21.101(b)(2) for changes to the type certificates. In addition to the applicable airworthiness regulations and special conditions, the Model AS–365N2 must comply with the noise certification requirements of Part 36, Amendments 36–1 through 36–16.

Novel or Unusual Design Feature

The Aerospatiale Model SA–365N1 and AS–365N2 "Dauphin" helicopters, at the time of the application, were identified as incorporating one or

possibly more electrical, electronic, or combination of electrical electronic (electrical/electronic) systems that will be performing functions critical to the continued safe flight and landing of the helicopter. The Electronic Flight Instrument System performs the attitude display function. The display of attitude, altitude, and airspeed to the pilot is critical to the continued safe flight and landing of the helicopter for instrument flight rules (IFR) operations in Instrument Meteorological Conditions.

If it is determined that these helicopters will incorporate other electrical/electronic systems performing critical functions, those systems also will be required to comply with the requirements of this special condition.

Discussion of Comments

Notice of Proposed Special Condition No. SC–93–4–SW was published in the **Federal Register** on July 1, 1993 (58 FR 35411). One comment was received from American Eurocopter requesting that the applicable Aerospatiale models be clarified. American Eurocopter requested that the special condition be made applicable to the Aerospatiale Model SA–365N as well as the two models stated in the proposal. The addition of the Model SA–365N helicopter to the applicability of this special condition is a substantive change and cannot be made without allowing the public an opportunity to comment on any such change. Therefore, a special condition for the Model SA–365N will be considered in a future action. Additionally, the commenter stated that the model designation for the Model SA–365N1 was erroneously shown as AS–365N1 in the proposed special condition. The FAA agrees and the correct model designation, SA–365N1, is shown in this final special condition. Also, a reference to the noise standard for Model AS–365N2 was inadvertently omitted from the type certification basis. This oversight is corrected in this final rule. Therefore, except for the changes noted, the special condition is adopted as proposed.

Conclusion

This action affects only certain unusual or novel design features on two models of helicopters. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the affected helicopters.

List of Subjects in 14 CFR Part 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g).

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Aerospatiale Model SA–365N1 and AS–365N2 "Dauphin" helicopters:

Protection for Electrical and Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopter is exposed to high intensity radiated fields external to the helicopter.

Issued in Forth Worth, Texas, on October 15, 1993.

Henry A. Armstrong,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93–26306 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 93–NM–38–AD; Amendment 39–8712; AD 93–20–04]

Airworthiness Directives; Boeing Model 747–100, –200, and –300 Series Airplanes, Equipped With BFGoodrich Evacuation Slide/Rafts

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–100, –200, and –300 series airplanes, that requires modification of certain regulators on evacuation slide/rafts on doors 1, 2, 4, and 5. This amendment is prompted by reports that the regulators installed on these airplanes are similar in design to those installed on other transport category airplanes and have caused certain evacuation slide/rafts to fail to inflate immediately upon deployment on those airplanes. The actions specified by this AD are intended to prevent delayed inflation of evacuation slide/rafts, which could delay or impede the evacuation of passengers during an emergency.

DATES: Effective November 26, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 26, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from BFGoodrich, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew Gfrerer, Aerospace Engineer, Systems and Equipment Branch, ANM–131L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5338; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747–100, –200, and –300 series airplanes series was published in the **Federal Register** on May 25, 1993 (58 FR 29998). That action proposed to require modification of certain regulators on evacuation slide/rafts on doors 1, 2, 4, and 5.

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

Three commenters support the proposed rule.

One commenter requests that the proposed 36-month compliance time for modification of the evacuation slide/rafts be shortened to 6 months based on the degree of urgency of the unsafe condition. The FAA does not concur with the need for a shorter compliance time. In developing an appropriate compliance time for this action, the FAA considered not only the safety implications, but the average utilization rate of the affected fleet, the availability of necessary parts, and the practical aspects of an orderly modification of the fleet during regular maintenance periods. In consideration of these items, the FAA has determined that 36 months represents the maximum interval of time allowable wherein the

modifications can reasonably be accomplished and an acceptable level of safety can be maintained.

One commenter requests that the FAA delay issuance of the final rule until BFGoodrich obtains approval for another service bulletin that would contain instructions for modifying certain escape slides and slide/rafts installed on various other Boeing airplanes. The commenter prefers that the FAA address this unsafe condition in one rulemaking action, rather than address the new service bulletin in a separate rulemaking action. The FAA does not concur. Since there is no scheduled date for completion, approval, and release of the new service bulletin, and in light of the safety consequences addressed by this AD, the FAA considers that any further delay of this AD action is inappropriate. Further, if the new service bulletin is approved and released after the promulgation of this AD, and if the FAA determines that associated rulemaking is warranted, the FAA is obligated, under the Administrative Procedure Act, to provide notice to the operators of airplanes affected by that service bulletin (and rulemaking) and to provide an opportunity for them to comment on the proposed rule.

This same commenter requests that the discussion of the unsafe condition be revised to clarify that the regulators on the Boeing Model 747–100, –200, and –300 series airplanes are "similar," rather than "identical," in design to the regulators installed on airplanes on which the failures occurred. The FAA concurs. The discussion in the preamble to this final rule has been revised accordingly.

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

There are approximately 2,100 BFGoodrich evacuation slide/rafts installed on Boeing Model 747–100, –200, and –300 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 630 evacuation slide/rafts are installed on Boeing Model 747–100, –200, and –300 series airplanes of U.S. registry that will be affected by this AD. It will take approximately 16.5 work hours per slide/raft to accomplish the required actions, and the average labor rate is $55 per work hour. Required parts will cost approximately $790 per slide/raft. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,069,425, or $1,697.50 per slide/raft. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93–20–04 Boeing: Amendment 39–8712. Docket 93–NM–38–AD.

Applicability: Model 747–100, –200, and –300 series airplanes, equipped with BFGoodrich evacuation slide/rafts, as listed in BFGoodrich Service Bulletin 4A3221–25–250, dated March 12, 1993, having regulator part number 4A3194–1, –2, or –3; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent delayed inflation of evacuation slide/rafts, which could delay or impede the evacuation of passengers during an emergency, accomplish the following:

(a) Within 36 months after the effective date of this AD, modify BFGoodrich evacuation slide/rafts having regulator part number 4A3194–1, –2, or –3, installed on doors 1, 2, 4, and 5, in accordance with BFGoodrich Service Bulletin 4A3221–25–250, dated March 12, 1993.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(c) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(d) The modification shall be done in accordance with BFGoodrich Service Bulletin 4A3221–25–250, dated March 12, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from BFGoodrich, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 26, 1993.

Issued in Renton, Washington, on October 13, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–26242 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–13–P3

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14 CFR Part 39

[Docket No. 92–NM–154–AD; Amendment 39–8715; AD 93–21–01]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that requires replacement of the bypass valve

assemblies in the hydraulic systems 1 and 2 return filters. This amendment is prompted by a report that a loose bypass valve seal of the hydraulic system return filter assembly became jammed and caused increased pressure in the return system, resulting in insufficient clearance in the brake unit and subsequent overheated brakes and blown tires. The actions specified by this AD are intended to prevent the occurrence of overheated brakes and blown tires, which would lead to loss of braking performance and may cause the loss of directional control of the airplane while it is on the ground.

DATES: Effective November 26, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 26, 1993.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Timothy J. Dulin, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2141; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on July 26, 1993 (58 FR 39691). That action proposed to require replacement of the bypass valve assemblies in the hydraulic systems 1 and 2 return filters.

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

The commenters support the proposed rule.

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

The FAA estimates that 40 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Required parts will be supplied by the parts manufacturer at no cost to operators. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,200, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93–21–01 FOKKER: Amendment 39–8715. Docket 92–NM–154–AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11363, inclusive, and 11408; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the occurrence of overheated brakes and blown tires, which would lead to loss of braking performance and may cause the loss of directional control of the airplane while it is on the ground, accomplish the following:

(a) For the airplane having serial number 11408: Within 7 months after the effective date of this AD, remove the hydraulic system 1 return filter, having part number QA05775; and install an improved system 1 return filter, having part number QA07236; in accordance with Fokker Service Bulletin SBF100–29–021, Revision 2, dated December 22, 1992.

(b) For airplanes having serial number 11244 through 11363, inclusive: Within 7 months after the effective date of this AD, remove the hydraulic systems 1 and 2 return filters, having part numbers QA05775 and QA05777, respectively; and install improved systems 1 and 2 return filters, having part numbers QA07236 and QA07237, respectively; in accordance with Fokker Service Bulletin SBF100–29–021, Revision 1, dated July 3, 1992; or Revision 2, dated December 22, 1992.

(c) As of the effective date of this AD, no person shall install hydraulic systems 1 and 2 return filters, part numbers QA05775 and QA05777, respectively, on any airplane.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The removal and installation shall be done in accordance with Fokker Service Bulletin SBF100–29–021, Revision 1, dated July 3, 1992; and Fokker Service Bulletin SBF100–29–021, Revision 2, dated December 22, 1992; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria,

Virginia 22314. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on November 26, 1993.

Issued in Renton, Washington, on October 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-26244 Filed 10-25-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-NM-45-AD; Amendment 39-8717; AD 93-21-02]

Airworthiness Directives; General Dynamics Convair Model 240, T-29A Through D, and C-131A (Military) Series Airplanes, Including Those Modified for Turbo-Propeller Power

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all General Dynamics Convair Model 240, T-29A through D, and C-131A (military) series airplanes. This amendment requires repetitive visual inspections of elevator and rudder hinge pin and bushing assemblies, a hardness test of the elevator and rudder hinge pins and bushings, and replacement of discrepant parts. This amendment is prompted by reports that three elevator hinge pins were found that were dimensionally incorrect and were in a "soft" condition (not heat-treated). The actions specified by this AD are intended to prevent the loss of an elevator or rudder, resulting from the installation of a suspected unapproved part.

DATES: Effective November 26, 1993.

The incorporation by reference of General Dynamics, Convair Division, Alert Service Bulletin 600 (240D) S. B. No. A55-5, dated March 22, 1993, as listed in the regulations is approved by the Director of the Federal Register as of November 26, 1993.

The incorporation by reference of General Dynamics, Convair Division, Service Bulletin 600 (240D) 55-4, dated September 21, 1990, was approved previously by the Director of the Federal Register as of July 25, 1991 (56 FR 26608, June 10, 1991).

ADDRESSES: The service information referenced in this AD may be obtained from General Dynamics, Convair Division, P.O. Box 85377, San Diego, California 92186-5377. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM-123L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (310) 988-5237; fax (310) 988-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) that is applicable to all General Dynamics Convair Model 240, T-29A through D, and C-131A (military) series airplanes was published in the **Federal Register** on June 2, 1993 (58 FR 31352). That action proposed to require repetitive visual inspections of elevator and rudder hinge pin and bushing assemblies, a hardness test of the elevator and rudder hinge pins and bushings, and replacement of discrepant parts.

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

The commenter supports the proposed rule.

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

There are approximately 60 Model 240, T29A through D, and C-131A (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 45 airplanes of U.S. registry will be affected by this AD, that it will take approximately 50 work hours per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $123,750, or $2,750 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "ADDRESSES."

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

93-21-02 General Dynamics (Convair): Amendment 39-8717. Docket 93-NM-45-AD.

Applicability: All Model 240, T-29A through D, and C-131A (military) series airplanes, certificated in any category, including those airplanes modified for turbo-propeller power.

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of an elevator or rudder, resulting from the installation of a suspected unapproved part (SUP), accomplish the following:

(a) Within 400 hours time-in-service or 180 days after the effective date of this AD, whichever occurs first, accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Remove the elevators and rudder in accordance with Parts 2.A.1. and 2.B.1., respectively, of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 600 (240D) S. B. No. A55–5, dated March 22, 1993; perform a detailed visual inspection of the elevator and rudder hinge pins and bushings to detect wear in accordance with the procedures described in Part 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Service Bulletin 600 (240D) 55–4, dated September 21, 1990; and perform a detailed visual inspection of the elevator and rudder bearing plate assemblies to detect cracks and of the elevator and rudder bearings to detect chattering, looseness, dryness, or binding in accordance with Parts 2.A. and 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 600 (240D)
S. B. No. A55–5, dated March 22, 1993.

(i) If any pin or bushing is worn, prior to further flight, replace the worn pin or bushing with a serviceable pin or bushing in accordance with the procedures described in Part 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Service Bulletin 600 (240D) 55–4, dated September 21, 1990.

(ii) If any cracked bearing plate assembly is found, prior to further flight, replace the cracked bearing plate assembly with a serviceable bearing plate assembly in accordance with Part 2.A. or 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 600 (240D) S. B. No. A55–5, dated March 22, 1993.

(iii) If any chattering, loose, dry, or seized bearing is found, prior to further flight, replace the discrepant bearing with a serviceable bearing in accordance with Part 2.A. or 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 600 (240D) S. B. No. A55–5, dated March 22, 1993.

(2) Perform a hardness test to determine the equivalent strength of the elevator and rudder hinge pins and bushings in accordance with normal maintenance procedures. If the equivalent strength of any pin or bushing (pin assembly 240–2010908–1) does not meet the type design strength specified in the following table, prior to further flight, replace the discrepant pin or bushing with a serviceable pin or bushing in accordance with Part 2.A. or 2.B. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 600 (240D) S. B. No. A55–5, dated March 22, 1993.

Part	Part no.	Type design strength
Pin	GD/Convair 240–2010904.	170–195 ksi
Bushing	GD/Convair 240–2010903–7.	120–145 ksi

Elevator and rudder hinge pins and bushings received directly from Convair that bear the Convair mark are excluded from the requirements of this paragraph. The Convair mark is an etched mark, which appears as follows:

CV
SD

The Convair mark is located on the top of the hinge pin and on the top of the bushing.

(3) Reinstall the elevator and rudder, and ensure that proper mating of the pin and bushing tapered surfaces exists in accordance with Parts 2.A.5. and 2.B.5. of the Accomplishment Instructions of General Dynamics, Convair Division, Alert Service Bulletin 600 (240D) S. B. No. A55–5, dated March 22, 1993.

(b) Repeat the requirements of paragraphs (a)(1) and (a)(3) of this AD at intervals not to exceed 2,000 hours time-in-service or 2 years, whichever occurs first.

(c) Within 48 hours after accomplishing the requirements of this AD, report inspection results, positive or negative, to the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806–2425; fax (310) 988–5210. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(d) As of the effective date of this AD, no person shall install an elevator or rudder hinge pin or bushing on any airplane unless, prior to installation, the pin or bushing has been tested for hardness and meets the specified type design strength in accordance with paragraph (a)(2) of this AD, or unless the pin or bushing bears the Convair mark described in that paragraph.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(f) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(g) The actions shall be done in accordance with General Dynamics, Convair Division, Alert Service Bulletin 600 (240D) S. B. No. A55–5, dated March 22, 1993, and General Dynamics, Convair Division, Service Bulletin 600 (240D) 55–4, dated September 21, 1990. The incorporation by reference of General Dynamics, Convair Division, Alert Service Bulletin 600 (240D) S. B. No. A55–5, dated March 22, 1993, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The incorporation by reference of General Dynamics, Convair Division, Service Bulletin 600 (240D) 55–4, dated September 21, 1990, was approved previously by the Director of the Federal Register, in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51, as of July 25, 1991 (56 FR 26608, June 10, 1991). Copies may be obtained from General Dynamics, Convair Division, P.O. Box 85377, San Diego, California 92186–5377. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on November 26, 1993.

Issued in Renton, Washington, on October 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–26245 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 39

[Docket No. 93–NM–61–AD; Amendment 39–8716; AD 92–19–09 R1]

Airworthiness Directives; Short Brothers, PLC, Model SD–3–30 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD), applicable to all Short Brothers Model SD–3–30 series airplanes, that currently requires inspection and modification of various structural and system components, and replacement of damaged, worn, or corroded parts. That action was prompted by reports of fatigue cracking, corrosion, and/or wear in these structural and system components. The actions specified by that AD are intended to prevent reduced structural capability of the wing. This amendment lengthens the intervals between inspections following repair of the rear or forward bay.

DATES: Effective November 26, 1993.

The incorporation by reference of Shorts Service Bulletin SD–3–57–10, Revision 2, dated January 4, 1993, as listed in the regulations, is approved by the Director of the Federal Register as of November 26, 1993.

The incorporation by reference of certain other publications listed in the regulations was approved previously by the Director of the Federal Register as of November 17, 1992 (57 FR 46772, October 13, 1992).

ADDRESSES: The service information referenced in this AD may be obtained

from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202–3719. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William Schroeder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2148; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 92–19–09, Amendment 39–8367 (57 FR 46772, October 13, 1992), which is applicable to all Short Brothers Model SD–3–30 series airplanes, was published in the **Federal Register** on June 18, 1993 (58 FR 33576). That action proposed to revise paragraph (e)(2) of the existing rule to lengthen the intervals between inspections following repair of the rear or forward bay from the previously required 4,800 hours time-in-service to 9,600 hours time-in-service.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

This final rule is being issued as a revision to the existing rule, rather than a supersedure of it.

The FAA estimates that 22 airplanes of U.S. registry will be affected by this AD. The currently required actions require approximately 180 work hours per airplane to accomplish, at an average labor rate of $55 per work hour. Required parts cost approximately $3,000 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $283,800, or $12,900 per airplane. This new AD action adds no new costs to affected operators. In fact, it reduces the economic burden for some operators, since certain inspections will not have to be conducted as often as was required previously.

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 6, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption "**ADDRESSES.**"

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8367 (57 FR 46772, October 13, 1992), and by adding a new airworthiness directive (AD), amendment 39–8716, to read as follows:

92–19–09 R1 Short Brothers, PLC: Amendment 39–8716. Docket 93–NM–61–AD. Revises AD 92–19–09, Amendment 39–8367, which superseded AD 84–07–06 R1, Amendment 39–6036.

Applicability: All Model SD–3–30 series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

Note 1: Paragraphs (a), (b), (c), and (f) of this AD restate the requirements of those paragraphs as they appeared in AD 92–19–09, Amendment 39–8367; the requirements of those paragraphs entail specific one-time actions. As allowed by the phrase, "unless accomplished previously," if the requirements of those paragraphs have been accomplished previously, this AD does not require that they be repeated.

Note 2: Paragraphs (d) and (e) of this AD restate the requirements for repetitive inspections contained in the same paragraphs of AD 92–19–09, Amendment 39–8367. The first inspection required by this AD must be performed within the specified repetitive inspection interval after the last inspection performed in accordance with paragraphs (d) and (e) of AD 92–19–09.

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

(a) Within 180 days after November 3, 1988 (the effective date of AD 84–07–06 R1, Amendment 39–6036), install a new closing panel in the aft baggage compartment in accordance with Shorts Service Bulletin SD3–25–30, dated January 8, 1982.

(b) Within 180 days after November 3, 1988, inspect to detect fuel leakage and seal the fuselage crown in accordance with Shorts Service Bulletins SD3–53–01, Revision 2, dated January 19, 1977; SD3–53–18, dated November 25, 1977; and SD3–53–41, dated May 21, 1980.

(c) Within 600 hours time-in-service after November 3, 1988, or prior to the accumulation of 4,800 total hours time-in-service, whichever occurs later, inspect to detect cracking and modify the wing drag links in accordance with Shorts Service Bulletin SD3–53–48, Revision 1, dated January 5, 1983. Replace damaged parts prior to further flight, in accordance with the service bulletin.

(d) Within 90 days after November 3, 1988, inspect to detect corrosion or wear in the horizontal stabilizer (tailplane)-to-fuselage fittings, pins, and bushings in accordance with Shorts Service Bulletin SD3–55–16, Revision 3, dated November 1987. For airplanes that have accumulated less than 4,800 total hours time-in-service and are less than 2 years old as of November 3, 1988, accomplishment of this inspection may be deferred until the affected airplane reaches 4,800 total hours time-in-service or 2 years of age, whichever occurs first. Replace any worn or corroded parts prior to further flight, in accordance with the service bulletin.

(1) If no pin has been replaced with a new pin, and if there is no corrosion found on any attachment fitting, repeat this inspection thereafter at intervals not to exceed 1,200 flight hours or within 6 months following the immediately preceding inspection, whichever occurs first.

(2) If all the pins on one side have been replaced with new pins, repeat the inspection on that side within the next 4,800 flight hours or 2 years following replacement of the pins, whichever occurs first. Repeat this inspection thereafter at intervals not to exceed 2,400 flight hours or 1 year following the immediately preceding inspection, whichever occurs first.

(e) For airplanes having serial numbers SH3002 through SH3090, inclusive: Within 300 hours time-in-service after November 3, 1988, or prior to the accumulation of 4,800 total hours time-in-service, whichever occurs later, inspect to detect cracked or broken rib/skin attachment cleats at left wing station 160 in accordance with Part A (Inspection) of paragraph 2.A. of the Accomplishment Instructions in Shorts Service Bulletin SD3–57–10, Revision 1, dated October 11, 1982; or

Revision 2, dated January 4, 1993. Repeat this inspection within 2,400 hours time-in-service following the immediately preceding inspection, or within 300 hours time-in-service after November 17, 1992 (the effective date of AD 92-19-09, Amendment 39-8367), whichever occurs later.

(1) If no crack is found, repeat this inspection of each bay thereafter at intervals not to exceed 2,400 hours time-in-service.

(2) If any crack is found, prior to further flight, repair in accordance with Part B (Repair—Rear Bay) and/or Part C (Repair—Forward Bay) of paragraph 2.A. of the Accomplishment Instructions in the service bulletin; and repeat the inspection of the repaired bay thereafter at intervals not to exceed 9,600 hours time-in-service.

(f) Within 180 days after November 3, 1988, modify the power control circuit in accordance with Shorts Service Bulletin SD3-76-01, dated September 8, 1981.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(h) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(i) The actions shall be done in accordance with Shorts Service Bulletin SD3-25-30, dated January 8, 1982; Shorts Service Bulletin SD3-53-01, Revision 2, dated January 19, 1977; Shorts Service Bulletin SD3-53-18, dated November 25, 1977; Shorts Service Bulletin SD3-53-41, dated May 21, 1980; Shorts Service Bulletin SD3-53-48, Revision 1, dated January 5, 1983; Short Service Bulletin SD3-55-16, Revision 3, dated November 1987; Shorts Service Bulletin SD3-76-01, dated September 8, 1981; Shorts Service Bulletin SD3-57-10, Revision 1, dated October 11, 1982; and Shorts Service Bulletin SD3-57-10, Revision 2, dated January 4, 1993. Revision 2 of Shorts Service Bulletin SD3-57-10 contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 3-13	1	Oct. 11, 1982.
2	2	Jan. 4, 1993.

This incorporation by reference of Shorts Service Bulletin SD3-57-10, Revision 2, dated January 4, 1993, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. The incorporation by reference of the remainder of the service documents listed above was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51 as of November 17, 1992 (57 FR 46772, October 13, 1992). Copies may be obtained from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202-3719. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on November 26, 1993.

Issued in Renton, Washington, on October 15, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-26243 Filed 10-25-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 91

[Docket No. 27318; Amendment No. 91-234]

Special Visual Flight Rules (SVFR) Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; Correction.

SUMMARY: This document corrects an error to the Final Rule, on "Special Visual Flight Rules (SFVR) Operations", which was published on Tuesday, October 5, 1993 (58 FR 51966).

FOR FURTHER INFORMATION CONTACT: Melodie M. DeMarr, Air Traffic Rules Branch (ATP-230), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION: FR Doc. 93-24436, which was published on October 5, 1993, (58 FR 51966), in the Heading, Amendment 91-234, should read Amendment 91-235.

Debbie Swank,

Program Management Staff, Office of Chief Counsel.

[FR Doc. 93-26305 Filed 10-25-93; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Parts 770, 776, 790, and 799

[Docket No. 930778-3178]

Transfer of Items From the U.S. Munitions List to the Commerce Control List and Imposition of Certain Foreign Policy Controls

AGENCY: Bureau of Export Administration, Commerce

ACTION: Interim rule, with request for comments.

SUMMARY: The Bureau of Export Administration (BXA) is amending the Export Administration Regulations (EAR) to reflect the transfer to BXA of licensing jurisdiction for certain non-military (dual-use) equipment and technical data that are being removed from the Department of State's United States Munitions List (USML). This transfer of jurisdiction implements part of the Presidential directive of November 16, 1990, which mandated the removal from the USML of all items contained on the COCOM dual-use list (the International Industrial List) unless significant U.S. national security interests would be jeopardized. This interim rule makes the USML and the Commerce Control List (CCL) more consistent with the international lists maintained by COCOM. A few of the items being transferred to BXA are subject to new foreign policy controls to further the export control objectives of the U.S. Government. In a few list categories, ambiguities remain between the USML and the CCL, and discussions continue between Commerce and other agencies regarding their clarification and the removal of additional items from the USML to BXA licensing jurisdiction.

The items identified for additional foreign policy controls include image intensifier tubes, infrared focal plane arrays and navigation systems technology for inertial navigation systems, gyroscopes and accelerometers. The items will be subject to U.S. foreign policy controls designed to promote regional stability.

An individual validated license will be required for exports and reexports to all destinations except Canada. These items are not eligible for the special licensing procedures. All license applications will be reviewed on a case-by-case basis to determine whether the export or reexport could contribute, directly or indirectly, to a country's military capabilities in a manner that would destabilize or alter a region's military balance contrary to the foreign policy interests of the United States.

DATES: This interim rule is effective October 26, 1993.

Comments must be received by December 10, 1993.

ADDRESSES: Written comments (six copies) should be sent to: Patricia Muldonian, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, P.O. Box 273, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Jerald Beiter, Office of Technology and Policy Analysis, Bureau of Export Administration, Department of Commerce, Washington, DC 20230, Telephone: (202) 482–1641.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of Commerce and the Secretary of State have agreed, consistent with the Presidential directive of November 16, 1990,[1] to transfer jurisdiction of certain non-military (dual-use) commodities and technical data from the United States Munitions List (USML), § 121.1 of the Department of State's International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130), to the Commerce Control List (CCL), Supplement No. 1 to § 799.1 of the Export Administration Regulations (EAR) (15 CFR parts 730–799).

The State Department amended the USML by a regulation published on April 27, 1992 in the **Federal Register** at 57 FR 15227. The publication of this regulation by the State Department eliminated, in most cases, the problem of an item being described on both the USML and the CCL.

In the near future, BXA will provide a list of ECCNs that may overlap with the USML. BXA will offer guidance regarding the survival of terms and conditions of licenses previously issued by the State Department for items now subject to control under the CCL. Meanwhile, all terms and conditions of those licenses will remain in effect until revised.

The vast majority of the items removed from the USML thus far are described under existing controls in the EAR. However, in transferring these items to BXA jurisdiction, the Department of State identified certain articles that would be transferred upon imposition of foreign policy controls. The report establishing these controls was submitted to the Congress on May 6, 1992. Certain portions of seven ECCNs on the Commerce Control List are being made subject to the expanded foreign policy controls implemented by this regulation. The removal of these items from the USML is effective with the publication of this rule.

In accordance with section 6 of the Export Administration Act, as amended (EAA), these newly transferred items will be subject to foreign policy controls to promote regional stability as described in § 776.16 of the EAR.

The newly transferred items made subject to these expanded regional stability controls, with their corresponding Export Control Classification Numbers (ECCNs), are as follows:

A. Image Intensifier Tubes

(1) Non-military (dual-use) image intensification tubes, second generation and above (ECCN 6A02);

(2) Systems or equipment containing second generation and above image intensification tubes (ECCNs 6A02 and 6A03);

(3) Technical data, including software for the development or production of the above (ECCNs 6D21, 6E01, and 6E02).

B. Infrared Focal Plane Arrays

(1) Non-military (dual-use) infrared focal plane arrays (ECCN 6A02);

(2) Systems or equipment containing infrared local plane arrays (ECCNs 6A02 and 6A03);

(3) Technical data, including software for the development or production of the above (ECCNs 6D01, 6E01, and 6E02).

C. Navigation Systems Technologies

(1) Technical data, including software, required for the development or production of commercial inertial navigation systems, gyroscopes and accelerometers (ECCNs 7D01, 7E01, 7E02, and 7E21).

(2) Inertial navigation systems, equipment, and specially designed components therefore, and software for the development, production of inertial systems, equipment, and specially designed components therefor, for shipborne use, underwater use, ground vehicle use, spaceborne use, or uses other than "civil aircraft" continued to be controlled by the Office of Defense Trade Controls, U.S. Department of State.

As a result of this action, an individual validated license is now required for all destinations except Canada for exports and reexports of the items listed above. License applications for these items will be reviewed on a case-by-case basis to determine if the exports or reexports could contribute, directly or indirectly, to any country's military capabilities in a manner that would alter or destabilize a region's military balance contrary to the foreign policy interests of the United States.

Section 776.16 notifies applicants, in accordance with § 770.14(c)(1)(iii), that an additional 15 working days will be needed to review applications for these items. Applications to export these items must be accompanied by full technical specifications. Applications may be submitted electronically provided technical specifications are received by the Office of Export Licensing (OEL) within 24 hours. Any such applications received without the proper technical specifications will be returned without action.

The revisions made by this rule will effectively continue export restrictions previously administered by the Office of Defense Trade Controls (DTC), U.S. Department of State. The items affected by this transfer of jurisdiction formerly required a license issued by DTC. The fact that the Bureau of Export Administration (BXA) now requires an individual validated license for exports and reexports of these items to all destinations except Canada does not impose new restrictions on exports and reexports of these items. Because of the continuity of export controls on these items, this rule contains no provision concerning the sanctity of existing contracts.

Rulemaking Requirements

1. This rule affects collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Affected OMB collections have been approved under Control Numbers 0694–0005, 0694–0007, and 0694–0010.

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

3. 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.

4. 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. This rule continues in effect controls that had been imposed under the Arms Export Control Act. No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule.

However, because of the importance of the issues raised by these regulations, this rule is being issued in interim form

[1] The President's memorandum of disapproval of H.R. 4653, the "Omnibus Export Amendments Act of 1990", was published in the Weekly Compilation of Presidential Documents Vol. 26, No. 46, November 19, 1990, p. 1839.

and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close December 10, 1993. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form.

Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the Bureau of Export Administration Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration Freedom of Information Officer, at the above address or by calling (202) 482–2593.

List of Subjects

15 CFR Parts 770, 776 and 799

Exports, Reporting and recordkeeping requirements.

15 CFR Part 790

Administrative practice and procedure, Advisory committees, Exports.

Accordingly, parts 770, 776, 790, and 799 of the Export Administration Regulations (15 CFR parts 730–799) are amended as follows:

1. The authority citations for 15 CFR parts 770, 776, 790, and 799 continue to as follows:

Authority: Pub. L. 90–351, 82 Stat. 197 (18 U.S.C. 2510 *et seq.*), as amended; sec. 101, Pub. L. 93–153, 87 Stat. 576 (30 U.S.C. 185), as amended; sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212), as amended; secs. 201 and 201(11)(e), Pub. L. 94–258, 90 Stat. 309 (10 U.S.C. 7420 and 7420(e)), as amended; Pub. L. 95–223, 91 Stat. 1626 (50 U.S.C. 1701 *et seq.*); Pub. L. 95–242, 92 Stat. 120 (22 U.S.C. 3201 *et seq.* and 42 U.S.C. 2139a); sec. 208, Pub. L. 95–372, 92 Stat. 668 (43 U.S.C. 1354); Pub. L. 96–72, 93 Stat. 503 (50 U.S.C. App. 2401 *et seq.*), as amended (extended by Pub. L. 103–10, 107 Stat. 40); sec. 125, Pub. L. 99–64, 99 Stat. 156 (46 U.S.C. 466c); E.O. 11912 of April 13, 1976 (41 FR 15825, April 15, 1976); E.O. 12002 of July 7, 1977 (42 FR 35623, July 7, 1977), as amended; E.O. 12058 of May 11, 1978 (43 FR 20947, May 16, 1978; E.O. 12214 of May 2, 1980 (45 FR 29783, May 6, 1980); E.O. 12730 of September 30, 1990 (55 FR 40373, October 2, 1990) as continued by Notice of September 25, 1992 (56 FR 44649, September 28, 1992); E.O. 12735 of November 16, 1990 (55 FR 48587, November 20, 1990), as continued by Notice of November 11, 1992 (57 FR 53979, November 13, 1992).

PART 770—[AMENDED]

2. Section 770.10 is amended by revising paragraph (a) to read as follows:

§ 770.10 Exports which are not controlled by the Bureau of Export Administration.

(a) *U.S. Munitions List.* Regulations administered by the Office of Defense Trade Controls, U.S. Department of State, Washington, D.C. 20520, govern the export of defense articles and defense services on the U.S. Munitions List (22 CFR part 121). These regulations are issued under the authority of section 38 of the Arms Export Control Act (22 U.S.C. 2778).

* * * * *

Part 770, Supplement No. 2 [Removed and Reserved]

3. Supplement No. 2 to part 770 is removed and reserved.

PART 776—[AMENDED]

4. Section 776.16 is amended by revising the section heading and by adding a new paragraph (b) to read as follows:

§ 776.16 Regional stability items.

* * * * *

(b) Items described on the Commerce Control List (CCL) under Export Control Classification Numbers (ECCNs) 6A02, 6A03, 6D21, 6E01, 6E02, 7D01, 7E01, 7E02, and 7E21 to any destination, except Canada. Applications for validated license will be reviewed on a case-by-case basis to determine whether the export or reexport could contribute directly or indirectly to any country's military capabilities in a manner that would alter or destabilize a region's military balance contrary to the foreign policy interests of the United States.

(1) Foreign Policy controls for regional stability apply to the following ECCNs on the CCL:

(i) Items controlled under 6A02.a.1, a.2, a.3, and c;

(ii) Items controlled under 6A03.b.3 and b.4;

(iii) 6D21: software specially designed for the "development" or "production" of items controlled by 6A02.a.1, a.2, a.3, and c;

(iv) 6E01: technology for the "development" of items controlled by 6A02.a.1, a.2, a.3, c, and 6A03.b.3 and b.4;

(v) 6E02: technology for the "production" of items controlled by 6A02.a.1, a.2, a.3, and c, and 6A03.b.3 and b.4;

(vi) 7D01: software specially designed for the "development" or "production" of items controlled by 7A01, 7A02, and 7A03;

(vii) 7E01: technology for the "development" of inertial navigation systems, inertial equipment and specially designed components therefor, for "civil aircraft" ;

(viii) 7E02: technology for the "production" of inertial navigation systems, inertial equipment and specially designed components therefor, for "civil aircraft";

(ix) 7E21: technology for the "development" or "production" of inertial navigation systems, inertial equipment and specially designed components therefor, for "civil aircraft".

(2) Any application to export an item identified in paragraph (b)(1) of this section must be accompanied by full technical specifications. Any such applications received without proper technical specifications will be promptly returned without action. Applicants who wish to export such items to countries eligible for the special processing time frames of § 770.14 of this subchapter are hereby notified pursuant to § 770.14(c)(1)(iii) of this subchapter that an additional 15 working days are required to process such applications. When a notice of

intent to deny is issued under § 770.14(e) of this subchapter the denial will *not* become effective on the 45th day after date of such notification, the application will continue under review until the exporter is notified of further action.

PART 790—[AMENDED]

5. A new § 790.8 is added to read as follows:

§ 790.8 General order on the transfer of jurisdiction over certain items from the U.S. Munitions List maintained by the Department of State to the Commerce Control List.

Effective October 26, 1993, the terms and conditions that the Office of Defense Trade Controls, Department of State, has placed on its licenses for items that have been transferred from its jurisdiction (under the U.S. Munitions List (22 CFR part 121)) to the jurisdiction of the Department of Commerce (under the Commerce Control List) shall remain in effect. Inquiries concerning the continued applicability of these conditions shall be directed to the Office of Export Licensing at the address provided in § 772.4(b)(1) of this subchapter.

PART 799—[AMENDED]

§ 799.1 Supplement No. 1 [Amended]

6. In Supplement No. 1 to § 799.1 (the Commerce Control List), the entries listed below are amended by revising the *Requirements* section for each entry:

A. In Category 6, Sensors: ECCNs 6A02A, 6A03A, 6E01A, and 6E02A; and

B. In Category 7, Navigation and Avionics: ECCNs 7A23B, 7D01A, 7E01A, and 7E02A.

The revisions read as follows:

6A02A Optical Sensors.

Requirements

Validated License Required: QSTVWYZ

Unit: Number; $ value for parts and accessories

Reason for Control: NS, FP, MT, and NP (see Notes)

GLV: $3,000, except $0 for items described in paragraphs a.1, a.2, a.3, and c.

GCT: Yes, except MT, FP, and 6A02.a.1, a.2, a.3, and c (see Notes)

GFW: Yes, except 6A02.a.1, a.2, a.3, a.4, and c

Group W Favorable Consideration: Yes, except MT and FP (see Notes)

Notes: 1. FP controls for regional stability apply to items controlled in 6A02.a.1, a.2, a.3, and c (see § 776.16(b) of this subchapter).

2. FP controls for human rights apply to all destinations except Australia, Japan, New Zealand, and members of NATO for police-model infrared viewers controlled by 6A02.c (see § 776.14 of this subchapter).

3. MT controls apply to optical detectors described in 6A02.a.1, a.3, and a.4 that are specially designed or rated as electromagnetic (including "laser") and ionized-particle radiation resistant.

4. NP controls apply to all countries, except countries listed in Supplement No. 2 to Part 773 of this subchapter, for image intensifier tubes and specially designed components described in 6A02.a.2.

* * * * *

6A03A Cameras.

Requirements

Validated License Required: QSTVWYZ

Unit: Number

Reason for Control: NS, FP, and NP (see Notes)

GLV: $1,500

GCT: Yes, except 6A03.a.2, a.3, a.4, a.5, b.1, b.3, and b.4

GFW: No

Notes: 1. FP controls for regional stability apply to items controlled in 6A03.b.3 and b.4.

2. NP controls apply to items controlled in 6A03.a.2 through a.5 and b.1.

* * * * *

6E01A Technology according to the General Technology Note for the "development" of equipment, materials or "software" controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, 6C05, 6D01, 6D02, or 6D03.

Requirements

Validated License Required: QSTVWYZ

Reason for Control: NS, MT, NP, and FP (see Notes)

GTDR: Yes, except MT, NP, and FP (see Notes) and exports to Iran and Syria

GTDU: No

Notes: 1. MT controls apply to technology for the "development" of equipment controlled by 6A02.a.1, a.3, and a.4, 6A07.b and c, and 6A08. MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.

2. FP controls for regional stability apply to technology for items controlled by 6A02.a.1, a.2, a.3, and c (see § 776.16(b) of this subchapter).

3. FP controls for human rights apply to all destinations except Australia, Japan, New Zealand, and members of NATO for technology for the "development" of police-model infrared viewers controlled by 6A02.c (see § 776.14 of this subchapter).

4. NP controls apply to all countries, except countries listed in Supplement No. 2 to Part 773 of this subchapter, for image intensifier tubes and specially designed components described in 6A02.a.2.

* * * * *

6E02A Technology according to the General Technology Note for the "production" of equipment or materials controlled by 6A01, 6A02, 6A03, 6A04, 6A05, 6A06, 6A07, 6A08, 6B04, 6B05, 6B07, 6B08, 6C02, 6C04, or 6C05.

Requirements

Validated License Required: QSTVWYZ

Reason for Control: NS, MT, NP, and FP (see Notes)

GTDR: Yes, except MT, NP, and FP (see Notes) and exports to Iran and Syria

GTDU: No

Notes: 1. MT controls apply to technology for the "production" of equipment controlled by 6A02.a.1, a.3, and a.4, 6A07.b and c, and 6A08. MT controls on technology for 6A08 equipment apply only when the equipment is designed for airborne applications and is usable in the systems described in § 778.7(a) of this subchapter.

2. FP controls for regional stability apply to technology for the "production" of items controlled by 6A02.a.1, a.2, a.3, and c (see § 776.16(b) of this subchapter).

3. FP controls for human rights apply to all destinations except Australia, Japan, New Zealand, and members of NATO for technology for the "production" of police-model infrared viewers controlled by 6A02.c (see § 776.14 of this subchapter).

4. NP controls apply to all countries, except countries listed in Supplement No. 2 to Part 773 of this subchapter, for image intensifier tubes and specially designed components described in 6A02.a.2.

* * * * *

7A23B Inertial or other equipment using accelerometers or gyros described in 7A21B or 7A22B, and systems incorporating such equipment; and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: $ Value

Reason for Control: MT

GLV: $5,000 (see Note)

GCT: No

GFW: No

Note: Inertial navigation systems and inertial equipment, and specially designed components therefor, for use on "civil aircraft" are not eligible for General License GLV.

* * * * *

7D01A "Software" specially designed or modified for the "development" or "production" of equipment controlled by 7A or 7B for national security reasons.

Requirements

Validated License Required: QSTVWYZ

Unit: $ Value

Reason for Control: NS, MT, and FP (see Notes)

GTDR: No

GTDU: No

Notes: 1. FP controls for regional stability apply to "software" for the "development" or "production" of inertial navigation systems, inertial equipment and specially designed components therefor, for "civil aircraft" (see § 776.16(b) of this subchapter).

2. Software for inertial navigation systems and inertial equipment and specially designed components therefor, not for use on "civil aircraft" are controlled by the Office of Defense Trade Controls, U.S. Department of State (see the U.S. Munitions List, Category VIII (g) and (j) (22 CFR part 121)).

* * * * *

7E01A Technology according to the General Technology Note for the "development" of equipment or "software" controlled by 7A, 7B, or 7D for national security reasons.

Requirements

Validated License Required: QSTVWYZ

Reason for Control: NS, MT, and FP (see Notes)

GTDR: No

GTDU: No

Notes: 1. FP controls for regional stability apply to technology for the "development" of inertial navigation systems, inertial equipment and specially designed components therefor, for "civil aircraft" (see § 776.16(b) of this subchapter).

2. Related ECCNs: See 7E21 for MT and FP controls on technology not controlled under 7E01, for the "development" or "production" of equipment or software controlled under Category 7 for MT or FP reasons.

* * * * *

7E02A Technology according to the General Technology Note for the "production" of equipment controlled by 7A or 7B for national security reasons.

Requirements

Validated License Required: QSTVWYZ

Reason for Control: NS, MT, and FP (see Notes)

GTDR: No

GTDU: No

Notes: 1. FP controls for regional stability apply to technology for the "production" of inertial navigation systems, inertial equipment and specially designed components therefor, for "civil aircraft" (see § 776.16(b) of this subchapter).

2. Related ECCNs: See 7E21 for MT and FP controls on technology not controlled under 7E01, for the "development" or "production" of equipment or software controlled under Category 7 for MT or FP reasons.

* * * * *

6. In Supplement No. 1 to § 799.1 (the Commerce Control List), in Category 6, Sensors, ECCN 6D01A is revised to read as follows:

6D01A "Software" specially designed for the "development" or "production" of equipment controlled by 6A04, 6A05, 6A08, or 6B08.

Requirements

Validated License Required: QSTVWYZ

Unit: $ Value

Reason for Control: NS and MT (see Note)

GTDR: Yes, except MT (see Note)

GTDU: No

Note: MT controls apply to "software" for the "development" or "production" of equipment controlled by ECCN 6A08 that is designed for airborne applications and that is usable in the systems described in § 778.7(a) of this subchapter.

Related ECCNs: See 6D21 for:

1. MT controls on "software" specially designed for the "development" or "production" of equipment controlled by 6A02.a.1, a.2, and a.4, 6A22, 6A07.b and c, 6A28, or 6A30.

2. FP controls for regional stability on "software" for the "development" or "production" of equipment controlled by 6A02.a.1, a.2, a.3, c, and 6A03.b.3 and b.4 (see § 776.16(b) of this subchapter).

7. In Supplement No. 1 to § 799.1 (the Commerce Control List), in Category 6, Sensors, ECCN 6D21B is revised to read as follows:

6D21B "Software" specially designed for the "development" or "production" of equipment controlled by 6A02.a.1, a.2, a.3, a.4, c, 6A03.b.3, b.4, 6A22, 6A07.b and c, 6A28 or 6A30.

Requirements

Validated License Required: QSTVWYZ

Unit: $ Value

Reason for Control: MT and FP (see Notes)

GTDR: No

GTDU: No

Notes: 1. FP controls for regional stability apply to "software" for the "development" or "production" of equipment controlled by 6A02.a.1, a.2, a.3, c, 6A03.b.3, and b.4 (see § 776.16(b) of this subchapter).

2. MT controls apply to "software" for the development" or "production" or equipment controlled by 6A02.a.1, a.3, and a.4, 6A22, 6A07.b and c, 6A28, or 6A30 (see § 778.7(a) of this subchapter).

8. In Supplement No. 1 to § 799.1 (the Commerce Control List), in Category 7, Navigation and Avionics, ECCN 7A03A is revised to read as follows:

7A03A Inertial navigation systems and inertial equipment for "aircraft", and specially designed components therefor.

Requirements

Validated License Required: QSTVWYZ

Unit: $ Value

Reason for Control: NS and MT

GLV: $5,000 (see Notes)

GCT: No

GFW: No

Notes: 1. Inertial navigation systems and inertial equipment, and specially designed components therefor, for use on "civil aircraft" are not eligible for General License GLV.

2. Inertial navigation systems and inertial equipment, and specially designed components therefor, not for use on civil aircraft are controlled by the Office of Defense Trade Controls, U.S. Department of State (see the U.S. Munitions List, Category VIII (22 CFR part 121)).

List of Items Controlled

Inertial navigation systems (gimballed and strapdown) and inertial equipment for altitude, guidance or control, and specially designed components therefor, having any of the following characteristics:

a. Navigation error (free inertial) of 0.8 nautical mile per hour (50% Circular Error Probable (CEP) or less (better) subsequent to normal alignment);

b. Specified to function at acceleration levels exceeding 10 g.

Related ECCNs: See 7A23B for MT controls on inertial or other equipment, not controlled by 7A03A, using accelerometers or gyros described in 7A21B or 7A22B, and systems incorporating such equipment.

9. In Supplement No. 1 to § 799.1 (the Commerce Control List), in Category 7, Navigation and Avionics, ECCN 7E21B is revised to read as follows:

7E21B Other technology for the "development", "production", or "use" of equipment or "software" controlled by 7A, 7B, or 7D for missile technology reasons.

Requirements

Validated License Required: QSTVWYZ

Reason for Control: MT and FP (see Notes)

GTDR: No

GTDU: No

Notes: 1. FP controls for regional stability apply to "development" or "production" of inertial navigation systems, inertial equipment, and specially designed components therefor for "civil aircraft" (see § 776.16(b) of this subchapter).

2. Technology for inertial navigation systems and inertial equipment, and specially designed components therefor, not for use on "civil aircraft" are controlled by the Office of Defense Trade Controls, U.S. Department of State (see the U.S. Munitions List, Category VIII (22 CFR part 121)).

10. In Supplement No. 1 to § 799.2 (Commodity Interpretations) Interpretation 21 is revised to read as follows:

Supplement No. 1 to § 799.2—Interpretations

* * * * *

Interpretation 21: Civil Aircraft Inertial Navigation Equipment

(a) The Department of Commerce, Office of Export Licensing (OEL), has licensing jurisdiction over exports and reexports to all destinations of inertial navigation systems, inertial navigation equipment, and specially designed components therefor for "civil aircraft".

(b) The Department of State, Office of Defense Trade Controls (DTC), retains jurisdiction over all software and technology for inertial navigation system and navigation equipment, and specially designed components therefor, for shipborne use, underwater use, ground vehicle use, spaceborne use or use other than "civil aircraft".

Dated: October 18, 1993.

Iain S. Baird,

Acting Assistant Secretary for Export Administration.

[FR Doc. 93–26034 Filed 10–25–93; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 92F–0161]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of an aqueous solution of iodine and hypochlorous acid, generated by the dilution of an aqueous acidic (21.5 percent nitric acid) solution of iodine monochloride, as a sanitizing solution to be used on food-processing equipment and utensils, including dairy-processing equipment. This action responds to a petition filed by Diversey Corp.

DATES: Effective October 26, 1993; written objections and requests for a hearing by November 26, 1993.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9511.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 13, 1992 (57 FR 20494), FDA announced that a food additive petition (FAP 1B4245) had been filed by Diversey Corp., 1532 Biddle Ave., Wyandotte, MI 48192, proposing that § 178.1010 *Sanitizing solutions* (21 CFR 178.1010) be amended to provide for the safe use of an aqueous solution of iodine and hypochlorous acid generated by the dilution of an aqueous acidic (21.5 percent nitric acid) solution of iodine monochloride as a sanitizing solution to be used on dairy-processing equipment, in addition to food-processing equipment and utensils.

I. Safety and Functional Effect of Petitioned Use of the Additives

Sanitizing solutions are regulated as mixtures of chemicals which function together to sanitize food-contact surfaces. Each listed component in a sanitizing solution has a functional effect. In addition, FDA regulations permit the addition to a sanitizing solution of any component that is generally recognized as safe (§ 178.1010(b)). The subject sanitizing solution is an aqueous solution of iodine and hypochlorous acid, generated by the dilution of an aqueous acidic (21.5 percent nitric acid) solution of iodine monochloride. The dilution of the sanitizer results in a disproportionation reaction that converts the nitric acid and iodine monochloride in the concentrated solution into titratable iodine, hypochlorous acid, and additional ionic components. The ionic components are all commonly present in food. Therefore, the agency's safety review of the sanitizing solution has focused on iodine and hypochlorous acid. The function of these components and the basis for FDA's determination of the safety of these components in the subject sanitizer are described below.

A. Iodine

Iodine functions as an antimicrobial agent in the subject sanitizing solution. Iodine is listed as a component in regulated sanitizing solutions under 21 CFR 178.1010 (b)(4), (b)(5), (b)(6), (b)(8), (b)(13), (b)(14), (b)(24), (b)(25), and (b)(31). On the basis of the data submitted in support of these already regulated uses and the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of iodine in the subject sanitizing solution is safe.

B. Hypochlorous Acid

Hypochlorous acid functions as an antimicrobial agent in the subject sanitizing solution. Hypochlorous acid is present in regulated sanitizing solutions which contain hypochlorite salts under 21 CFR 178.1010(b)(1), (b)(15), and (b)(37). On the basis of the data submitted in support of the already regulated uses of hypochlorite salts and the data contained in the food additive petition submitted in support of this sanitizing solution, FDA finds that the use of hypochlorous acid in the subject sanitizing solution is safe.

C. Conclusion on Safety

As discussed above, FDA has evaluated the data in the petition and other relevant materials. On the basis of this evaluation, the agency concludes that these data and materials establish the safety of the level of use and the effectiveness of the additive as a sanitizing solution, and that the regulations should be amended in § 178.1010 as set forth below. The agency also finds that the data in this petition support the use of the subject sanitizing solution on dairy-processing equipment as well as on other food-processing equipment and utensils.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any information that is not available for public disclosure before making the documents available for inspection.

II. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

III. Objections

Any person who will be adversely affected by this regulation may at any time on or before November 26, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each

numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. Section 178.1010 is amended by adding new paragraph (b)(43) and by revising the first sentence in paragraph (c)(19) to read as follows:

§ 178.1010 Sanitizing solutions

* * * * *

(b) * * *

(43) An aqueous solution of iodine and hypochlorous acid generated by the dilution of an aqueous acidic (21.5 percent nitric acid) solution of iodine monochloride. In addition to use on food-processing equipment and utensils, this solution may be used on dairy-processing equipment.

(c) * * *

(19) Solutions identified in paragraphs (b)(24), (b)(25), and (b)(43) of this section shall provide at least 12.5 parts per million and not more than 25 parts per million of titratable iodine.

* * *

* * * * *

Dated: October 14, 1993.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–26271 Filed 10–25–93; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 178

[Docket No. 93F–0001]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to correct an error in nomenclature. The amendment would add *N*-methacryloyloxyethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate chloride sodium salt, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer for use as an antistatic agent in polyolefin films that contact foods under certain conditions of use. The amendment would also remove the erroneous listing of *N*-methacryloyl ethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer. This action is in response to a petition filed by Mitsubishi Petrochemical Co.

DATES: Effective October 26, 1993; written objections and requests for a hearing by November 26, 1993.

ADDRESSES: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–254–9528.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 12, 1993 (58 FR 13603), FDA announced that a food additive petition (FAP 3B4352) had been filed by Mitsubishi Petrochemical Co., c/o Center for Regulatory Services, 2347 Paddock Lane, Reston, VA 22091. The petition proposes that § 178.3130 *Antistatic and/or antifogging agents in food-packaging materials* (21 CFR 178.3130) of the food additive regulations be amended to correct an error in nomenclature. The amendment would list *N*-methacryloyloxyethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate chloride sodium salt, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer (CAS Reg. No. 66822–60–4) for use as an antistatic agent at levels not to exceed 0.2 percent by weight of polyolefin films that contact foods under certain conditions of use. The amendment would also remove the erroneous listing of *N*-methacryloyl ethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer (CAS Reg. No. 64913–46–8) from the regulations.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the food additive is safe and that § 178.3130(b) should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has previously considered the environmental effects of this rule as announced in the notice of filing for FAP 3B4352 (58 FR 13603). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

Any person who will be adversely affected by this regulation may at any time on or before November 26, 1993, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall

include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

§ 178.3130 [Amended]

2. Section 178.3130 *Antistatic and/or antifogging agents in food-packaging materials* is amended in the table in paragraph (b), under the heading "List of substances," by removing the entry for "*N*-Methacryloyl ethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer (CAS Reg. No. 64913–46–8)" and by adding in its place "*N*-Methacryloyloxyethyl-*N*, *N*-dimethylammonium-α-*N*-methyl carboxylate chloride sodium salt, octadecyl methacrylate, ethyl methacrylate, cyclohexyl methacrylate, *N*-vinyl-2-pyrrolidone copolymer (CAS Reg. No. 66822–60–4)."

Dated: October 14, 1993.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–26273 Filed 10–25–93; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Selenium/Vitamin E Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect codification of two previously approved new animal drug applications (NADA's) filed by Schering-Plough Corp. Both NADA's provide for the use of selenium/vitamin E injection for prevention and treatment of selenium-tocopherol deficiency in calves, lambs, ewes, sows, weanling pigs, weanling calves, and breeding beef cows.

EFFECTIVE DATE: October 26, 1993.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: Schering-Plough Animal Health Corp., P.O. Box 529, Galloping Hill Rd., Kenilworth, NJ 07033, is sponsor of NADA 12–635, originally approved on September 21, 1961, and NADA 30–314, originally approved on July 9, 1964. NADA 12–635 provides for subcutaneous (SQ) or intramuscular (IM) use of selenium/vitamin E injection containing 0.55 or 2.19 milligrams (mg) of selenite sodium and 50 mg of vitamin E per milliliter (mL) for prevention and treatment of white muscle disease (selenium-tocopherol deficiency syndrome) in calves, lambs, and ewes, and as an aid in the prevention and treatment of selenium-tocopherol deficiency in sows and weanling pigs. NADA 30–314 provides for SQ or IM use of selenium/vitamin E injection containing 10.95 mg selenite sodium and 50 mg vitamin E for the prevention and treatment of selenium-tocopherol deficiency syndrome in weanling calves and breeding beef cows. FDA is amending the regulations by revising 21 CFR 522.2100 to add new paragraphs (c), (d), and (e) to reflect these NADA's.

As provided by the freedom of information (FOI) provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(i) (21 CFR 514.11(e)(2)(i)) for NADA's approved before July 1, 1975, an FOI summary of data and information submitted to support approval of an application is not required.

The agency has determined under 21 CFR 25.24(a)(9) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 522.2100 is amended by adding new paragraphs (c), (d), and (e) to read as follows:

§ 522.2100 Selenium, vitamin E injection.

* * * * *

(c)(1) *Specifications.* Each milliliter contains 2.19 milligrams of selenite sodium (equivalent to 1 milligram selenium), 50 milligrams vitamin E (68 U.S.P. units), 250 milligrams polysorbate 80, 2 percent benzyl alcohol, water for injection q. s.

(2) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Dosage.* Calves: 2.5 to 3.75 milliliters per 100 pounds of body weight. Lambs 2 weeks of age or older: 1 milliliter per 40 pounds, minimum 1 milliliter. Ewes: 2.5 milliliters per 100 pounds. Sows: 1 milliliter per 40 pounds. Weanling pigs: 1 milliliter per 40 pounds, minimum 1 milliliter.

(ii) *Indications for use.* Calves, lambs, and ewes: prevention and treatment of white muscle disease (selenium-tocopherol deficiency syndrome). Sows and weanling pigs: an aid in the prevention and treatment of selenium-tocopherol deficiency.

(iii) *Limitations.* For subcutaneous or intramuscular use. Not for use in newborn pigs. Do not use in pregnant ewes. Calves: Discontinue use 30 days before treated calves are slaughtered for human consumption. Lambs, ewes, sows, or pigs: Discontinue use 14 days before treated lambs, ewes, sows, or pigs are slaughtered for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(d)(1) *Specifications.* Each milliliter contains 10.95 milligrams selenite sodium (equivalent to 5 milligrams

selenium), 50 milligrams vitamin E (68 U.S.P. units), 250 milligrams polysorbate 80, 2 percent benzyl alcohol, water for injection q. s.

(2) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Dosage.* Breeding beef cows: 1 milliliter per 200 pounds of body weight during the middle third of gestation, and 30 days before calving. Weanling calves: 1 milliliter per 200 pounds of body weight.

(ii) *Indications for use.* Weanling calves and breeding beef cows: For the prevention and treatment of selenium-tocopherol deficiency syndrome.

(iii) *Limitations.* For subcutaneous or intramuscular use. Discontinue use 30 days before treated cattle are slaughtered for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(e)(1) *Specifications.* Each milliliter contains 0.55 milligram selenite sodium (equivalent to 0.25 milligram selenium), 50 milligrams (68 U.S.P. units) vitamin E, 250 milligrams polysorbate 80, 2 percent benzyl alcohol, water for injection q. s.

(2) *Sponsor.* See No. 000061 in § 510.600(c) of this chapter.

(3) *Conditions of use*—(i) *Dosage.* Newborn lambs: 1 milliliter. Lambs 2 weeks of age or older: 4 milliliters. Baby pigs: 1 milliliter (or treat the sow during the last week of pregnancy).

(ii) *Indications for use.* Lambs: for prevention and treatment of white muscle disease (selenium-tocopherol deficiency syndrome). Baby pigs: an aid in the prevention and treatment of selenium-tocopherol deficiency.

(iii) *Limitations.* For subcutaneous or intramuscular use only. Discontinue use 14 days before treated animals are slaughtered for human consumption. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: October 18, 1993.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 93–26213 Filed 10–25–93; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 878

[Docket No. 88P–0171]

Medical Devices; Reclassification and Codification of Natural Nonabsorbable Silk Surgical Suture

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing the reclassification and codification of natural nonabsorbable silk surgical suture. FDA issued an order in the form of a letter to the manufacturer reclassifying the device from class III (premarket approval) into class II (special controls). Accordingly, FDA is amending the regulations as set forth below.

DATES: The reclassification was effective November 9, 1990. This codification becomes effective November 26, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–4765.

SUPPLEMENTARY INFORMATION: On May 4, 1988, FDA filed a reclassification petition submitted by Advanced Biosearch Associates, Danville, CA 94526–4617, on behalf of United States Surgical Corp. (U.S. Surgical), requesting reclassification of the natural nonabsorbable silk surgical suture from class III into class II. The natural nonabsorbable silk surgical suture was a class III "transitional" device pursuant to 21 U.S.C. 360j(l) (section 520(l) of the act).

FDA consulted with the General and Plastic Surgery Devices Panel (the Panel). During an open public meeting on October 20, 1988, the Panel recommended that FDA reclassify the natural nonabsorbable silk surgical suture from class III into class II and that FDA assign a high priority to the development of a performance standard for the generic type of device under section 514 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360d), although they believed a performance standard need not be in place before reclassification was effective.

FDA fully considered the Panel's recommendation and reviewed various statements offered by interested persons concerning U.S. Surgical's petition for reclassification of natural nonabsorbable silk surgical suture. After reviewing all data in the petition and presented before the Panel, and after considering the Panel's recommendation and the views of the participants at the meeting, FDA, by letter to the petitioner dated November 9, 1990, ordered the reclassification of the generic type of device from class III into class II, with a low priority for the development of a performance standard. Because state-of-the-art test methods are available to allow a precise determination to be made of the relative safety and effectiveness of the device, FDA concluded that the development of a mandatory performance standard should be a low priority and that a regulatory standard is not immediately necessary to protect the public health. A complete explanation is contained in the November 9, 1990, order on display in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

The Safe Medical Devices Act of 1990 (the SMDA) amended the act to change the definition of a class II device from "performance standards" to "special controls." Under the SMDA, FDA may establish a performance standard for class II devices, as well as establish other special controls, including postmarket surveillance, patient registries, guidelines, and other appropriate actions it believes necessary to provide reasonable assurance of the safety and effectiveness of the device.

As required by 21 CFR 860.136(b)(6) of the regulations, FDA is announcing the reclassification of the generic type of device from class III into class II. In addition, FDA is codifying the reclassification of this device by adding new § 878.5030 to subpart E.

The agency has determined under 21 CFR 25.24(e)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

After considering the economic consequences of approving this reclassification, FDA certifies that this final rule requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as specified in the Regulatory Flexibility Act (Pub. L. 96–354). This reclassification will not have a significant economic impact on a substantial number of small entities. The petitioners and all future manufacturers of the generic type of device are relieved of the costs of complying with the premarket approval requirements in section 515 of the act (21 U.S.C. 360e).

There are no offsetting costs that manufacturers would incur from reclassification into class II other than those associated with complying with special controls after they are imposed. The actual cost of complying with these requirements cannot be determined in advance. The magnitude of the economic savings from approval of this petition depends on the number of

studies that would have been required of the manufacturers had reclassification not occurred. These savings cannot be reliably calculated to permit quantification of the economic savings.

List of Subjects in 21 CFR Part 878

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 878 is amended as follows:

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

1. The authority citation for 21 CFR part 878 is revised to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 522, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371).

2. New § 878.5030 is added to subpart E to read as follows:

§ 878.5030 Natural nonabsorbable silk surgical suture.

(a) *Identification.* Natural nonabsorbable silk surgical suture is a nonabsorbable, sterile, flexible multifilament thread composed of an organic protein called fibroin. This protein is derived from the domesticated species *Bombyx mori* (*B. mori*) of the family *Bombycidae*. Natural nonabsorbable silk surgical suture is indicated for use in soft tissue approximation. Natural nonabsorbable silk surgical suture meets the United States Pharmacopeia (U.S.P.) monograph requirements for Nonabsorbable Surgical Suture (class I). Natural nonabsorbable silk surgical suture may be braided or twisted; it may be provided uncoated or coated; and it may be undyed or dyed with an FDA listed color additive.

(b) *Classification.* Class II (special controls).

Dated: October 20, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–26209 Filed 10–25–93; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 207, 213, 221, and 236

[Docket No. R–93–1660; FR–3342–I–01]

RIN 2502–AG04

Deletion of the 90-Percent-of-Value Criterion in Section 223(a)(7) Refinancing

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: Section 223(a)(7) of the National Housing Act authorizes the Department to insure mortgages given to refinance existing mortgages insured under the Act. In the past, implementing regulations have imposed several conditions on such refinancings, in some cases including that the new mortgage amount may not exceed 90 percent of the value of the property. The 90 percent-of-value criterion is not mandated by statute and does not strengthen the protection provided by the other conditions to refinancing. Further, in the current real estate market, this criterion may preclude some troubled projects from lowering their debt service payments and gaining a more sound financial footing. Therefore, in order to avoid unnecessary defaults on insured mortgages and protect the Insurance Fund, the Department is removing the 90 percent-of-value criterion for section 223(a)(7) refinancings.

DATES: *Effective date:* November 26, 1993.

Sunset date: This interim rule will automatically expire on October 26, 1994.

Comment due date: December 27, 1993.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Jessica Franklin, Director, Policies and Procedures Division, room 6138, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC. 20410, telephone (202) 708–2556, or (202) 708–4594 (voice/TDD). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Justifications for Interim Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). The Department finds that good cause exists to publish this rule for effect without first soliciting public comment, in that prior public procedure is unnecessary and contrary to the public interest. The rule will eliminate an unnecessary criterion that operates against the public interest in the refinancing of certain HUD-insured mortgages.

The Department invites public comment on the rule. The comments received within the 60-day comment period will be considered during development of a final rule that would supersede this interim rule.

Background

Section 223(a)(7) of the National Housing Act (12 U.S.C. 1715n(a)(7)) authorizes HUD to insure mortgages given to refinance existing HUD-insured mortgages under any section or title of the Act. Implementing provisions are included within each of the regulations under which HUD has authorized refinancing insurance pursuant to section 223(a)(7), including 24 CFR parts 207, 213, 220, 221, 231, 232, 236, 241, and 242. (Because 24 CFR 220.501, 231.1, and 232.42 reference requirements in part 207, the changes made to § 207.32 in this rule will also affect parts 220, 231, and 232.)

Each of these parts limits the principal amount of the new (refinanced) mortgage to the lower of: (a) The original principal amount of the existing mortgage, or (b) the unpaid balance of the existing insured mortgage, to which certain HUD-approved items may be added. This limit is derived from the requirements of the National Housing Act.

In addition, each of these parts, except parts 241 (supplemental loans) and 242 (hospitals), provides that the new mortgage amount may not exceed 90 percent of the Commissioner's estimate of value of the project after completion of any repairs, improvements, or additions to the property. Unlike the limitation noted above, the 90 percent-of-value criterion is not a statutory requirement, even though the criterion parallels similar statutory requirements of the underlying mortgage programs. In times of increasing real estate values and booming rental housing markets, the 90 percent limit rarely controls section 223(a)(7) refinancings.

However, the Department has received comments from project owners and their representatives, and from its own Field Office staff, regarding the impact of the 90 percent-of-value limit on underwriting the refinancing of mortgages for troubled projects currently in the Department's existing portfolio. Many projects are troubled because of depressed rent levels and slow rent-up, or were overmortgaged due to poor underwriting by coinsuring lenders and are now fully insured by the Department; some were financed at relatively high interest rates. A portion of these troubled projects are now in danger of default on their HUD-insured mortgages. By refinancing, and thereby reducing their debt service payments to a level that can be supported by their net income, some of these troubled projects could be in better financial condition. In turn, the Department's exposure in its existing portfolio would be reduced, and the Insurance Fund would be better protected.

Interim Rule

The Department believes that this rule change will provide an acceptable alternative to allowing troubled projects to default, resulting in claims against the Department's Insurance Fund. Because section 223(a)(7) mortgages are already limited by the amount of the original insured mortgage, the public interest and the Department's Insurance Fund will be better served by allowing these loans to be refinanced to take advantage of lower rates. Therefore, the 90 percent-of-value criterion is being removed from those sections of the regulations where it may adversely affect a mortgagor's ability to refinance a loan under section 223(a)(7) of the National Housing Act.

In keeping with the aforestated purposes for making this change and in order to better manage the workload that could result from the more than 10,000 projects in HUD's portfolio that potentially could benefit from refinancing their current mortgages, HUD will apply the following priority criteria in processing such applications.

(1) Beginning with the effective date of this rule and for the period 60 days thereafter, HUD will accept applications for refinancing on projects pursuant to section 223(a)(7) with current interest rates that are nine (9) percent or higher. Projects with debt service coverage equal to or less than 1.10, or where refinancing will provide a means for completion of needed repairs or to increase payments to the reserve for replacements, will be given priority in processing.

(2) Beginning 90 days after the effective date of this rule, HUD will accept applications for refinancing pursuant to section 223(a)(7) in connection with any eligible project. Priority for processing will be as described above.

Other Matters

E.O. 12866

This rule was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866 on Regulatory Planning and Review, issued by the President on September 30, 1993. Changes made in the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection as provided under the section of this preamble entitled "ADDRESSES."

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule deletes a counterproductive restriction that unnecessarily limits the refinancing of certain HUD-insured mortgages. By removing this restriction, the Department hopes to avoid unnecessary defaults by viable projects and resulting losses to the Department's Insurance Fund.

Environmental Review

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20 of the HUD regulations, the policies and procedures contained in this rule relate only to the establishment of loan limits and approval of mortgage refinancing under section 223(a)(7) of the National Housing Act, and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. The rule is limited to removing an unnecessary restriction on refinancing certain HUD-insured mortgages at more favorable rates.

Executive Order 12606, the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs would result from promulgation of this rule, as those policies and programs relate to family concerns.

This rule was listed as sequence 1469 in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24415) under Executive Order 12866 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.231.

List of Subjects

Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Part 213

Cooperatives, Mortgage insurance, Reporting and recordkeeping requirements.

Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, parts 207, 213, 221, and 236 of title 24 of the Code of Federal Regulations are amended as follows.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for part 207 continues to read as follows:

Authority: 12 U.S.C. 1713 and 1715b; 42 U.S.C. 3535(d). Sections 207.258 and 207.258b are also issued under 12 U.S.C. 1701z–11(e).

§ 207.32 [Amended]

2. In § 207.32, paragraph (a)(3) is removed.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

3. The authority citation for part 213 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715e; 42 U.S.C. 3535(d).

§ 213.45 [Amended]

4. In § 213.45, paragraph (d)(1)(iii) is removed.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

5. The authority citation for part 221 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715*l*; 42 U.S.C. 3535(d); sec. 221.544(a)(3) is also issued under 12 U.S.C. 1707(a).

§ 221.560 [Amended]

6. In § 221.560, paragraph (a)(1)(iii) is removed.

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

7. The authority citation for part 236 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715z–1; 42 U.S.C. 3535(d).

§ 236.40 [Amended]

8. In § 236.40, paragraph (b)(1)(iii) is removed.

Dated: October 21, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 93–26335 Filed 10–25–93; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE TREASURY

31 CFR Part 11

Operation of Vending Facilities by the Blind on Federal Property Under the Control of the Department of the Treasury

AGENCY: Treasury.

ACTION: Final rule.

SUMMARY: This final rule sets forth the requirements concerning the operation of vending facilities by the blind on Federal property under the control of the Department of the Treasury. These revisions are necessary to conform current regulations with statutory changes.

EFFECTIVE DATE: October 26, 1993.

FOR FURTHER INFORMATION CONTACT: Robert T. Harper, room 6140, Treasury Annex Building, 15th and Pennsylvania Ave. NW, Washington, DC 20220, (202) 622–0500, not a toll-free call.

SUPPLEMENTARY INFORMATION: The Randolph-Sheppard Vending Stand Act (Act of June 20, 1936, 49 Stat. 1559, 20 U.S.C. 107 *et seq.*) sets forth certain requirements concerning the operation of vending facilities in Federal buildings. This Act was amended by the Vocational Rehabilitation Amendments of 1954 (Act of August 3, 1954; 68 Stat. 663) and Randolph-Sheppard Act Amendments of 1974 (Pub. L. 93–516 and 93–651). Implementing regulations of the Secretary of Education are published at 34 CFR part 395. This final rule conforms the Department's existing regulations to the 1974 amendments and the regulations of the Secretary of Education.

Because this rule merely conforms the Department's regulations to law and the regulations of the Secretary of Education, notice and public comment are not required pursuant to 5 U.S.C. 553 (a)(2) and (b)(B), and a delayed effective date is not required pursuant to 5 U.S.C. 553 (a)(2) and (d)(3). For similar reasons, this rule is not subject to Executive Order 12291. Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

List of Subjects in 31 CFR Part 11

Blind, Federal buildings and facilities.

For the reasons set forth in the preamble, part 11 of subtitle A of title 31 CFR, is revised to read as follows:

PART 11—OPERATION OF VENDING FACILITIES BY THE BLIND ON FEDERAL PROPERTY UNDER THE CONTROL OF THE DEPARTMENT OF THE TREASURY

Sec.

11.1 Purpose.
11.2 Policy.
11.3 Definitions.
11.4 Establishing vending facilities.
11.5 Application for permit.
11.6 Terms of permit.
11.7 Enforcement procedures.
11.8 Reports.

Authority: 49 Stat. 1559, as amended by Act of Aug. 3, 1954, Pub. L. 83–565, 68 Stat. 663, as further amended by Pub. L. 93–516, 88 Stat. 1622, (20 U.S.C. 107).

§ 11.1 Purpose.

This part contains policy and procedures to ensure the priority of blind vendors in operating vending facilities on property controlled by the Department of the Treasury. The provisions of this part apply to all bureaus, the Departmental Offices and the Office of Inspector General.

§ 11.2 Policy.

Blind vendors licensed by State licensing agencies designated by the Secretary of Education under the provisions of the Randolph-Sheppard Act (20 U.S.C. 107 *et seq.*) shall be given priority in the location and operation of vending facilities, including vending machines, on property controlled by the Department of the Treasury, provided the location or operation of such facility would not adversely affect the interests of the United States. Treasury bureaus shall ensure that the collection and distribution of vending machine income from vending machines on Treasury-controlled property shall be in compliance with the regulations set forth in 34 CFR 395.32. Blind vendors shall also be given priority on Treasury-controlled property in the operation of cafeterias according to 34 CFR 395.33.

§ 11.3 Definitions.

Terms used are defined in 34 CFR 395.1, except that as used in this part, the following terms shall have the following meanings:

(a) *Department of the Treasury controlled property* means any Federal building, land, or other real property owned, leased, or occupied by a bureau or office of the Department of the Treasury, of which the maintenance, operation, and protection is under the control of the Department of the Treasury.

(b) The term *bureau* means any bureau or office of the Department of the Treasury and such comparable administrative units as may hereafter be created or made a part of the Department, and includes the Departmental Offices and the Office of Inspector General. The "head of the bureau" for the Departmental Offices is the Deputy Assistant Secretary (Administration).

§ 11.4 Establishing vending facilities.

(a) Treasury bureaus shall not acquire a building by ownership, rent, or lease, or occupy a building to be constructed, substantially altered, or renovated unless it is determined that such buildings contain or will contain a "satisfactory site," as defined in 34 CFR

395.1(q), for the location and operation of a blind vending facility.

(b) In accordance with 34 CFR 395.31, Treasury bureaus shall provide the appropriate State licensing agency with written notice of the intention to acquire or otherwise occupy such building. Providing notification shall be the responsibility of the bureau on-site property management official.

§ 11.5 Application for permit.

Applications for permits for the operation of vending facilities other than cafeterias shall be made in writing and submitted for the review and approval of the head of the appropriate Treasury bureau or that official's designee.

§ 11.6 Terms of permit.

Every permit shall describe the location of the vending facility, including any vending machines located on other than facility premises, and shall be subject to the following provisions:

(a) The permit shall be issued in the name of the applicant State licensing agency which shall perform the responsibilities set forth in 34 CFR 395.35 (a);

(b) The permit shall be issued for an indefinite period of time subject to suspension or termination on the basis of compliance or noncompliance with agreed upon terms.

(c) The permit shall provide that:

(1) No charge shall be made to the State licensing agency for normal cleaning, maintenance, and repair of the building structure in and adjacent to the vending facility areas;

(2) Cleaning necessary for sanitation; the maintenance of vending facilities and vending machines in an orderly condition at all times; the installation, maintenance, repair, replacement, servicing, and removal of vending facility equipment shall be without cost to the Department of the Treasury; and

(3) Articles sold at vending facilities operated by blind licensees may consist of newspapers, periodicals, publications, confections, tobacco products, foods, beverages, chances for any lottery authorized by State law and conducted by an agency of a State within such State, and other articles or services as are determined by the State licensing agency, in consultation with the appropriate Treasury bureau, to be suitable for a particular location. Such articles and services may be dispensed automatically or manually and may be prepared on or off the premises.

(d) The permit shall further provide that vending facilities shall be operated in compliance with applicable health, sanitation, and building codes or ordinances.

(e) The permit shall further provide that installation, modification, relocation, removal, and renovation of vending facilities shall be subject to the prior approval and supervision of the bureau on-site property management officer of the appropriate Treasury bureau and the State licensing agency; that costs of relocations initiated by the State licensing agency shall be paid by the State licensing agency; that costs of relocations initiated by a Treasury bureau shall be paid by the Treasury bureau; and that all plumbing, electrical, and mechanical costs related to the renovation of existing facilities shall be paid by the appropriate Treasury bureau.

(f) The operation of a cafeteria by a blind vendor shall be covered by a contractual agreement and not by a permit. The State licensing agency shall be expected to perform under the same contractual arrangement applicable to commercial cafeteria operators.

§ 11.7 Enforcement procedures.

(a) The State licensing agency shall attempt to resolve day-to-day problems pertaining to the operation of the vending facility in an informal manner with the participation of the blind vendor and the on-site property management officials of the respective Treasury bureaus who are responsible for the Treasury-controlled property.

(b) Unresolved disagreements concerning the terms of the permit, the Act, or the regulations in this part and any other unresolved matters shall be reported in writing to the State licensing agency supervisory personnel by the bureau on-site supervisory property management official in an attempt to resolve the issue.

§ 11.8 Reports.

This section establishes a Department of the Treasury reporting requirement to comply with 34 CFR 395.38. At the end of each fiscal year, each property managing bureau shall submit a report to the Director, Office of Management Support Systems, Departmental Offices, containing the elements set forth in 34 CFR 395.38. The Director, Office of Management Support Systems, shall submit a consolidated report to the Secretary of Education after the end of the fiscal year.

Dated: September 24, 1993.

Deborah M. Witchey,

Acting Assistant Secretary (Management).

[FR Doc. 93–26207 Filed 10–25–93; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA16–1–5969; A–1–FRL–4792–2]

Approval and Promulgation of Air Quality Implementation Plans; Allegheny County Portion of the Pennsylvania SIP; Revised Regulations Controlling Volatile Organic Compound Emissions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the Allegheny County portion of its State Implementation Plan (SIP). This revision consists of corrections to volatile organic compound (VOC) regulations applicable in Allegheny County, Pennsylvania. The intended effect of this action is to approve Allegheny County's revised VOC regulations to correct deficiencies in the Allegheny County portion of Pennsylvania's ozone SIP. This action is being taken in accordance with the SIP submittal and revision provisions of the Clean Air Act (the Act).

EFFECTIVE DATE: This rule will become effective on November 26, 1993.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; U.S. Environmental Protection Agency, Jerry Kurtzweg, ANR–443, 401 M Street, SW., Washington, DC 20460; Commonwealth of Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, PA 17105–8468; and Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh PA 15201.

FOR FURTHER INFORMATION CONTACT: Ms. Maria A. Pino at (215) 597–9337.

SUPPLEMENTARY INFORMATION: On March 30, 1993 (58 FR 16639), EPA published a notice of proposed rulemaking (NPR) for the Allegheny County portion of the Pennsylvania SIP. The formal SIP revision was submitted by the Commonwealth of Pennsylvania on October 16, 1991. The NPR proposed approval of changes in Allegheny County's VOC reasonably available control technology (RACT) regulations,

Article XX, Rules and Regulations of the Allegheny County Health Department, Air Pollution Control, pursuant to section 182(a)(2)(A) of the Act, 42 U.S.C. 7511(a)(2)(A). Specifically, these changes are:

(1) Adoption of definitions which conform with EPA guidance (Section 101. Definitions);

(2) Adoption of improved compliance requirements (recordkeeping, test methods and monitoring procedures) and a requirement that all alternative or equivalent compliance methods to be approved by EPA as a SIP revision. (Section 501. Equivalent Compliance Techniques);

(3) Limiting the applicability of temporary shutdown provisions for incineration equipment to equipment which burns natural gas, and not all auxiliary fuels (Section 504. Temporary Shutdown of Incineration Equipment);

(4) Correction of deficiencies in surface coating regulations, including applicability thresholds, compliance determination, emission standards, monitoring, and recordkeeping (Section 505. Surface Coating Processes);

(5) Removal of alternative compliance procedures for graphic arts and surface coating regulations (Section 506. Alternative Standards for Surface Coating and Graphic Arts);

(6) Correction of deficiencies for consistency with the relevant control technique guideline documents (CTGs) (Section 507. Volatile Organic Compound Storage Tanks) and (Section 508. Gasoline Loading Facilities);

(7) Adoption of a compliance schedule for sources which become subject to the revised emission standards (Section 512. Compliance Schedules);

(8) Clarification of applicability to graphic arts regulations and addition of a requirement to test control equipment for capture and destruction efficiency for compliance determinations (Section 531. Graphic Arts Systems); and

(9) Adoption of: (a) A requirement that once a source becomes subject to a regulation it remains subject to the regulation even if its throughput later falls below the applicability level of the regulation; and (b) monitoring conditions, as part of the leak detection and repair program (Section 534. Synthetic Organic Chemical and Polymer Manufacturing–Fugitive Sources).

Other specific elements of these revisions and the rationale for EPA's action are explained in the NPR and the accompanying technical support document (TSD) and will not be restated here. One comment letter was received on the NPR during the 30-day public comment period. The comments contained in that letter are summarized below, followed by EPA's responses.

Comment # 1: Allegheny County failed to provide adequate notice and opportunity for comment on changes in the method for calculating compliance with the VOC emission standard for surface coating processes.

Response: EPA believes that adequate notice and comment were provided. Allegheny County proposed revisions to its surface coating regulation, Section 505. Surface Coating Processes, to include changes in the method for calculating compliance with the VOC emission standard for surface coating processes and held a public hearing on the proposed changes prior to final adoption of the revised version of the regulation. The County took public comments on these changes from May 1, 1991 until June 17, 1991. The Allegheny County Board of Health held a public hearing on these changes on June 5, 1991. The version of these regulations which the County adopted and the Commonwealth of Pennsylvania submitted to EPA as a SIP revision is identical to the version which was proposed during Allegheny County's public comment period, except for minor wording changes. Therefore, EPA believes that Allegheny County complied with the public notice and hearing requirements of 40 CFR 51.102.

Comment # 2: The use of 7.36 lb/gal solvent density alters the basis for compliance determinations and causes difficulty in the implementation of the regulations. Requiring the use of the common solvent density factor has the effect of introducing an additional level of control beyond those specified by a determination of lb VOC/gal of applied solids.

Response: The 7.36 lb/gal solvent density factor was used by EPA in the development of the emission standards for surface coating sources published in the Control Technique Guidelines (CTGs). These CTGs were issued by EPA as guidance for States to use in the development of their regulations. Allegheny County's proposal to change its regulation is in direct response to EPA's 1988 SIP call and section 182(a)(2)(A) of the Act, 42 U.S.C. 7511(a)(2)(A), which require states to correct their VOC RACT regulations. (See the March 30, 1993 **Federal Register** document, 58 FR 16639, for a discussion of SIP calls.)

Allegheny County's adoption of a standard 7.36 lb/gal solvent density factor corrects a deficiency in its prior regulations. The use of this standard solvent density is required in order to convert lb VOC/gal coating minus water emission standards into solids-based equivalent standards, lb VOC/gal coating solids. To determine compliance, a solids-based standard is compared to the actual solids-based VOC content of the coating used. The actual solids-based VOC content of the coating used is calculated using the *actual* solvent density of the coating, not the 7.36 lb/gal common density factor.

It is necessary to convert an emission standard to its solids-based equivalent to ensure that VOC emissions will be actually reduced. Comparison of the actual coating with the emission standard on a solids equivalent basis ensures that this is true. The amount of solids in a coating determines how much of that coating is needed to paint an object. Using less VOC bearing coatings will result in less VOC emissions. Standardizing the comparison of surface coatings on the basis of coating solids allows a true comparison of the VOC emissions of one coating to another.

Standardizing the solvent density of the emission standards to 7.36 lb/gal, which was used in the development of those standards, is expected to make the implementation of surface coating regulations more consistent. In the past, emission standards were not always converted to their solids-based equivalent standards. Consequently, sources subject to the same regulation were not necessarily meeting the equivalent emission standard. When this method of converting emission standards to a solids-based equivalent standard is used, more certainty and consistency is expected, resulting in real emission reductions. Moreover, EPA has used this method of determining compliance and has found it to be a practical way to calculate emissions.

Comment # 3: The use of 7.36 lb/gal solvent density is too simplistic and will not result in lower VOC emissions in all cases.

Response: As discussed above in the response to comment # 2, the use of the 7.36 lb/gal solvent density is meant to correct a deficiency in the Allegheny County regulation, which had not previously standardized its compliance calculations. In all cases, the use of the 7.36 lb/gal solvent density will result in arriving at a solids-based equivalent emission standard for the individual surface coating categories in a manner consistent with the development of those emission standards as RACT by EPA. This will result in greater consistency between sources.

Final Action

EPA is approving amendments and additions to Sections 101, 501, 504, 505, 506, 507, 508, 512, 531, and 534 of Article XX, Rules and Regulations of the Allegheny County Health Department, Air Pollution Control, as a revision to the Allegheny County portion of the Pennsylvania SIP. These changes were submitted to EPA by the Commonwealth of Pennsylvania's on October 16, 1991.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Act, petitions for judicial review of this action, pertaining to Sections 101, 501, 504, 505, 506, 507, 508, 512, 531, and 534 of Article XX, Rules and Regulations of the Allegheny County Health Department, Air Pollution Control, must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2) of the Act.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 23, 1993.

W.T. Wisniewski,

Acting Regional Administrator.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(85)to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c)* * *

(85) Revisions to the Pennsylvania Regulations submitted on October 16, 1991 by the Pennsylvania Department of Environmental Resources:

(i) Incorporation by reference.

(A) Letter from the Pennsylvania Department of Environmental Resources dated October 16, 1991 transmitting revisions to the Allegheny County portion of the Pennsylvania State Implementation Plan.

(B) Revisions to the following provisions of Article XX, Rules and Regulations of the Allegheny County Health Department, Air Pollution Control, adopted on August 8, 1991 and effective August 26, 1991:

(*1*) Section 101–Added definitions for the following terms: capture efficiency, potential uncontrolled emission rate, and transfer efficiency; revised and renumbered definitions for the following terms: bulk gasoline plant, bulk gasoline terminal, clear coat, miscellaneous metal parts and products, and volatile organic compound (VOC).

(*2*) New Section 501 added; existing Section 510 deleted.

(*3*) Section 504 (entire section).

(*4*) Section 505, subsections A, B, and D, and Table I.

(*5*) Section 507, subsection B.

(*6*) Section 508, subsections C, D, E, G, and H.

(*7*) Section 512–New subsection A (added), subsection B (former subsection H); existing subsections A–G and I are deleted.

(*8*) Section 531, subsections A, B, and C.

(*9*) Section 534, subsections B and C.

(*10*) Deletion of Section 506 that was in effect before August 26, 1991.

[FR Doc. 93–26240 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–F

40 CFR Part 52

[MO–14–1–5860; FRL–4700–8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves the State Implementation Plan (SIP) revision submitted by the state of Missouri for the purpose of establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (SBAP). The revision was submitted by the state to satisfy the Federal mandate to ensure that small businesses have access to the technical assistance and regulatory information necessary to comply with the Clean Air Act (CAA).

EFFECTIVE DATES: This action will be effective December 27, 1993 unless notice is received by November 26, 1993 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and Missouri Department of Natural Resources; P.O. Box 176, Jefferson State Office Building, Jefferson City, Missouri 65102; and Jerry Kurtzweg, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Lambrechts at (913) 551–7846.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the CAA, as amended in 1990, will require regulation of many small businesses so that areas may attain and maintain the National ambient air quality standards and reduce the emission of air toxics. Small businesses frequently lack the technical expertise and financial resources necessary to evaluate such regulations and to determine the appropriate mechanisms for compliance. In anticipation of the impact of these requirements on small businesses, the CAA requires that states adopt an SBAP and submit this program as a revision to the federally approved SIP. In addition, the CAA directs EPA to oversee these small business assistance programs and report to Congress on their implementation. The

requirements for establishing a program are set out in section 507 of the CAA. In February 1992, EPA issued *Guidelines for the Implementation of Section 507 of the 1990 Clean Air Act Amendments*, in order to delineate the Federal and state roles in meeting the new statutory provisions and as a tool to provide further guidance to the states on submitting acceptable SIP revisions.

Missouri's SBAP plan was submitted to EPA on March 10, 1993, in order to satisfy the requirements of section 507. In order to gain full approval, the state submittal must, at a minimum, contain commitments and schedules to fully implement the following elements:

(1) The establishment of an SBAP to provide technical and compliance assistance to small businesses;

(2) The establishment of a State Small Business Ombudsman to represent the interests of small businesses in the regulatory process; and

(3) The creation of a Compliance Advisory Panel (CAP) to determine and report on the overall effectiveness of the SBAP.

II. Analysis

A. SBAP

Section 507(a) sets forth six requirements that the state must meet to have an approvable SBAP. The first requirement is to establish adequate mechanisms for developing, collecting, and coordinating information concerning compliance methods and technologies for small business stationary sources and programs to encourage lawful cooperation among such sources and other persons to further compliance with the Act.

The SBAP will have trained technical staff to answer general technical and compliance questions. The SBAP will also act as a clearinghouse to refer small businesses to other state technical experts to answer nonroutine and other questions beyond the scope of the SBAP technical staff expertise. The existing Missouri Department of Natural Resources (MDNR) toll-free number (1–800–334–6946) will be used for the Missouri SBAP. Receptionists will direct callers that require assistance provided by the SBAP. Services provided by the SBAP will be publicized through an electronic bulletin board, association newsletters, industry groups, trade associations, and community roundtables. The flow of information will include two types of components: a proactive component and a reactive component. The proactive component involves adequate communication and outreach to small businesses in the form of easily understood information which specifically details the obligations under the Act. The reactive component involves the establishment of a clearinghouse for handling incoming inquiries from small businesses regarding methods of achieving compliance with air pollution requirements under the Act.

The second requirement is to establish adequate mechanisms for assisting small business stationary sources with pollution prevention and accidental release detection and prevention, including providing information concerning alternative technologies, process changes, and products and methods of operation that help reduce air pollution.

The SBAP will coordinate with the Environmental Services Program, the Hazardous Waste Management Program, the Solid Waste Management Program, the Air Pollution Control Program, and the Environmental Improvement and Energy Resources Authority in providing information to small businesses. Mechanisms to provide assistance will include coordinating information relating to pollution prevention and accidental release prevention and detection with all Federal, state, and local agencies with environmental jurisdiction; inclusion of information on pollution prevention, accidental release prevention and detection on the SBAP clearinghouse and electronic bulletin board; and a directory of contacts will be developed and made available containing technical experts.

The third requirement is to develop a compliance and technical assistance program for small business stationary sources which assists small businesses in determining applicable requirements and in receiving permits under the Act in a timely and efficient manner.

Assistance will be provided to small businesses in determining applicable requirements and providing for permit issuance in a timely and efficient manner by the following methods:

(1) Industry-specific information packets will be developed and made available to small businesses and clearinghouse staff that include information on applicable rules and regulations, permit requirements, fees, testing requirements, recordkeeping requirements, and compliance information, as well as self-audit procedures and pollution prevention methods;

(2) Inspectors will be provided training on how to educate small business owners on conducting self-inspections and understanding the compliance requirements they must meet and the permits they must obtain; and

(3) Workshops will be conducted to inform and educate the small business community on appropriate compliance methods and procedures following promulgation of a new rule or policy.

The fourth requirement is to develop adequate mechanisms to ensure that small business stationary sources receive notice of their rights under the Act, in such manner and form as to ensure reasonably adequate time for such sources to evaluate compliance methods and any relevant or applicable proposed or final regulation or standards issued under the Act.

The SBAP will develop a data base that includes all small business stationary sources and associations and will coordinate with appropriate agency staff to notify affected sources of potential changes in rules that affect them.

The fifth requirement is to develop adequate mechanisms for informing small business stationary sources of their obligations under the Act, including mechanisms for referring such sources to qualified auditors or, at the option of the state, for providing audits of the operations of such sources to determine compliance with the Act. Initially, MDNR will offer a list of qualified auditors from which the small business may choose.

Formal public notification procedures will be developed and implemented by MDNR that ensure timely notice of small businesses of their rights and obligations under the Act; and the SBAP will work with trade associations, local agencies, educational facilities, and community leaders to establish environmental partnerships to bring about the voluntary compliance with regulations under the Act.

The sixth requirement is to develop procedures for consideration of requests from a small business stationary source for modification of: (1) Any work practice or technological method of compliance, or (2) the schedule of milestones for implementing such work practice or method of compliance preceding any applicable compliance date, based on the technological and financial capability of any such small business stationary source.

Procedures will be developed to respond to requests from small business stationary sources for modification of any work practice or technological method of compliance or schedule of milestones, for implementing such work practice or method of compliance preceding any applicable compliance date. This will be accomplished by

developing data bases and experts in different areas for providing explicit guidance information. Also, MDNR will establish approved procedures to provide review of requests from small businesses for modification of work practices or technological methods of compliance based on financial and technological capability.

B. Ombudsman

Section 507(a)(3) requires the designation of a state office to serve as the Ombudsman for small business stationary sources.

The state will meet this requirement by hiring an Ombudsman, in February 1994, to be located in the office of the Governor. The position has statutory authority to conduct the duties required under the CAA. These duties include:

(1) Rendering advisory opinions concerning the effectiveness of the SBAP;

(2) Making periodic reports to Congress regarding the SBAP compliance with the Paper Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act; and

(3) Reviewing information for the small businesses to ensure that it is understandable by the layperson.

A specific list of other Ombudsman duties is listed in Section 1 of the plan, and their implementation is described in Section 2 of the plan.

C. CAP

Section 507(e) requires the state to establish a CAP that must include two members selected by the Governor who are not owners or representatives of owners of small businesses; four members selected by the state legislature who are owners, or represent owners, of small businesses; and one member selected by the head of the agency in charge of the Air Pollution Permit Program.

The state has committed to meet this requirement. The CAP appointments should be completed by February 1994. EPA believes that the process for designation by the legislature meets the intent of section 507(e).

In addition to establishing the minimum membership of the CAP, the CAA delineates four responsibilities of the Panel:

(1) To render advisory opinions concerning the effectiveness of the SBAP, difficulties encountered, and the degree and severity of enforcement actions;

(2) To periodically report to EPA concerning the SBAP's adherence to the principles of the Paperwork Reduction Act, the Equal Access to Justice Act, and the Regulatory Flexibility Act;

(3) To review and ensure that information for small business stationary sources is easily understandable; and

(4) To develop and disseminate the reports and advisory opinions made through the SBAP.

The state submittal meets these requirements. The Plan lists CAP duties that include providing advisory opinions, reporting on SBAP compliance with statutory requirements, and annual reporting on the effectiveness of the SBAP.

D. Eligibility

Section 507(c)(1) of the CAA defines the term "small business stationary source" as a stationary source that:

1. Is owned or operated by a person who employs 100 or fewer individuals,
2. Is a small business concern as defined in the Small Business Act;
3. Is not a major stationary source;
4. Does not emit 50 tons per year (tpy) or more of any regulated pollutant; and
5. Emits less than 75 tpy of all regulated pollutants.

The Missouri definition of major source varies from the Act definition; however, the lower cutoffs are not applicable anywhere in the state. The state has also provided for exclusion from the small business stationary source definition, after consultation with the EPA and the Small Business Administration Administrator, and after providing notice and opportunity for public comment, any category or subcategory of sources that the state determines to have sufficient technical and financial capabilities to meet the requirements of the CAA.

By this action, EPA is approving a state program created for the purpose of assisting small businesses in complying with existing statutory and regulatory requirements. The state of Missouri has submitted an SIP revision implementing each of the program elements required by section 507 of the CAA. MDNR will select a Small Business Ombudsman in February 1994. This Ombudsman will implement the program schedule to develop the full program. The CAP will be selected in February 1994. Much of the coordination involved in staffing the SBAP has already taken place. The establishment of the SBAP will be fully completed by September 1993. EPA is therefore approving this submittal.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirement of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. EPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2))

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors, and in relation to relevant statutory and regulatory requirements.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial

amendment and anticipates no adverse comments. This action will be effective December 27, 1993 unless, by November 26, 1993, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective December 27, 1993.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations.

Dated: August 17, 1993.

Susan C. Gordon,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart AA—[Missouri]

2. Section 52.1320 is amended by adding paragraph (c)(82) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(82) Revisions to the Missouri State Implementation Plan establishing a Small Business Stationary Source Technical and Environmental Compliance Assistance Program were submitted by the Director of the Missouri Department of Natural Resources on March 10, 1993.

(i) Incorporation by reference.

(A) Small Business Stationary Source Technical and Environmental Compliance Program dated November 1992 and adopted February 18, 1993.

[FR Doc. 93–26241 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 7006

[AK–932–4210–06; AA–6657]

Withdrawal of Public Lands for Clarks Point Village Selection; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 955 acres of public lands located within the Togiak National Wildlife Refuge from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, pursuant to section 22 of the Alaska Native Claims Settlement Act. This action also reserves the lands for selection by Saguyak Inc., the village corporation for Clarks Point. This withdrawal is for a period of 120 days; however, any lands selected shall remain withdrawn by the order until conveyed. Any lands described herein that are not selected by the corporation will remain withdrawn as part of the Togiak National Wildlife Refuge pursuant to the Alaska National Interest Lands Conservation Act and will be subject to the terms and conditions of any withdrawal of record.

EFFECTIVE DATE: October 26, 1993.

FOR FURTHER INFORMATION CONTACT: Sue A. Wolf, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands located within the Togiak National Wildlife Refuge are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and are hereby reserved for selection under section 12 of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 (1988), by Saguyak Inc., the village corporation for Clarks Point:

Seward Meridian

T. 14 S., R 57 W., (Unsurveyed)
Sec. 25.
T. 15 S., 57 W.,
Sec. 31, S½.

The areas described aggregate approximately 955 acres.

2. Prior to conveyance of any of the lands withdrawn by this order, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easement shall not be impaired by this withdrawal.

3. This order constitutes final withdrawal action by the Secretary of the Interior under section 22(j)(2) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1621(j)(2) (1988), to make lands available for selection by Saguyak Inc., to fulfill the entitlement of the village for Clarks Point under section 12 and section 14(a) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1611 and 1613 (1988).

4. This withdrawal will terminate 120 days from the effective date of this order; provided, any lands selected shall remain withdrawn pursuant to this order until conveyed. Any lands described in this order not selected by the corporation shall remain withdrawn as part of the Togiak National Wildlife Refuge, pursuant to sections 303(6) and 304(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1988); and will be subject to the terms and conditions of any other withdrawal of record.

5. It has been determined that this action is not expected to have any significant effect on subsistence uses and needs pursuant to section 810(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 3120(c) (1988) and this action is exempted from the National Environmental Policy Act of 1969, 83 Stat. 852, by section 910 of ANILCA, 43 U.S.C. 1638 (1988).

Dated: October 15, 1993.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 93–26206 Filed 10–25–93; 8:45 am]

BILLING CODE 4310–JA–M

Proposed Rules

Federal Register
Vol. 58, No. 205
Tuesday, October 26, 1993

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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA-93-24]

RIN 0581-AB04

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Proposed Increase in Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to increase the fees charged for services provided under the dairy inspection and grading program. The program is a voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The proposed increases would result in a fee of $42.20 per hour for continuous resident services and $47.20 per hour for nonresident services between the hours of 6 a.m. and 6 p.m. These proposed fees represent a $2.60 per hour increase for both resident and nonresident services. The fee for nenresident services between the hours of 6 p.m. and 6 a.m. would be $52.00 representing an increase of $3.00 per hour.

The fees are being increased to cover the costs of developing dairy product standards, salary increases, and increases in other operating costs.

DATES: Comments should be mailed by November 26, 1993.

ADDRESSES: Comments should be sent to: Office of the Director, USDA/AMS/Dairy Division, room 2968-S, P.O. Box 96456, Washington, DC 20090-6456. Comments received will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Branch, room 2750-South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-9381.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation 1512-1 and has been classified a "non-major" rule under the criteria contained therein.

The proposed rule also has been reviewed in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Administrator, Agricultural Marketing Service, has determined that if promulgated it would not have a significant economic impact on a substantial number of small entities. The proposed changes will not significantly affect the cost per unit for grading and inspection services. The Agricultural Marketing Service estimates that overall this rule will yield an additional $308,000 during fiscal year 1994. The Agency does not believe the increases will affect competition. Furthermore, the dairy grading program is a voluntary program.

Executive Order 12778

This proposed rule also has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the cost of maintaining the program.

Since the costs of the grading program are covered entirely by user fees, it is essential that fees be increased when necessary to cover the cost of maintaining a financially self-supporting program. The last fee increase under this program became effective on January 26, 1992. Since that time, Congress increased the salaries of Federal employees by 3.7 percent as of January 10, 1993. Also, there have been normal increases in other operating costs. In addition, recent congressional action will result in additional salary increases of varying amounts in 1994. Although the program's operating reserves were adequate to cover the January 10, 1993, salary increase, this will not be the case for 1994 salary increases, and a fee increase is needed.

The grading program fees also need to be increased to cover the costs related to the development of dairy product standards and other activities now performed by the Dairy Division's Standardization Branch. In the recent FY 1994 appropriations bill, Congress appropriated money for the development of standards by the Agricultural Marketing Service but at the same time stipulated that the program costs be recovered through user fees, with the fees being turned over to the U.S. Treasury. Since the dairy standardization program is an essential part of the dairy grading program, it is appropriate that the standardization program costs be recovered through the fees charged the users of the grading program.

The projected cost of the dairy standardization program for FY 1994 is $435,000. To lessen the initial impact of transferring this cost to the users of the grading program, only about ⅔ of this cost would be recovered through the fee increases proposed herein, with the remainder being covered by the grading program's operating reserves. Further fee increases about a year later presumably would be needed to cover the remaining portion of the standards costs.

Proposed Changes

This rule proposes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increase the hourly fee for nonresident services from $44.60 to $47.20 for services performed between 6 a.m. and 6 p.m. and from $49.00 to $52.00 for services performed between 6 p.m. and 6 a.m. The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel, plus travel costs.

2. Increase the hourly fee for continuous resident services from $39.60 to $42.20. The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round, resident basis.

Timing of Fee Increase

It is contemplated that the proposed fee increases would be implemented on an expedited basis in order to minimize the period during which the standardization program is operating on a user-fee basis, which starts on October 1, 1993, but when no offsetting fee increase is in effect. Accordingly, it is anticipated that the fee increases, if adopted, would become effective upon publication, or very soon after publication, of the final rule in the **Federal Register** and that delaying the effective date of the final rule until 30 days after publication in the **Federal Register** would not occur. An approximate effective date would be January 1, 1994.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 58 be amended as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

1. The authority citation for part 58 is revised to read as follows:

Authority: 7 U.S.C. 1621–1627.

2. In subpart A, § 58.43 is revised to read as follows:

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in §§ 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of $47.20 for service performed between 6 a.m. and 6 p.m., and $52.00 for service performed between 6 p.m. and 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

3. Section 58.45 is revised to read as follows:

§ 58.45 Fees for continuous resident service.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $42.20 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Dated: October 20, 1993.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 93–26328 Filed 10–25–93; 8:45 am]

BILLING CODE 3410–02–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies; Leverage; Participating Securities; Conditions Affecting Good Standing of Licensees; and Definitions of Various Terms

AGENCY: Small Business Administration.

ACTION: Proposed rulemaking; reopening of comment period.

SUMMARY: The Small Business Administration is hereby reopening the comment periods for two proposed rules, published on August 5, 1993, entitled "Small Business Investment Companies; Leverage; Participating Securities; Conditions Affecting Good Standing of Licensees" (58 FR 41852) and "Small Business Investment Companies; Definitions of Various Terms" (58 FR 41882). Both proposed rules established a final date for comments to be submitted to SBA of October 4, 1993. SBA is reopening the comment period for both proposed rules until November 18, 1993 in order to allow the public adequate time to provide comments on the proposed rules.

DATES: Written comments must be received on or before November 18, 1993.

ADDRESSES: Written comments should be submitted to Wayne S. Foren, Associate Administrator for Investment; U.S. Small Business Administration, 409 Third Street, SW., suite 6300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Marvin D. Klapp, Acting Director, Office of Program Development; (202) 205–6515.

SUPPLEMENTARY INFORMATION: Title IV of the Small Business Equity Enhancement Act of 1992, Pub. L. 102–366, 106 Stat. 1007, made a number of changes to the Small Business Investment Act of 1958, as amended. On August 5, 1993, SBA published two proposed rules which would implement those statutory changes (58 FR 41852 and 58 FR 41882).

This document reopens the comment period for the two aforementioned proposed rules to allow the public adequate time to analyze the proposed rules and submit comments. SBA will accept comments on the proposed rules until November 18, 1993.

Dated: October 18, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93–26356 Filed 10–25–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–NM–134–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F, –40, and –40F Series Airplanes, and Model KC–10A (Military) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10 series airplanes and Model KC–10A (military) airplanes. This proposal would require inspections to detect cracking in the No. 2 engine pylon lower spar forward mount and thrust link fitting attach bolts, and replacement of cracked bolts; and the eventual replacement of any bolts made of H–11 material with bolts made of Inconel. This proposal is prompted by reports of failures of these attach bolts due to stress corrosion. The actions specified by the proposed AD are intended to prevent failure of the attach bolts, which could reduce the fail-safe capability of the attachment assembly.

DATES: Comments must be received by December 21, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–134–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, P.O. Box 1771, Long Beach, California 90801–1771, Attention: Business Unit Manager, Technical Publications—Technical Administrative Support, C1–L5B. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: John Cecil, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (310) 988–5322; fax (310) 988–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–134–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 93–NM–134–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Three operators of McDonnell Douglas Model DC–10 series airplanes have reported five incidents in which the attach bolts on the No. 2 engine pylon lower spar forward mount and thrust link fitting have failed. The failed bolts were found on airplanes that had logged approximately 12,000 to 29,000 flight hours, and 3,300 to 6,800 landings. Investigation of the failed bolts, which were made of H–11 alloy, revealed that failure was due to stress corrosion. Failure of bolts in the subject attach fitting, if not detected and corrected in a timely manner, could reduce the fail-safe capability of the attachment assembly.

The FAA has reviewed and approved McDonnell Douglas DC–10 Service Bulletin 54–100, Revision 1, dated September 17, 1993, that describes procedures for performing repetitive ultrasonic inspections to detect cracks in the No. 2 engine pylon lower spar forward mount and thrust link fitting attach bolts made of H–11 alloy. The service bulletin also describes procedures for replacing H–11 bolts with bolts made of Inconel; Inconel material is more resistant to stress corrosion. (Replacement procedures also include replacement of associated hardware.)

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive ultrasonic inspections to detect cracks in the No. 2 engine pylon lower spar forward mount and thrust link fitting attach bolts, and replacement of bolts, if necessary. This proposed AD also would require the eventual replacement of all H–11 bolts in the attach fitting with Inconel bolts. The actions would be required to be accomplished in accordance with the service bulletin described previously.

There are approximately 354 Model DC–10 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 206 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 16 work hours per airplane to accomplish the proposed inspection and replacement actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $2,700 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $737,480, or $3,580 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 93–NM–134–AD.

Applicability: Model DC–10–10, –10F, –15, –30, –30F, –40, and –40F series airplanes, and KC–10A (military) airplanes; having fuselage numbers 1 though 374 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the No. 2 engine pylon lower spar forward mount and thrust link fitting attach bolts, which could reduce the fail-safe capability of the attachment assembly, accomplish the following:

(a) Within 12 months after the effective date of this AD, perform an ultrasonic inspection to detect cracking of the No. 2 engine pylon lower spar forward mount and thrust link fitting attach bolts made of H–11 material, in accordance with McDonnell Douglas DC–10 Service Bulletin 54–100, Revision 1, dated September 17, 1993.

(1) If no cracking is detected, repeat the ultrasonic inspection thereafter at intervals not to exceed 18 months, until the requirements of paragraph (b) of this AD are accomplished.

(2) If cracking is detected during any inspection required by this paragraph, prior to further flight, accomplish either paragraph (a)(2)(i) or (a)(2)(ii):

(i) Replace the cracked bolt with a new bolt made of H–11 material and continue to inspect in accordance with this paragraph at intervals not to exceed 18 months, until the requirements of paragraph (b) of this AD are accomplished. Or

(ii) Replace the cracked bolt with a bolt made of Inconel, and replace the associated hardware, in accordance with the service bulletin. Such replacement constitutes terminating action for required ultrasonic inspections for that bolt.

(b) Within 5 years after the effective date of this AD, replace all No. 2 engine pylon lower spar forward mount and thrust link fitting attach bolts made of H–11 material, with bolts made of Inconel, and replace the associated hardware, in accordance with McDonnell Douglas DC–10 Service Bulletin 54–100, Revision 1, dated September 17, 1993. Such replacement constitutes terminating action for the inspections required by this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO). Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 20, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–26253 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–13–P

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14 CFR Part 71

[Airspace Docket No. 93–ASO–20]

Proposed Establishment of Class E Airspace; Cocoa, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Cocoa, Florida. A Non-Directional Beacon (NDB) Standard Instrument Approach Procedure (SIAP) for the Merritt Island Airport has recently been developed and controlled airspace extending upward for 700 feet above the surface of the earth is needed to contain instrument flight rules (IFR) operations when utilizing this SIAP. Airspace Reclassification, which became effective September 16, 1993, discontinued the use of the term "transition area" and in its place uses the term "Class E airspace" for airspace extending upward from 700 feet or more AGL. The intended effect of this proposal is to provide adequate Class E airspace for IFR operators executing the developed SIAP.

DATES: Comments must be received on or before November 30, 1993.

ADDRESSES: Send comments on the proposal in triplicate to Federal Aviation Administration, Docket No. 93–ASO–20, Manager, System Management Branch, ASO–530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 770, 3400 Norman Berry Drive, East Point, Georgia 30344; telephone (404) 763–7204.

FOR FURTHER INFORMATION CONTACT: Armando Castro, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763–7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–ASO–20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 770, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, System Management Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a Class E airspace at Cocoa, Florida. A NDB–A SIAP to serve the Merritt Island Airport has been developed. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain IFR operations when utilizing this SIAP. Airspace Reclassification, which became effective September 16, 1993, discontinue the use of the term "transition area" and its place uses the

term "Class E airspace". The intended effect of this proposal is to provide adequate Class E airspace for IFR operators executing the developed SIAP.

The coordinates for this airspace docket are based on North American Datum 83. Designations for Class E airspace extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designation listed in this document would be published subsequently in the Order. If approved, the operating status of the airport would change from VFR operations to include IFR operations concurrent with publication of the SIAP.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a significant regulatory action under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 in effect as of September 16, 1993, as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Para. 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ASO FL E5 Cocoa, FL [New]
Merritt Island Airport, FL
(lat. 28°20'30" N, long. 80°41'08" W)
Merritt Island NDB
(lat. 28°20'28" N, long 80°41'17" W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Merritt Island Airport and within 2.5 miles each side of a 127 bearing from the Merritt Island NDB extending from the 6.3-mile radius to 7 miles northeast of the NDB, excluding that portion that coincides with the Titusville, FL. and Melbourne, FL., Class E airspace areas.

* * * * *

Issued in East Point, Georgia, on October 13, 1993.

Michael J. Powderly,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 93–26304 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 93–AEA–1]

Proposed Establishment of Jet Route J–132 and Alteration of Jet Route J–223; NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Jet Route J–132 and alter Jet Route J–223 between New Jersey and New York. This action would establish J–132 from the Elmira Very High Frequency Ominidirectional Range/Distance Measuring Equipment (VOR/DME) to the Huguenot Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) facility. This action would also modify J–223 by deleting a segment of that jet route from the intersection of the LaGuardia VOR/DME 310°T (322°M) radial and the Elmira VOR/DME 110°T (119°M) radial to the Elmira VOR/DME. Establishing J–132 and altering J–223 would enhance the flow of air traffic and minimize navigational errors in the vicinity of Elmira, NY.

DATES: Comments must be received on or before December 13, 1993.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AEA–500, Docket No. 93–AEA–1, Federal Aviation Administration, JFK International Airport, Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Patricia P. Crawford, Airspace and Obstruction Evaluation Branch (ATP–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9255.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Comments wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 93–AEA–1." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of

Public Affairs, Attention: Public Inquiry Center, APA–200, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3485.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Jet Route J–132 an to alter J–223 between New Jersey and New York. Aircraft navigating along J–223 on a westbound hearing and transiting from the LaGuardia 322° radial to the Elmira 119° radial occasionally drift northward toward the adjacent airspace of J–95. The proximity of J–223 to J–95 at the intersecting radials makes any variation critical to the operation on the jet routes. This proposed action would alter J–223 by deleting a segment of that jet route from the intersection of the LaGuardia VOR/DME 310° radial and the Elmira VOR/DME 110° radial to the Elmira VOR/DME to resolve that situation. In addition, this action would establish a jet route, J–132, from the intersection of the Elmira VOR/DME 110° radial and the Huguenot VORTAC 291° radial to the Huguenot VORTAC. Establishing J–132 would simplify routing and expedite the flow of air traffic. Jet routes are published in paragraph 2004 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The jet routes listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since that is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subject in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation of 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 2004—Jet Routes

* * * * *

J–132 [New]

From Elmira, NY; to Huguenot, NY.

* * * * *

J–223 [Revised]

From LaGuardia, NY; to the INT of LaGuardia 310° T (322° M) and Elmira, NY, 110° T (119° M) radials.

* * * * *

Issued in Washington, DC, on October 15, 1993.

Willis C. Nelson,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 93–26303 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Privacy Act of 1974; Implementation

AGENCY: National Labor Relations Board.

ACTION: Proposed rule exempting system of records from certain provisions of the Privacy Act.

SUMMARY: The National Labor Relations Board (NLRB) proposes to exempt a new system of records entitled "NLRB–20, Agency Disciplinary Case Files," from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a.

DATES: Comments must be received on or before December 6, 1993.

ADDRESSES: All persons who desire to submit written comments, views, or arguments for consideration by the NLRB regarding the proposed rule shall file the same with the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Washington, DC 20570–0001.

Copies of all such submissions will be available for examination by interested persons during regular business hours in the Office of the Executive Secretary, Room 11600, National Labor Relations Board, 1099 14th Street NW., Washington, DC 20570–0001.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Washington, DC 20570–0001.

SUPPLEMENTARY INFORMATION: Elsewhere in today's issue of the Federal Register, the National Labor Relations Board is proposing a new system of records pursuant to the Privacy Act of 1974, entitled "NLRB–20, Agency Disciplinary Case Files."

Pursuant to subsection (k)(2) of the Privacy Act, and for the reasons set forth below, the Board proposes to amend Part 102, 29 CFR Subpart K, 102.117 to add new paragraphs (p) and (q) exempting this system of records from subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Act.

The proposed new system of record contains information of the type described in subsection (k)(2). Subsection (k)(2) of the Privacy Act authorizes the head of an agency to exempt a system of records from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Act if the system of records is investigatory material compiled for law enforcement purposes other than material within the scope of subsection (j)(2) of the Act. As indicated in the NLRB's notice proposing the new system of records, the Agency Disciplinary Case Files contain information and materials compiled by the NLRB in the course of conducting disciplinary investigations and proceedings involving allegations of misconduct in violation of the NLRB's rules by attorneys and other individuals, other than current NLRB employees, who appear and practice before the NLRB.

The requirements of subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Act, if applied to the new system of records, would seriously impair the ability of the NLRB to conduct investigations of alleged or suspected violations of its misconduct rules. The disclosure requirements as set forth in the provisions for

accountings, access, amendment, review, and notice in these subsections could enable the subject individuals to take action to avoid detection of or discipline for their improper activities, including but not limited to concealing or destroying evidence and intimidating sources and witnesses. In addition, the requirement that information maintained in the system be limited to that which is relevant and necessary could foreclose investigators from acquiring or receiving information the relevance and necessity of which is not readily apparent and could only be ascertained after a complete review and evaluation of all the evidence.

The requirements of these subsections are largely unnecessary given the due process protections afforded by the NLRB's misconduct rules. The due process protections afforded by the NLRB's misconduct rules (i.e., notice and, in appropriate cases, opportunity for hearing), assure that subject individuals will have the opportunity to learn of the existence of, and to challenge, those records which the NLRB uses in the disciplinary proceeding.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the NLRB certifies that the amendments to Part 102, subpart K will not, if adopted, have a significant impact on a substantial number of small businesses. The NLRB further finds that the proposed rule does not qualify as a "major rule" under Executive Order No. 12291 because it will not have an annual effect on the economy of $100 million or more.

List of Subjects in 29 CFR Part 102

Privacy, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, part 102 of title 29, ch. I of the Code of Federal Regulations, is proposed to be amended as follows:

PART 102—[AMENDED]

Subpart K—Records and Information

1. The authority citation for Part 102 continues to read as follows:

Authority: Sec. 6, National Labor Relations Act (29 U.S.C. 151, 156). Section 102.117 also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and section 552a (j) and (k) of the Privacy Act (5 U.S.C. 552a (j) and (k)). Sections 102.143 through 102.155 also issued under sec. 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

§ 102.117 [Amended]

2. Section 102.117 of subpart K is amended by adding paragraphs (p) and (q) as follows:

* * * * *

(p) Pursuant to 5 U.S.C. 552a(k)(2), the system of records maintained by the NLRB containing Agency Disciplinary Case Files shall be exempted from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) insofar as the system contains investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2).

(q) The Privacy Act exemption set forth in paragraph (p) of this section is claimed on the ground that the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act, if applied to Agency Disciplinary Case Files, would seriously impair the ability of the NLRB to conduct investigations of alleged or suspected violations of the NLRB's misconduct rules, as set forth in paragraphs (o) (1), (3), (4), (7), (8), and (11) of this section.

Dated: Washington, DC, October 18, 1993.

By direction of the Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 93–26201 Filed 10–25–93; 8:45 am]

BILLING CODE 7545–01

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA19–1–5950; A–1–FRL–4794–5]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Oxygenated Gasoline Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted for parallel processing by the Commonwealth of Virginia. This revision consists of the Virginia regulation which implements an oxygenated gasoline program in one control area which includes: the Virginia counties within the Washington, DC Metropolitan Statistical Area (MSA) consisting of Arlington, Fairfax, Loudoun, Prince William, and Stafford; and the Virginia cities within the Washington, DC MSA consisting of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. This SIP revision was submitted to satisfy the requirement of the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (the Act) that requires any carbon monoxide nonattainment area with a design value of 9.5 parts per million (ppm) or greater based generally on 1988 and 1989 air quality monitoring data to implement an oxygenated gasoline program. The intended effect of this action is to propose approval of the oxygenated gasoline program. This action is being taken under the Clean Air Act as amended by the Clean Air Act Amendments of 1990.

DATES: Comments must be received on or before November 26, 1993.

ADDRESSES: Comments may be mailed to Catherine L. Magliocchetti, 3AT13, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation & Toxics Division, U.S. Environmental Protection Agency, Region III, same address as above, and at the Northern Virginia Air Regional Office, Department of Environmental Quality, Springfield Corporate Center, Suite 310, 6225 Brandon Avenue, Springfield, Virginia 22150, and at the Virginia Department of Agriculture and Consumer Services, Warrenton Laboratory, 234 W. Shirley Avenue, Warrenton, Virginia 22186.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 597–6863.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of carbon monoxide (CO) emissions. An important measure toward reducing these emissions is the use of cleaner-burning oxygenated gasoline. Extra oxygen enhances fuel combustion and helps to offset fuel-rich operating conditions, particularly during vehicle starting, which are more prevalent in the winter.

Section 211(m) of the Clean Air Act (the Act) 42 U.S.C. 7545(m) requires that various states implement oxygenated gasoline programs by no later than November 1, 1992. This requirement applies to all states with carbon monoxide nonattainment areas with design values of 9.5 parts per million or more based generally on 1988 and 1989 data. Each state's oxygenated gasoline program must require gasoline for the specified control areas to contain not less than 2.7 percent oxygen by weight during that portion of the year in which

the areas are prone to high ambient concentrations of carbon monoxide. Under section 211(m)(2), the oxygenated gasoline requirements are to generally cover all gasoline sold or dispensed in the larger of the Consolidated Metropolitan Statistical Area (CMSA) or the MSA in which the nonattainment area is located. Under section 211(m)(2), the length of the control period, to be established by the EPA Administrator, shall not be less than four months in length unless a state can demonstrate that, because of meteorological conditions, a reduced control period will assure that there will be no carbon monoxide exceedances outside of such reduced period. EPA announced guidance on the establishment of control periods by area in the Federal Register on October 20, 1992.[1]

In addition to the guidance on establishment of control period by area, EPA has issued additional guidance related to the oxygenated gasoline program. On October 20, 1992, EPA announced the availability of oxygenated gasoline credit program guidelines in the Federal Register.[2] Under a credit program, marketable oxygen credits may be generated from the sale of gasoline with a higher oxygen content than is required (i.e. an oxygen content greater than 2.7 percent by weight). These oxygen credits may be used to offset the sale of gasoline with a lower oxygen content than is required. Where a credit program has been adopted, EPA's guidelines provide that no gallon of gasoline should contain less than 2.0% oxygen by weight.

EPA issued labeling regulations under section 211(m)(4) of the Act. These labeling regulations were published in the Federal Register on October 20, 1992.[3]

II. Background for this Action

The following areas in the Commonwealth of Virginia are designated nonattainment for carbon monoxide and are classified as moderate CO nonattainment areas: The county of Arlington, and the city of Alexandria. Both are part of the Washington, DC MSA, which has a CO design value of 11.4 ppm, based on 1988 and 1989 design values. Virginia was required to submit a revised SIP under section 110 and part D of title I of the Act which includes an oxygenated gasoline program for the counties of Arlington, Fairfax, Loudoun, Prince William, and Stafford, and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park.[4]

On November 20, 1992, the Virginia Department of Environmental Quality, formerly the Virginia Department of Air Pollution Control, submitted a SIP revision to EPA (Virginia Regulation 115–04–28) for parallel processing consisting of the oxygenated gasoline program as set forth in emergency regulations which became effective on November 1, 1992. EPA summarizes its analysis of the state submittal below. A more detailed analysis of the state submittal is contained in a Technical Support Document (TSD), date June 25, 1993, which is available from the Region III office, listed in the ADDRESSES section of this document.

III. EPA's Evaluation of Virginia's Oxygenated Gasoline Program

As discussed above, section 211(m)(2) of the Act requires that gasoline sold or dispensed for use in the specified control areas contain not less than 2.7 percent oxygen by weight. Under section 211(m)(5), the EPA Administrator issued guidelines for credit programs allowing the use of marketable oxygen credits. Virginia regulation VR 115–04–28, Emergency Regulations Governing the Oxygenation of Gasoline, requires 2.7% oxygen content for each gallon of gasoline sold in a control area. The following sections of this notice address some specific elements of Virginia's submittal.

Applicability and Program Scope

Section 211(m)(2) requires oxygenated gasoline to be sold during a control period based on air quality monitoring data and established by the EPA Administrator. Virginia's regulation establishes an oxygenated gasoline control period which begins November 1 of each year and continues through the last day of the following February. This satisfies EPA requirements.

Transfer Documents

Virginia has included requirements related to transfer documentation in VR 115–04–28. These transfer document requirements enhance the enforcement of the oxygenated gasoline regulation by providing a paper trail for each gasoline sample taken by state enforcement personnel. This satisfies EPA requirements.

Enforcement and Penalty Schedules

State oxygenated gasoline regulations must be enforceable by the state oversight agency. EPA recommends that states will visit at least 20% of regulated parties during a given control period. Inspections should consist of product sampling and record review. In addition, each state should devise a comprehensive penalty schedule. Penalties should reflect the severity of a party's violation, the compliance history of the party, as well as the potential environmental harm associated with the violation.

The Virginia regulation addresses compliance and enforcement of the oxygenated gasoline program. Under VR 155–04–28, any gasoline which is found not to be in compliance with the requirements of the program will be ordered off sale or removed from use by the Commissioner. Virginia's compliance and enforcement provisions satisfy EPA requirements.

Test Methods and Laboratory Review

EPA's sampling procedures are detailed in appendix D of 40 CFR part 80. EPA has recommended, in its credit program guidelines, that states adopt these sampling procedures. Virginia adopted EPA sampling procedures by reference in VR 115–04–28.

Each state regulation must include a test method. EPA's guidelines recommend the use of the oxygenate flame ionization detector (OFID) test, although parties may elect to use ASTM-D4815–89 or another method, if approved by EPA. Virginia has elected to use the ASTM-D4815–89 or any other method developed or approved by EPA, and so specified in VR 115–04–28.

EPA has established an interim testing tolerance, which states appropriate ranges for credit and per-gallon programs.[5] The purpose of the testing in a credit program is to determine if a sample meets the 2.0 percent minimum oxygen content requirement and to determine whether the documentation that accompanied that gasoline is correct. For a per-gallon program, the purpose of the testing is to determine whether the gasoline contains less than 2.7 percent oxygen by weight. Virginia's regulation is consistent with the interim testing tolerance established by EPA, and is therefore acceptable.

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[1] See "Guidelines for Oxygenated Gasoline Credit Programs and Guidelines on Establishment of Control Periods under Section 211(m) of the Clean Air Act as Amended--Notice of Availability," 57 FR 47849 (October 20, 1992).

[2] See footnote 1. EPA was issued guidelines for credit programs under section 211(m)(5) of the Act.

[3] See "Notice of Final Oxygenated Fuels Labeling Regulations under section 211(m) of the Clean Air Act as Amended--Notice of Final Rulemaking," 57 FR 47769. The labeling regulations may be found at 40 CFR part 80, § 80.35.

[4] See credit program guidelines at footnote 3, wherein the November 15, 1992 SIP revision due date was specified.

[5] See Memorandum dated October 5, 1992 from Mary T. Smith, Director, Field Operations and Support Division to State/Local Oxygenated Fuels Contacts.

Labeling

EPA was required to issue Federal labeling regulations under section 211(m)(4) of the Act. These regulations, published in the Federal Register on October 20, 1992[6], required the following statement be posted for a per-gallon program or credit program with minimum oxygen content requirement:

"The gasoline dispensed from this pump is oxygenated and will reduce carbon monoxide pollution from motor vehicles."

The Federal regulation also specifies the appearance and placement requirements for the labels.

EPA has strongly recommended that states adopt their own labeling regulations, consistent with the Federal regulation. Virginia regulation VR 115–04–28 includes labeling requirements that are consistent with the Federal regulation.

EPA's review of VR 115–04–28 indicates that the state has adopted an oxygenated gasoline regulation in accordance with the requirements of the Act. EPA is proposing to approve the Virginia SIP revision for an oxygenated gasoline program, which was submitted on November 20, 1992. This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this notice, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after a permanent version of VR 115–04–28 has been adopted by Virginia and submitted formally to EPA for incorporation into the SIP. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the Addresses section of this document.

IV. Proposed Action

EPA is proposing to approve the Virginia Oxygenated Gasoline Program, specifically VR 115–04–28 as a revision to the Virginia SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the Commonwealth is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

This action has been classified as a Table 2 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and Table 3 SIP revisions from the requirements of section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on EPA's request.

The Administrator's decision to approve or disapprove the SIP revision will be based on whether it meets the requirementsof section 110(a)(2)(A)-(K), 110(a)(3), and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR part 51.

List of subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

[6] See footnote 3.

Dated: August 23, 1993.

W.T. Wisniewski,

Acting Regional Administrator.

[FR Doc. 93–26313 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–60–F

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40 CFR Part 52

[IL74–1–5856; FRL–4794–6]

Approval and Promulgation of a Commitment to Adopt a Rule for Reasonably Available Control Technology for Oxides of Nitrogen; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) proposes conditional approval of a revision to the State Implementation plan (SIP) for ozone submitted by the State of Illinois. This portion of the implementation plan was submitted by the State to satisfy Clean Air Act (Act) requirements for adoption of rules for application of reasonably available control technology (RACT) for oxides of nitrogen (NO_x) in Metro-East St. Louis and Chicago, Illinois nonattainment areas. Under the Act, U.S. EPA must approve or disapprove SIPs or portions of SIPs within time frames specified in the Act; failure to do so would render U.S. EPA liable to citizen suits to rulemake on those SIPs and would delay making approvable rules federally enforceable. In this document, U.S. EPA is proposing action, not on the rules themselves, but on a commitment by the State to submit the NO_x RACT rules at a later date.

DATES: Comments on this proposed action must be received by November 26, 1993.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State's submittal and other information are available for inspection during normal business hours at the following location. Regulation Development Section, Regulation Development Branch, (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Fayette Bright, Regulation Development

Section, Regulation Development Branch, (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6069.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for the reduction of oxides of nitrogen (NO_x) emissions through RACT are set out in section 182(f) of the Act. Section 182(f) requirements are described by U.S. EPA in a proposed rule entitled, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Act Amendments of 1990 Implementation of Title I; Proposed Rule," published November 25, 1992 (57 FR 55620) hereinafter referred to as the NO_x Supplement to the General Preamble). The November 25, 1992, action should be referred to for further information on the NO_x requirements and is incorporated into this proposal by reference.

Section 182(f) of the Act requires States with moderate or above ozone nonattainment areas which are part of an ozone transport region to apply the same requirements to major stationary sources of NO_x ("major" as defined in section 302 and section 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs). For more information on what constitutes a major source, see section 2 of the NO_x Supplement to the General Preamble (57 FR 55622).

Section 182(b)(2)(C) requires submittal of RACT rules for major stationary sources of VOC emissions (not covered by a pre-enactment control technology guideline (CTG) document or a post-enactment CTG document) by November 15, 1992. There were no NO_x CTGs issued before enactment and U.S. EPA has not issued a CTG document for any NO_x source since enactment. States, in their RACT rules, are expected to require final installation of the actual NO_x controls by May 31, 1995, for those sources for which installation by that date is practicable. (Refer to 57 FR 55623.)

Under section 110(k)(4) of the Act, the Administrator may approve a plan revision based on a commitment from the State to adopt specific enforceable measures by a specified date, but not later than 1 year after the date of U.S. EPA approval of the plan revision that incorporated that commitment. Refer to the NO_x Supplement to the General Preamble (57 FR 55622–55623) for details of this conditional approval with respect to the NO_x requirements. The memoranda of July 22, 1992, entitled "Guidelines for State Implementation Plan Submittals Due November 15, 1992," and September 16, 1992, entitled "Correction of State Implementation Plan Submittals Table," from Deputy Assistant Administrator Michael Shapiro also outline general requirements for conditional approval actions.

II. Analysis of State Submittal

As noted above, section 110(k)(4) of the Act allows U.S. EPA to accept a commitment from States to adopt portions of SIPs rather than the SIP itself. Therefore, U.S. EPA may, accept a commitment from States to adopt NO_x RACT rules rather than the NO_x RACT rules themselves. The NO_x Supplement to the General Preamble, the memoranda of July 22, 1992, and September 16, 1992, from Deputy Assistant Administrator Michael Shapiro, and a February 2, 1993, memorandum entitled "Questions and Answers on Nitrogen Oxides Emissions Policy," from G.T. Helms outline approvability criteria for a NO_x RACT committal. Approvability criteria for this committal include:

(1) A description of the reason for the committal SIP versus a full SIP submittal.

(2) Documentation that credible photochemical grid modeling is not available or did not consider the effects of NO_x reductions.

(3) Identification of resources to complete such modeling.

(4) A schedule outlining the milestones that have been and will be achieved toward completion of NO_x RACT rules. The schedule must include a date for final submittal of rules to U.S. EPA. The date for submitting the final rules to U.S. EPA must be no later than 12 months after U.S. EPA's final approval of the committal SIP.

The following discussion provides information regarding Illinois' efforts to fully meet the requirements for the reduction of NO_x emissions through RACT and describes the reasons for the committal SIP rather than a full SIP submittal.

On November 12, 1992, the Illinois Environmental Protection Agency (IEPA) submitted a commitment to adopt NO_x RACT rules regulating NO_x emissions from major sources of NO_x in ozone nonattainment areas classified as moderate or above. The commitment applies to the Metro-East St. Louis ozone nonattainment area, classified as moderate for ozone, and to the Chicago, Illinois ozone nonattainment area, classified as severe for ozone. Additional information regarding the commitment was also submitted by the IEPA to the U.S. EPA on May 10, 1993.

Illinois commits, pursuant to section 110(k)(4) of the Act, to adopt NO_x RACT regulations for the Chicago and Metro-East St. Louis ozone nonattainment areas by not later than one year after the date the U.S. EPA approves the committal SIP revision. In support of this commitment, IEPA notes that Illinois has spent a considerable amount of time and resources to determine what NO_x control measures are needed for various source categories in the Illinois ozone nonattainment areas.

IEPA also believes it has received insufficient guidance on possible Control Techniques Guidelines (CTGs) from the U.S. EPA regarding NO_x emission controls. In addition to the lack of U.S. EPA guidance, Illinois believes, under the criteria of section 182(f) of the Act, the NO_x RACT may not be appropriate or required in Illinois' ozone nonattainment areas. The States of Illinois, Indiana, Michigan, and Wisconsin have joined in an effort to apply a photochemical dispersion model to the Lake Michigan area for planning purposes. This modeling effort will allow the determination of the need for NO_x RACT emission controls. Although this effort is well underway, additional time is needed to select the control strategies to model, conduct the modeling, and interpret the results. The modeling will be run so that the four States can agree on an emission control strategy by the end of 1993. Similar modeling is being conducted in the St. Louis area (the modeling domain of which includes the Metro-East St. Louis ozone nonattainment area), where a regional emissions control strategy is also expected to be agreed to by the States of Illinois and Missouri by the end of 1993.

Illinois commits to complete the ozone modeling for the Chicago and Metro-East St. Louis ozone nonattainment areas as expeditiously as practicable. In addition, Illinois commits to submit progress reports on the modeling while the NO_x committal SIP revision is being reviewed.

Illinois is currently developing NO_x RACT regulations in the event the modeling shows that NO_x controls are needed. The IEPA has formed a NO_x RACT workgroup and has been meeting with the utility, steel, and glass industries on this issue. The NO_x RACT regulations are expected to be submitted to the Illinois Pollution Control Board by September, 1993. The IEPA expects the NO_x RACT regulations to be adopted by June, 1994, but commits to adopt NO_x RACT rules not later than one year after the U.S. EPA approval of the NO_x

RACT committal SIP revision. The May 10, 1993, submittal notes that draft NO_x RACT rules should be submitted to the U.S. EPA for pre-adoption comments by August, 1993.

III. Results of U.S. EPA Review

Although a detailed schedule for NO_x RACT rule development is not given in the submittal, the State does give the anticipated time for completion of the rule development and does commit to submit the regulations within one year after the U.S. EPA finally approves the NO_x RACT committal SIP revision.

As stated earlier, the reasons Illinois submitted a commitment to adopt NO_x rules rather than submitting NO_x rules are the lack of U.S. EPA RACT guidance and the need to complete photochemical dispersion modeling currently underway. Modeling is necessary to reliably determine the extent to which NO_x reductions will contribute to attaining the ozone standard. The required modeling results are not available. The modeling schedule has been determined by the Lake Michigan Ozone Study (LMOS) and Lake Michigan Ozone Control Program (LMOP) efforts, in which the U.S. EPA participates along with the four States noted above. Both LMOS and LMOP are funded through U.S. EPA grants and State funding efforts. Planned finances are judged to be adequate to complete the required modeling efforts as scheduled.

U.S. EPA is proposing to conditionally approve a commitment to adopt NO_x RACT rules for the Metro-East St. Louis and Chicago, Illinois ozone nonattainment areas because it meets the requirements of section 110(k)(4) of the Clean Air Act and conforms to the policy in the NO_x Supplement to the General Preamble (cited above) and the memoranda from Deputy Assistant Administrator Michael Shapiro of July 22, 1992 and September 16, 1992, and the February 2, 1993 memorandum from G.T. Helms.

A. Procedural Background

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to U.S. EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[1] Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

The State of Illinois held a public hearing on October 27, 1992, on the commitment to adopt NO_x RACT rules for the Metro-East St. Louis and Chicago ozone nonattainment areas. Following the public hearing, the commitment was adopted by the State and signed by Bharat Mathur, Chief of the Bureau of Air, IEPA, and submitted to U.S. EPA on November 12, 1992, as a proposed revision to the SIP.

B. RACT Determination and Implementation

States—including those for which U.S. EPA approves a commitment to adopt a NO_x RACT rule—are expected to require final installation of the actual NO_x controls by May 31, 1995 from sources for which installation by that date is practicable. The NO_x Supplement to the General Preamble (57 FR 55623) contains a detailed discussion of U.S. EPA's interpretation of the RACT requirement.

IV. Implications of Committal SIP Revision

The U.S. EPA is proposing to approve the commitment for adoption of NO_x RACT rule(s) as a SIP revision submitted to U.S. EPA for the Metro-East St. Louis and Chicago ozone nonattainment areas on November 12, 1992. Section 110(k)(4) of the Act provides that where U.S. EPA takes final action to conditionally approve a commitment to submit a SIP or portion of a SIP, the State must fulfill that commitment (i.e., submit the required SIP or portion thereof) within one year following U.S. EPA approval. If the State does not fulfill its commitment by submitting the SIP or revision to U.S. EPA within that year, the Act requires that the SIP be disapproved. If U.S. EPA disapproves the SIP for failing to meet the commitment, there are several additional consequences. As provided under section 179(a) of the Act, the State of Illinois would have up to 18 months after a final SIP disapproval to correct the deficiencies that are the subject of the disapproval before U.S. EPA is required to impose either the highway funding sanction or the requirement to provide two-to-one new source review offsets. If the State has not corrected its deficiencies within 6 months thereafter, U.S. EPA must impose the second sanction. Any sanction U.S. EPA imposes must remain in place until USEPA determines that the State has come into compliance. If U.S. EPA ultimately disapproves all or part of the SIP submittal for the Metro-East St. Louis and Chicago, Illinois ozone nonattainment areas and the State of Illinois fails to correct the deficiency within 18 months of such disapproval, U.S. EPA anticipates that the first sanction it would impose would be the two-to-one offset requirement. Note also that any final disapproval would trigger the requirement for U.S. EPA to impose a Federal implementation plan as provided under section 110(c)(1) of the Act.

Public comment is solicited on the State's submittal and on all aspects of U.S. EPA's proposed approval of the State's submittal. Comments received by the date listed above will be considered in the development of U.S. EPA's final rule.

This action has been classified as a Table 2 Action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirement of section 3 of Executive Order 12291 for a period of two years. U.S. EPA has submitted a request for a permanent waiver for Table 2 and Table 3 SIP revisions. The OMB has agreed to continue the temporary waiver until such time as it rules on U.S. EPA's request.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, U.S. EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C 603 and 604. Alternatively, U.S. EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on affected small entities. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility

[1] Also section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids U.S. EPA to base its actions concerning SIPs on such grounds. Union Electric Co. v. *U.S. EPA.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410 (a)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 24, 1993.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 93–26316 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[ET Docket No. 93–266; FCC 93–477]

Review of the Pioneer's Preference Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission initiated a review of its pioneer's preference rules to assess the effect of competitive bidding authority recently enacted by Congress. This review considers whether the rules should remain in effect as they currently exist, be amended to take into account competitive bidding and the Commission's experience with their administration, or repealed. The action is intended to ensure that the pioneer's preference rules remain consistent with the public interest.

DATES: Comments are due November 15, 1993; reply comments are due November 22, 1993.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 653–8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making (NPRM) adopted and released October 21, 1993. This action will not change the public reporting burden. The full text of this Commission Notice of Proposed Rule Making is available for inspection and copying during regular business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554. The complete text of this decision also may be purchased from the Commission's duplication contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NM., Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. The Commission initiated a review of its pioneer's preference rules to assess the effect of authority to assign licenses by competitive bidding recently enacted by Congress. This review considers whether the original basis and purpose of the rules continues to support the need for these rules now that the Commission's regulatory structure includes authority to select licenses from among mutually exclusive applicants by competitive bidding primarily as a substitute for random selection.

2. The Commission's pioneer's preference rules grant a license to an applicant that develops a new communications service or technology. The rules were adopted to foster development of new technologies and provision of innovative service to the American public by reducing the delays and risks innovators otherwise faced in obtaining a license by either the random selection or the comparative hearing process.

3. In initiating review of the rules, the Commission noted that recent authorization of competitive bidding authority (section 6002 at 107 Stat. 387) creates a new dynamic for assigning licenses. Whereas previously an innovator had no control over obtaining a license, it now may obtain a license by outbidding others. The value of innovation therefore may be considered in the marketplace and measured by the ability to raise the funds necessary to obtain the desired license.

4. The Commission solicited comment on whether the pioneer's preference rules continue to be appropriate in a competitive bidding environment. Specifically, it solicited comment on whether the recently enacted competitive bidding authority results in applicants, including innovators, controlling whether they obtain any particular license. The Commission also requested comment on possible amendments to the rules addressing the competitive bidding method of obtaining a license. The amendments considered include alternatives to awarding a license, such as designating pioneering parties but not guaranteeing licenses; or discounting bids by a specific amount of percentage. (For example, the Commission stated, if a pioneer submitted a winning bid, it might be required to pay only 75 percent of its bid.)

5. If it retains the rules, the Commission solicited comment on a number of administrative changes. Concerned that the current policy of issuing public notices, specifying filing deadlines, considering raw experimental license material, and making initial determinations on pioneer's preference requests may burden unnecessarily both the Commission's staff and the public with no offsetting benefit, the Commission requested comment on requiring applicants to file requests prior to Commission initiation of a rulemaking inquiry or rulemaking proceeding; and on soliciting initial comment on pioneer's preference requests at the notice of proposed rule making stage in the rule making proceeding related to the requests and making a decision on each request only at the report and order stage.

6. Additionally, the Commission solicited comment on requiring applicants to incorporate relevant experimental material into their preference requests, rather than the Commission considering its entire experimental file. The Commission also sought comment on limiting acceptance of pioneer requests to applicants that demonstrate their responsibility for innovative technology that results in new service to the public.

7. Accordingly, the Commission stated that in view of its new authority to use competitive bidding to assign licenses and its experience in administering the pioneer's preference rules, it believes that these rules should be re-examined, but stated that it reached no conclusion on whether they should be continued, modified, or repealed.

8. The Commission stated that it would not apply any changes to the rules in the two proceedings in which it has awarded pioneer's preferences to Volunteers in Technical Assistance (VHF/UHF Low Earth Orbit Satellite) and Mobile Telecommunication Technologies Corporation (narrowband PCS). It solicited comment on whether the changes should be applied in three additional proceedings in which it has issued Tentative Decisions: above 1 GHz Low Earth Orbit Satellites, 28 GHz local multipoint distribution service, and broadband PCS. Finally, it proposed to apply any changes to the rules to the remaining requests that are pending but have not been considered yet by the Commission. The Commission concluded that it will not rule on any pending pioneer's preference requests

until this review proceeding is concluded.

9. *Initial Regulatory Flexibility Analysis.* As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis of the expected impact on small entities of the proposals contained in this NPRM.

A. Reason for Action

This rule making proceeding is initiated to obtain comment regarding possible modifications to, or repeal of, the pioneer's preference rules.

B. Objectives

The Commission seeks to review the public interest basis for its pioneer's preference rules in light of recently enacted statutory authority to assign licenses by competitive bidding and its experience administering the rules since 1991.

C. Legal Basis

The proposed action is authorized by Sections 4(i), 303(c), 303(f), 303(g), 303(r) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), 303(r), and 303(j), and Section 6002 of the Omnibus Budget Reconciliation Act of 1993, 47 U.S.C. 309(j).

D. Reporting, Recordkeeping and Other Compliance Requirements.

None.

E. Federal Rules That Overlap, Duplicate, or Conflict With These Rules

None.

F. Description, Potential Impact, and Number of Small Entities Involved

The rule changes proposed could affect small businesses if they have pioneer's preference requests pending, if they contemplate filing pioneer's preference requests, or if they intend to file applications for services in which others might receive a pioneer's preference. We do not intend to take any action that would unnecessarily lessen the ability of small businesses to participate in services that use new technologies. After evaluating the comments in this proceeding, the Commission will further examine the impact of any rule changes on small entities and set forth our findings in the Final Regulatory Flexibility Analysis.

G. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives

10. This is a non-restricted notice and comment rule making proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.1206(a). The Commission notes, however, that many pioneer's preference requests have been formally opposed, and in these proceedings, no *ex parte* presentations are permitted until final Commission decisions regarding the preference requests are made and are no longer subject to reconsideration by the Commission or review by any court.

11. This action is taken pursuant to Sections 4(i), 7(a), 303(c), 303(f), 303(g), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 303(c), 303(f), 303(g), 303(r), and 309(j).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Pioneer's preference.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93–26480 Filed 10–25–93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 552

Trailer Hitches; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition submitted by Mr. Theodore Miller requesting that rulemaking be initiated to address the consequences resulting from the improper selection and installation of trailer hitches to vehicles that the petitioner describes as having "excessively thin metal" frames. NHTSA believes the petitioner is describing "unit body" vehicles, which unlike traditionally manufactured vehicles do not have a separate chassis and brace of frame rails on which the vehicle body is mounted. The agency is denying the petition because it is unable to find information confirming the petitioner's claim that there is a safety problem with tow hitches separating from unit body vehicles.

FOR FURTHER INFORMATION CONTACT: Mr. Jere Medlin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–5276.

SUPPLEMENTARY INFORMATION:

Rulemaking Petition

On January 8, 1993, Mr. Theodore Miller submitted a petition for rulemaking concerning the performance of what the agency believes are vehicles of "unit body" construction as towing vehicles. These "unit body" vehicles do not have a separate chassis to which the body is mounted. Instead, the body and chassis are integrated and the tow hitch is mounted to this unit body. Mr. Miller believed that since unit body vehicles lack a distinct chassis and frame rails, they are not strong enough to withstand loads that are imposed on them when they tow another vehicle. The petitioner believed that, when unit body vehicles are used to tow vehicles such as recreational trailers, the towing vehicle and trailer hitch can tear away from the unit body vehicle. Mr. Miller's petition was prompted by an incident in which his Fleetwood Resort Travel Trailer and a Class III hitch separated from a 1990 Jeep Cherokee 4x4. The petitioner requested that NHTSA "respond to possible dangers due to separation of vehicles from trailers that may result from use of excessively thin metal in automobile frames used in vehicles with heavy-duty engines for pulling heavy loads * * *."

In response to Mr. Miller's petition, NHTSA conducted a thorough review of incidents involving the separation of trailer hitches from unit body vehicles. The agency reviewed NHTSA's Consumer Complaint File in the agency's Office of Defect Investigation, the Fatal Accident Reporting System (FARS), and the National Accident Sampling System—General Estimates System (NASS—GES). The number of such incidents in these data files is extremely low.

According to NHTSA's Consumer Complaint File (which contains thousands of entries), there were only 27 complaints over a 10 year period involving situations in which a recreational trailer came loose from a hitch. Moreover, none of these cases involved the failure of the towing vehicle to withstand the load of the towed vehicle. There were six cases in which the trailer hitch receiver broke, ten cases of hitch failure caused by inferior strength bolts or bolt loosening, two cases of ball separation, two cases of tongue breakage, one case of safety chain failure, one case of a trailer exceeding the ball hitch load rating, one case of a hitch plate pulling out of a

truck step bumper, two cases of improper installation, and two cases of bent hitches. There was one case in which the trailer came loose from a receiver type hitch, but the hitch remained attached to and did not come loose from the vehicle.

The FARS data also indicate that trailer hitches do not separate from towing vehicles with frequency. The 1991 FARS data show that out of 54,724 vehicles involved in fatal accidents, only 414 of these were light duty vehicles that were pulling a trailer. Of the reports for these 414 incidents, only 25 listed the trailer hitch as a contributing factor. Further, 19 of the 25 vehicles were pickup trucks with frame rail construction, which means that not more than six vehicles could have been of unit body construction. While it is unknown whether hitch separation occurred with these vehicles, these data indicate that not more than one one-hundredth of one percent of vehicles involved in fatal accidents may have had hitch problems and were of unit body construction.

Data collected in the NASS–GES did not provide any substantive information on the magnitude of the two hitch separation problem. The NASS–GES is a probability sample of police accident reports. Since the estimates are based on a sample, they are subject to sampling and nonsampling errors. The GES data could not provide any reliable conclusion about "hitch" being a causative factor because the margin of error was larger than the total number of such incidents. As a result, the agency could not rely on these data to make a national estimate.

After reviewing the available accident data, NHTSA concludes there is no information indicating that a safety problem with tow hitches separating from unit body vehicles exists to the extent that a NHTSA requirement on the subject is warranted. When properly used, unit body vehicles do not appear to be inherently unable to handle the concentrated loads generated by a towing vehicle. In fact, NHTSA believes that these vehicles can be used safely to tow trailers provided that the user follows the manufacturers' restrictions and other instructions. To the extent that crashes are caused primarily due to the improper use of the hitch, NHTSA believes it would be worthwhile to educate the vehicle user about trailer towing safety. To this end, NHTSA is in the process of developing information for a consumer information bulletin on towing trailers and safety. NHTSA expects that such a bulletin would help make drivers more aware of the increased responsibilities associated with towing and reduce the likelihood of a vehicle crash occurring.

The agency concludes it is unlikely that a new performance requirement would be issued at the end of a rulemaking proceeding on this subject. Accordingly, Mr. Miller's petition is denied.

Authority: 15 U.S.C. 1410a; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 21, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–26262 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 58, No. 205
Tuesday, October 26, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Exemption of Johnson Creek Salvage Timber Project From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notification that a salvage timber project designed to recover insect- and disease-killed timber is exempt from appeal under the provisions of 36 CFR part 217.

SUMMARY: Several years of drought and insect infestation have caused pockets of dead and dying trees in the Johnson Creek drainage on the Palouse Ranger District, Clearwater National Forest. These pockets are scattered throughout the 600-acre study area. In April 1993, the Palouse District Ranger proposed a salvage timber sale to recover damaged sawtimber in the affected area. The District Ranger has determined, through an environmental analysis documented in the Decision Memo and supporting project file, that there is good cause to expedite these actions to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the affected area must be accomplished quickly to avoid further deterioration of sawtimber, and subsequent value loss, and to minimize fire danger by removing accumulations of merchantable dead timber.

EFFECTIVE DATE: Effective on October 26, 1993.

FOR FURTHER INFORMATION CONTACT: Dick Hodge, Palouse District Ranger; Clearwater National Forest; Route 2, Box 4; Potlatch, ID 83855; Telephone 208–875–1131.

SUPPLEMENTARY INFORMATION: Several years of drought and increasing populations of Douglas-fir bark beetle and fir engraver beetle have left pockets of dead and dying Douglas-fir and grand fir throughout the study area. In addition, white pine blister rust has killed some of the white pine in the analysis area. The project area is located within Management Area E1, which is designated in the Clearwater National Forest Plan as suitable timberland with timber management goals.

In April 1993, the Palouse District Ranger proposed a salvage timber harvest within the Johnson Creek drainage. This proposal was designed to meet the following needs: (1) Reduce the potential for bark beetle infestations in adjacent healthy timber stands, (2) improve overall forest health of treated stands by implementation of integrated pest management prescriptions, (3) reduce wildfire hazards by reducing fuel loadings and (4) contribute to a continuing supply of timber for industry by salvaging merchantable timber before it deteriorates in value. An interdisciplinary team was convened, and scoping began in April 1993. Two alternatives were analyzed, no treatment (no action) and a salvage and rehabilitation proposal (proposed action).

The selected alternative (proposed action) would salvage approximately 200 MBF from 200 acres. All salvage areas are accessible from existing roads; no road construction or reconstruction will occur.

The salvage timber sale project is designed to accomplish the objectives as quickly as possible to reduce the potential for catastrophic wildfire and to recover merchantable sawtimber before it deteriorates, making it no longer valuable for commercial timber products, and removal becomes economically infeasible.

To expedite implementation of this decision, procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based upon information presented in the Johnson Creek Salvage Sale Project File and Decision Memo, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project will not be subject to review under 36 CFR part 217.

Dated: October 19, 1993.

Christopher D. Risbrudt,

Deputy Regional Forester, Northern Region.

[FR Doc. 93–26256 Filed 10–25–93; 8:45 am]
BILLING CODE 3410–11–M

Exemption of Long Meadow Salvage Timber Sale From Appeal

AGENCY: Forest Service, USDA.

ACTION: Notification that a salvage timber project designed to recover insect- and disease-killed timber is exempt from appeal under the provisions of 36 CFR part 217.

SUMMARY: Several years of drought and insect infestations have led to pockets of dead and dying trees in the Long Meadow Creek drainage on the Palouse Ranger District, Clearwater National Forest. In April 1993, the Palouse District Ranger proposed a salvage timber sale to recover damaged sawtimber in the affected area. The District Ranger has determined, through an environmental analysis documented in the Decision Memo and supporting project file, that there is good cause to expedite these actions to rehabilitate National Forest System lands and recover damaged resources. Salvage of commercial sawtimber within the area affected must be accomplished quickly to avoid further deterioration of sawtimber, and subsequent value loss, and to minimize fire danger by removing accumulations of merchantable dead timber.

EFFECTIVE DATE: Effective on October 26, 1993.

FOR FURTHER INFORMATION CONTACT: Dick Hodge, Palouse District Ranger; Clearwater National Forest; Route 2, Box 4; Potlatch ID 83855; Telephone 208–875–1131.

SUPPLEMENTARY INFORMATION: Increasing populations of Douglas-fir bark beetle and fir engraver beetle, and several years drought have left pockets of dead and dying Douglas-fir and grand fir throughout the 1,500-acre study area. In addition, white pine blister rust has killed some of the white pine in the analysis area. The project area is located within Management Area E1 which is designated in the Clearwater National Forest Plan as suitable timberland with timber management goals.

In April 1993, the Palouse District Ranger proposed a salvage timber harvest within the Long Meadow Creek drainage. This proposal as designed to meet the following needs: (1) Reduce the potential for bark beetle infestations in adjacent healthy timber stands, (2) improve overall forest health of treated stands by implementation of integrated pest management prescriptions, (3) reduce wildfire hazards by reducing fuel loadings, and (4) contribute to a continuing supply of timber for industry by salvaging merchantable timber before it deteriorates in value.

An interdisciplinary team was convened, and scoping began in April 1993. Two alternatives were analyzed; no treatment (no action) and a salvage and rehabilitation proposal (proposed action). The selected alternative would salvage approximately 300 MBF from 550 acres. All salvage areas are accessible from existing roads; no road construction or reconstruction will occur.

The salvage timber sale project is designed to accomplish the objectives as quickly as possible to reduce the potential for catastrophic wildfire and to recover merchantable sawtimber before it deteriorates and removal becomes economically infeasible.

To expedite implementation of this decision, procedures outlined in 36 CFR 217.4(a)(11) are being followed. Under this Regulation the following may be exempt from appeal:

> Decisions related to rehabilitation of National Forest System lands and recovery of forest resources resulting from natural disasters or other natural phenomena * * * when the Regional Forester * * * determines and gives notice in the **Federal Register** that good cause exists to exempt such decisions from review under this part.

Based upon information presented in the Long Meadow Salvage Sale project file and Decision Memo, I have determined that good cause exists to exempt this decision from administrative review. Therefore, upon publication of this notice, this project would not be subject to review under 36 CFR part 217.

Dated: October 19, 1993.

Christopher D. Risbrudt,

Deputy Regional Forester, Northern Region.

[FR Doc. 93–26257 Filed 10–25–93; 8:45 am]

BILLING CODE 3410–11–M

Rural Electrification Administration

Golden Valley Electric Association, Inc., Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR parts 1500–1508), and REA Environmental Policies and Procedures (7 CFR part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the potential impacts resulting from a project proposed by golden Valley Electric Association, Inc. (Golden Valley), of Fairbanks, Alaska. The proposed project consists of the construction of approximately 28.5 miles of 138 kV transmission line and associated facilities to serve the proposed Fort Know Mine. The mine is located approximately 15 miles northeast of Fairbanks, Alaska.

REA has concluded that the impacts from the proposed project would not be significant and that the proposed action is not a major Federal action significantly affecting the quality of the human environment. Therefore, the preparation of an environmental impact statement is not required.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Wolfe, Chief, Environmental Compliance Branch, Electric Staff Division, REA, South Agriculture Building, Washington, DC 20250, telephone (202) 720–1784.

SUPPLEMENTARY INFORMATION: REA, in accordance with its environmental policies and procedures, required that Golden Valley prepare a Borrower's Environmental Report (BER) reflecting the potential impacts of the proposed facility. The BER, which includes input from the Federal, State, and local agencies, has been adopted as REA's Environmental Assessment for the project in accordance with § 1794.84 of this chapter. REA has concluded that the CER represents an accurate assessment of the environmental impacts of the project. The proposed project should have no impact on cultural resources, important farmland, floodplains, wetlands, water quality and federally listed or proposed for listing threatened or endangered species or their critical habitat.

The proposed project would extend approximately 5.7 miles in a northerly direction from the Gold Hill Substation near Ester to the New Murphy Dome Road. This segment of line will follow an existing distribution line right-of-way. The existing distribution line will be underbuilt on the new transmission line structures. The second segment is approximately 5.8 miles in length and extends in a northerly and northeasterly direction from the New Murphy Dome road to Site Love. The majority of this segment would be constructed on a new right-of-way. The third segment would extend easterly approximately 10.5 miles from Site Love to the Steese Highway. This segment would also be constructed entirely on a new right-of-way. The final segment would continue in a northeasterly direction approximately 6.5 miles from the Steese Highway to the Fort Knox Mine Substation site. The majority of this segment would follow an existing right-of-way.

The primary structure types would be single or double wood pole structures spaced approximately 300 to 400 feet apart (13 to 18 structures per mile depending on span length). The right-of-way width would vary between 50 to 100 feet. Larger poles will be used in some segments of the project to accommodate the underbuild of existing and future distribution lines.

A new substation will be constructed at the Fort Knox Gold Mine site. The substation will include one or two step-down transformers with circuit breakers. The size of the substation will be approximately 400 by 400 feet.

Alternatives considered to the project as proposed were no action, onsite generation, energy conservation and management, underground construction, system alternatives including upgrading existing facilities and different transmission line voltages, and alternative routes. REA has considered these alternatives and concluded that the project as proposed meets the needs of Golden Valley and the Fort Knox Mine.

Copies of the BER and FONSI are available for review at REA at the aforementioned address, or can be reviewed at or obtained from the offices of Golden Valley, 758 Illinois Street, Fairbanks, Alaska 99707.

Dated: October 20, 1993.

[FR Doc. 93–26236 Filed 10–25–93; 8:45 am]

BILLING CODE 3410–15–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its

regular business meetings to take place in Washington, DC on Tuesday and Wednesday, November 9–10, 1993 at the times and location noted below.

DATES: The schedule of events is as follows:

Tuesday, November 9, 1993

9–11:45 a.m. Committee of the Whole.
1:15–5 p.m. Rulemaking Work Group (closed meeting).
5–6 p.m. Ad Hoc Committee on Communications.

Wednesday, November 10, 1993

9–10 a.m. Technical Programs Committee.
10:15–11:30 a.m. Government Ethics Seminar.
1:30–3 p.m. Board Meeting.

ADDRESSES: The meetings will be held at: Embassy Suites Hotel, Diplomat/ Consulate Rooms, 1250 22nd Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–5434 ext. 14 (voice) and (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items.

- Approval of the Minutes of the January 13, March 10, May 12, and July 14, 1993 Board Meetings.
- Executive Director's Report.
- Final Accessibility Guidelines for State and Local Government Facilities (closed).
- Final Rule on Detectable Warnings Suspension (closed).
- Proposed Accessibility Guidelines for Over-The-Road Buses (closed).
- ADAAG Review Advisory Committee.
- Status Report on Fiscal Year 1992 Research Projects.
- Status Report on Fiscal Year 1993 Research Projects.
- Technical Assistance Project for ADAAG Section 14 (Public-Rights-of-Way).
- Ad Hoc Committee on Communications Program Planning.
- Report on Extraordinary Work.
- Budget Status Report.
- Complaint Status Report.
- Recreation Access Advisory Committee Status Report.
- Election of Officers.

Some meetings or items may be closed to the public as indicated above. All meetings are accessible to persons with disabilities. Sign language interpreters and an assistive listening system are available at all meetings.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 93–26357 Filed 10–25–93; 8:45 am]

BILLING CODE 8150–01–M

ARMS CONTROL AND DISARMAMENT AGENCY

Announcement of the William C. Foster Fellows Visiting Scholars Program for the 1994–95 School Year

The U.S. Arms Control and Disarmament Agency (ACDA) will conduct a competition for selection of visiting scholars to participate in ACDA's activities during the 1994–95 academic year.

Section 28 of the Arms Control and Disarmament Act (22 U.S.C. 2568) provides that "A program for visiting scholars in the field of arms control and disarmament shall be established by the Director in order to obtain the services of scholars from the facilities of recognized institutions of higher learning."

The law states that "The purpose of the program will be to give specialists in the physical sciences and other disciplines relevant to the Agency's activities an opportunity for active participation in the arms control and disarmament activities of the Agency and to gain for the Agency the perspective and expertise such persons can offer * * *. Fellows shall be chosen by a board consisting of the Director, who shall be the chairperson, and all former Directors of the Agency." In honor of the first Director of ACDA, William C. Foster, who served from the inception of ACDA in 1961 to 1969, scholars are known as William C. Foster Fellows.

ACDA began this program by competitively selecting six visiting scholars for the 1984–85 academic year. The competition has continued each subsequent academic year until the present. One-year assignments will begin at a mutually agreeable time after successful completion of all employment requirements.

Positions are available in the Bureau of Strategic and Eurasian Affairs (SEA), the Bureau of Multilateral Affairs (MA), the Bureau of Intelligence, Verification and Information Support (IVI), and the Bureau of Nonproliferation and Regional Arms Control (NP). A brochure is available describing these positions in detail. Evaluation of applicants for appointments to these positions will focus upon the scholars' potential for providing expertise or performing services needed by ACDA, rather than on the scholars' previously displayed interest in arms control. While pursuit of the scholars' own line of research may sometimes be possible, support of such activity is not the purpose of the program.

Visiting scholars will be detailed to ACDA by their universities; the universities will be compensated for the scholars' salaries and benefits in accordance with the Intergovernmental Personnel Act and within Agency limitations. Visiting scholars will also receive reimbursement for travel to and from the Washington, DC area for their one-year assignment and either a per diem allowance during the one-year assignment or relocation costs.

Visiting scholars must be citizens of the United States, on the faculty of a recognized institution of higher learning, and tenured or on a tenure track or equivalent; they also must have served as a permanent career employee of the institution for at least ninety days before selection for the program. ACDA is an equal opportunity employer. Selections will be made without regard to race, color, religion, sex, national origin, age, or physical handicap that does not interfere with performance of duties. Prior to appointment applicants will be subject to a full-field background security investigation for a Top Secret security clearance, as required by section 45 of the Arms Control and Disarmament Act. Visiting scholars will also be subject to applicable Federal conflict of interest laws and standards of conduct.

To apply, submit a letter indicating the positions in which you are interested and the perspective and expertise that you offer. Include in the letter a curriculum vitae and any other materials, such as letters of reference and samples of published articles (no more than two), that you believe should be considered in the selection process. Please submit twelve copies of each article.

Please send applications, and any requests for additional information, to: Visiting Scholars Program, Operations Analysis and Information Management, room 5726, U.S. Arms Control and Disarmament Agency, Washington, DC 20451. Or call at (202) 647–4695. The application deadline for assignments for the 1994–1995 academic year is January 31, 1994, subject to extension at ACDA's option. ACDA expects to announce tentative selections in the spring of 1994.

Dated: October 15, 1993.

Alfred Lieberman,

Chief of Operations Analysis and Information Management.

[FR Doc. 93–26219 Filed 10–25–93; 8:45 am]

BILLING CODE 6820–32–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Subcommittee on Export Administration of the President's Export Council Closed Meeting

A meeting of the President's Export Council Subcommittee on Export Administration will be held November 2, 1993, 9:30 a.m., in the Herbert Hoover Building, Room 1617(M2), 14th Street and Constitution Avenue, NW., Washington, DC. The Subcommittee provides advice on matters pertinent to those portions of the Export Administration Act, as amended, that deal with United States policies of encouraging trade with the countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons. The meeting is being called on short notice in order to provide input into the President's Trade Promotion Coordinating Committee Report.

The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 12610, pertaining to the control of exports for national security, foreign policy or shore supply reasons under the Export Administration Act of 1979, as amended. A Notice of Determination to close meetings, or portions of meetings, of the subcommittee to the public on the basis of 5 U.S.C. 552b(c) was approved September 30, 1993, in accordance with the Federal Advisory Committee Act. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, D.C.

For further information, contact Ms. Betty A. Ferrell (202) 482–2583.

Dated: October 20, 1993.

Iain Baird,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 93–26268 Filed 10–25–93; 8:45 am]

BILLING CODE 3510–DT–M

Economic Development Administration

Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Notice to give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 9/16/93–10/19/93

Firm name	Address	Date petition accepted	Product
Hobart Machined Products, Inc	Post Office Box 506, Hobart, WA 98025.	9/17/93	Metal products—machined aircraft parts.
Columbia Machine, Inc	P.O. Box 8950, Vancouver, WA 98668–8950.	9/20/93	Mach. & equip.—concrete block machinery, pallet equipment, concrete mixing machines, etc.
Linnton Plywood Association	10504 Northwest St.—Helens Road, Portland, OR 97213.	10/7/93	Wood products—Douglas fir plywood, plywood with paper overlay, and wood-by-products.
Blackfeet Writing Instruments, Inc	Blackfeet Industrial Park, Browning, MT 59417.	10/7/93	Misc.—pencils, pens, markers.
Farr West Fashions	294 Anna Street, Watsonville, CA 95076.	10/7/93	Apparel—women's lingerie.
Fitzpatrick Company (The)	832 Industrial Drive, Elmhurst, IL 60126.	10/11/93	Mach. & equip.—milling machines, compacting machines, drying machines, pre-breaking and mixing mac.
Peter Curtis dba Curtis Furniture Company.	Route 1, Box 1024, Evans Mills, NY 13637.	10/12/93	Furniture—oak and cherry wooden furniture used in offices, kitchens, bedrooms etc.
Puremco Manufacturing Company, Inc.	251 Douglas, Waco, TX 76712	10/12/93	Wood products—dominoes, game books, gift boxes, scorekeepers.
Battenfeld Grease & Oil Corp. of New York.	1174 Erie Avenue, North Tonawanda, NY 14120.	10/12/93	Misc.—industrial grease and oil.
Hilevel Technology, Inc	2991 Dow Avenue, Tustin, CA 92680	10/19/93	Electronics—electronic test devices, i.e. printed circuit boards, integrated circuits, memory chip.
Westech Gear Corporation	2600 E. Imperial High, Lynwood, CA 90262.	10/19/93	Metal products—gears, heavy cabling machinery.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Trade Adjustment Assistance Division, room 7023, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: October 20, 1993.

Pedro Garza,

Deputy Assistant Secretary for Program Operations.

[FR Doc. 93–26324 Filed 10–25–93; 8:45 am]

BILLING CODE 3510–24–M

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of Issuance of an Export Trade Certificate of Review, Application No. 93–00001.

SUMMARY: The Department of Commerce has issued an Export Trade Certificate of Review to Calcast, Inc. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: Jude Kearney, Deputy Assistant Secretary for Service Industries and Finance, International Trade Administration, 202–482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1993).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

1. *Products*

All products that can be cast from stainless steel, carbon steel, grey iron, ni-hard iron (nickel-based), brass, bronze, copper, aluminum, titanium and any alloyed combination of those materials.

2. *Services*

Design services related to Products and related manufacturing processes.

3. *Export Trade Facilitation Services (As They Relate to the Export of Products and Services)*

Consulting; international market research; marketing and trade promotion; trade show participation; legal assistance; services related to compliance with customs requirements; trade documentation and freight forwarding; communication and processing of export orders and sales leads; foreign exchange; financing; and liaison with U.S. and foreign government agencies, trade associations, and banking institutions.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

In connection with the export of the Products, Services and Export Trade Facilitation Services, Calcast, Inc. and/or one or more Members may:

1. Discuss and reach agreements relating to foreign customer specifications and engineering requirements. Calcast, Inc. may obtain foreign customer specifications and engineering requirements, which its Board members may review and discuss;

2. Engage in joint bidding, joint negotiating with foreign buyers, joint processing of foreign orders, and other joint selling arrangements for their Products and allocate export sales resulting from such arrangements;

3. Establish export prices for sales of Products and Services by the Members in Export Markets, with each Member being free to deviate from such prices by whatever amount it sees fit;

4. Label goods produced by any Member with a label identifying the goods as exported by or through Calcast, Inc;

5. Refuse to quote for, or to market or sell to certain foreign customers. Members may retain foreign customers to whom the Members already had export sales during the one (1) year period prior to commencement of Calcast, Inc. operations without any competition from Calcast, Inc. This refusal to compete is limited, however, to those product lines already in use, as defined by pattern(s) or mold(s). Additionally, one or more Members may agree that Calcast, Inc. shall be their exclusive Export Agent for all export customers generated by or through Calcast, Inc. and that the Members shall not compete with Calcast, Inc. by attempting to sell to or selling to any customer of Calcast, Inc. without Calcast, Inc.'s involvement in the sale for a noncompetition period of one (1) year or the length of the production run for the Product line sold, whichever is shorter. When acting as an exclusive Export Agent, Calcast, Inc. shall not unreasonably refuse to supply its services on non-discriminatory terms to those Members that are parties to the exclusive arrangement;

6. Engage in joint promotional activities, such as advertising and trade shows, aimed at developing or expanding Export Markets;

7. Refuse to export non-member Suppliers' Products through Calcast, Inc.'s certified activities. Calcast, Inc. and/or its Members may solicit and negotiate with non-member Suppliers to sell such non-Member Suppliers' Products through Calcast, Inc.'s certified activities; provided, however, that Calcast, Inc. and/or its Members shall make such solicitations or offers to non-members on a transaction-by-transaction basis only and then only when the Members are unable or not reasonably able to supply, at a price competitive under the circumstances, the requisite Products; and provided further that Calcast, Inc. and/or its Members may exchange only such information with such non-member Suppliers as is reasonably required by such transaction; and provided that non-member Suppliers shall not participate in the full range of certified export trade activities and methods of operation under this Certificate; rather, their participation shall be limited to those activities typically associated with subcontractors;

8. Jointly finance Calcast, Inc's. costs and costs of any sales agents. Foreign customers may make payments to Calcast, Inc. as agent for the Member(s). Calcast, Inc. may then retain a commission from the sale, remit payment due to any sales agents, and then remit payment due to the Member(s);

9. Share foreign market information and engage in joint market research concerning Export Markets. Exchange and discuss market information in regard to opportunities for sales in Export Markets, selling strategies in Export Markets, pricing in Export Markets, projected demand in Export Markets, customary terms of sale in Export Markets, types of Products available from competitors for sale in particular Export Markets, and how to fulfill the technical product requirements of specific export customers or particular Export Markets;

10. Exchange and discuss information about export prices, quality, quantity, source and delivery dates of Products available from Members for export; provided however, that such exchange of information and discussion must be on a transaction-by-transaction basis only and involve only those Members participating or having a genuine

interest in participating in each such transaction;

11. Share, for Products only, information concerning type of materials used, type of goods produced and willingness of Members to supply Products in quantities sufficient to meet an export sales opportunity; provided however, that such sharing of information must be on a transaction-by-transaction basis only and involve only those Members participating or having a genuine interest in participating in each such transaction;

12. Exchange and discuss information about terms, conditions, and specifications of particular contracts for sale in Export Markets to be considered and/or bid on by Calcast, Inc;

13. Exchange and discuss information about joint bidding or selling agreements for Export Markets and allocations of sales resulting from such arrangements among the Members;

14. Exchange and discuss information about expenses specific to and within Export Markets, including but not limited to insurance, transportation, port storage, commissions, documentation requirements, customs, duties, and taxes;

15. Exchange and discuss information about United States and foreign legislation and regulations affecting sales in Export Markets;

16. Exchange and discuss information about Calcast, Inc. or Members' export operations, including but not limited to sales and distribution networks and prior export sales by Members (including export price information);

17. Discuss and agree on engineering and other technical product and service requirements of specific export customers or Export Markets as well as how to fulfill such requirements; and

18. Meet to engage in the conduct described in paragraphs 1–17 above.

Members (Within the Meaning of Section 325.2(1) of the Regulations)

"A" Brass Foundry, Inc. of Los Angeles, CA; Aacco Foundry, Inc. of Carson, CA; American Brass & Iron of Oakland, CA; Beckett Bronze Co., Inc. of Muncie, IN; Bell Foundry Company of South Gate, CA; CASTCO (Cast Aluminum & Brass Corp.) of San Leandro, CA; Commercial Casting Co. of Fontana, CA; EXCAL, Inc. of Mills, WY; Fresno Valves & Castings, Inc. of Selma, CA; Gregg Industries of El Monte, CA; Kearney's Manufacturing of Fresno, CA; Lodi Iron Works, Inc. of Lodi, CA; Los Angeles Brass Products of Huntington Park, CA; Macaulay Foundry of Berkeley, CA; Martin Brass Foundry of Torrance, CA; Micro-Metals, Inc., of Richmond, CA; Modern Pattern & Foundry Company of Los Angeles, CA; Montclair Bronze, Inc. of Montclair, CA; Pacific Steel Casting Co. of Berkeley, CA; Production Pattern & Foundry Company of San Leandro, CA; and Valley Brass, Inc. of El Monte, CA.

Definitions

1. *Member* means a person who has membership in Calcast, Inc. and who has been certified as a "Member" within the meaning of § 352.2(1) of the Regulations.

2. *Supplier* means a person who produces, provides, or sells a Product, Service, and/or Export Trade Facilitation Services, whether a Member or a non-Member.

3. *Export Agent* means a person who acts as a representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

4. *Non-Member* means a person other than the "Members".

Terms and Conditions of Certificate

1. In engaging in Export Trade Activities and Methods of Operation, neither Calcast, Inc. nor any Member shall intentionally disclose, directly or indirectly, to any other Member or Supplier any information that is about its or any other Member's or Supplier's costs, production, capacity, inventories, domestic prices, domestic sales, domestic orders, terms of domestic marketing or sale, or U.S. business plans, strategies, or methods, unless (1) such information is already generally available to the trade or public; or (2) the information disclosed is a necessary term or condition (e.g., price, time required to fill an order, etc.) of an actual or potential *bona fide* sale and the disclosure is limited to the prospective purchaser.

2. Any agreements, discussions, or exchanges of information under this Certificate relating to quantities of Products available for Export Markets, product specifications or standards, export prices, product quality or other terms and conditions of export sales (other than export financing, servicing and repair arrangements) shall be in connection only with actual or potential *bona fide* export transactions and shall be on a transaction-by-transaction basis only and shall include only those Members participating or having a genuine interest in participating in such a transaction; provided that Calcast, Inc. and/or its Members may discuss standardization of Products and Services for purposes of making *bona fide* recommendations to foreign governmental or private standard-setting organizations.

3. Participation by a Member in any Export Trade Activity or Method of Operation under this Certificate shall be entirely voluntary as to that Member, subject to the honoring of contractual commitments for sales of Products or Services in specific export transactions. A Member may withdraw from coverage under this Certificate at any time by giving written notice to Calcast, Inc., a copy of which Calcast, Inc. shall promptly transmit to the Secretary of Commerce and the Attorney General.

4. Calcast, Inc. and its Members will comply with requests made by the Secretary of Commerce on behalf of the Secretary or the Attorney General for information or documents relevant to conduct under the Certificate. The Secretary of Commerce will request such information or documents when either the Attorney General or the Secretary of Commerce believes that the information or documents are required to determine that the Export Trade, Export Trade Activities and Methods of Operation of a person protected by this Certificate of Review continue to comply with the standards of section 303(a) of the Act.

Protection Provided by Certificate

This Certificate protects Calcast, Inc., its Members and their subsidiaries, directors, officers, and employees acting on their behalf from private treble damage actions and government criminal and civil suits under U.S. federal and state antitrust laws for the export conduct specified in the Certificate and carried out during its effective period in compliance with its terms and conditions.

Effective Period of Certificate

This Certificate continues in effect from the effective date indicated below until it is relinquished, modified or revoked as provided in the Act and the Regulations.

Other Conduct

Nothing in this Certificate prohibits Calcast, Inc. and its Members from engaging in conduct not specified in this Certificate, but such conduct is subject to the normal application of the antitrust laws.

Disclaimer

The issuance of this Certificate of Review to Calcast, Inc. by the Secretary of Commerce with the concurrence of the Attorney General under the provisions of the Act does not constitute, explicitly or implicitly, an endorsement or opinion by the

Secretary of Commerce or by the Attorney General concerning either (a) the viability or quality of the business plans of Calcast, Inc. or its Members or (b) the legality of such business plans of Calcast, Inc. or its Members under the laws of the United States (other than as provided in the Act) or under the laws of any foreign country.

The application of this Certificate to conduct in export trade where the U.S. Government is the buyer or where the U.S. Government bears more than half the cost of the transaction is subject to the limitations set forth in Section V. (D.) of the "Guidelines for the Issuance of Export Trade Certificates of Review (Second Edition)," 50 FR 1786 (January 11, 1985).

In accordance with the authority granted under the Act and Regulations, this Certificate of Review is hereby issued to Calcast, Inc.

Effective Date October 19, 1993.

Jude Kearney,

Deputy Assistant Secretary for Service Industries and Finance.

[FR Doc. 93–26267 Filed 10–25–93; 8:45 am]

BILLING CODE 3510–DR–M

Travel and Tourism Administration

[Docket No. 930935–3235]

Selection of Market(s) Appropriate for International Tourism Trade Development

AGENCY: United States Travel and Tourism Administration, Commerce.

ACTION: Notice; extension of comment period.

SUMMARY: The United States Travel and Tourism Administration (USTTA) extends until November 30, 1993, the deadline for submission of comments from persons interested in tourism trade, on its requests for comments recommending which market(s) would be an appropriate focus of tourism trade development efforts to be carried out in the 12 month period that begins October, 1994, and identifying acts, policies, or practices of any foreign country that constitute a significant barrier to, or distortion of, United States travel and tourism exports.

DATES: Comments must be received on or before November 30, 1993.

ADDRESSES: Comments should be forwarded in triplicate to: Mrs. Karen M. Cardran, Director, Marketing Programs, Office of Tourism Marketing, United States Travel and Tourism Administration, U.S. Department of Commerce, room 1860, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mrs. Karen M. Cardran, Director, Marketing Programs, Office of Tourism Marketing, United States Travel and Tourism Administration, U.S. Department of Commerce, room 1860, Washington, DC 20230. (202) 482–1904.

SUPPLEMENTARY INFORMATION: USTTA publishes a notice in the **Federal Register** on October 1, 1993, (58 FR 51316) soliciting comments from persons interested in tourism trade development concerning which foreign markets would be an appropriate focus of tourism trade development efforts starting October 1, 1994, and identifying acts, policies, or practices of any foreign country that constitute a significant barrier to, or distortion of, United States international tourism trade development. Comments were to have been received on or before November 15, 1993. In the interest of assuring adequate time for all interested persons to comment, the comment period is extended until November 30, 1993.

Dated: October 20, 1993.

Leslie R. Doggett,

Acting Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 93–26323 Filed 10–25–93; 8:45 am]

BILLING CODE 3510–11–M

National Oceanic and Atmospheric Administration

Marine Mammals

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

ACTION: Issuance of Scientific Research Permit (P532A).

SUMMARY: On April 9, 1993, notice was published in the **Federal Register** (58 FR 18376) that the North Pacific Universities Marine Mammal Research Consortium, c/o Fisheries Centre, University of British Columbia, 2204 Main Mall, Vancouver, B.C., Canada V6T 1Z4, and Dr. Andrew W. Trites in his capacity as the Principal Investigator and Agent of the Consortium had applied for a Permit to take up to 40 juveniles, 20 adult female Steller sea lions and to harass up to 750 annually, for scientific research purposes.

ADDRESSES: The Permit and accompanying documentation are available for review by writing to or by appointment in the Permits Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Hwy., Suite 13130, Silver Spring, MD 20910 (301/713–2289); and Director, Alaska Region, NMFS, Federal Bldg., P.O. Box 12668, Juneau, AK 99802 (907/586–7221).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on October 20, 1993, as authorized by the provisions of the Marine Mammal Protection Act (MMPA) of 1972 (16 U.S.C. 1361 *et seq.*) and the Endangered Species Act (16 U.S.C. 1543 *et seq.*), the NMFS issued a Permit to take up to 10 adult female Steller sea lions annually, 30 juveniles during 1994 and up to 40 juveniles each year thereafter until 1997, subject to certain conditions set forth therein.

The application and accompanying documentation satisfy the issuance criteria for scientific research permits. The activities are consistent with the purposes and policies of the MMPA. The research will further a *bona fide* scientific purpose that does not involve unnecessary duplication of other research.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on a finding that the Permit: (1) Was applied for in good faith; (2) does not operate to the disadvantage of the endangered species which is the subject of this Permit; (3) and is consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973. This Permit was issued in accordance with and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

Dated: October 20, 1993.

William W. Fox, Jr.,

Director, Office of Protected Resources National Marine Fisheries Service.

[FR Doc. 93–26254 Filed 10–25–93; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0111]

Clearance Request for Organizational and Consultant Conflicts of Interest

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000–0111).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review

and approve an extension of a currently approved information collection requirement concerning Organizational and Consultant Conflicts of Interest.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

Organizational and Consultant Conflicts of Interest is a regulation which establishes policies and procedures relating to Conflicts of Interest Standards for Government contractors who provide advisory and assistance services and persons who provide marketing consulting services to Government contractors. The regulation also promotes compliance with the standards. The establishing of the policies and procedures contained in the regulation will, among other things, enable the Government to identify the number of marketing consultants employed by successful offerors for large dollar contracts. It will also provide the Government with information to identify, evaluate, and resolve organizational conflicts of interest.

The information gathered is to be used by the Government in determining the number of consultants employed by contractors as marketing consultants and identify, evaluate, and resolve potential conflicts of interest under advisory and assistance service contracts. Without this information, identification of these individuals and identification, evaluation, and resolution of conflicts of interest situations would not be possible.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW., room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 4,000; responses per respondent, 1.5; total annual responses, 6,000; preparation hours per response, 2; and total response burden hours, 12,000.

C. Annual Recordkeeping Burden

The annual recordkeeping burden is estimated as follows: Recordkeepers, 10,000; hours per recordkeeper, 2.5; and total recordkeeping burden hours, 25,000.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC. 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0111, Organizational and Consultant Conflicts of Interest, in all correspondence.

Dated: October 19, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–26202 Filed 10–25–93; 8:45 am]

BILLING CODE 6820–34–M

[OMB Control No. 9000–0075]

Clearance Request for Government Property

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for a revision to an existing OMB clearance (9000–0075).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Government Property.

FOR FURTHER INFORMATION CONTACT: Beverly Fayson, Office of Federal Acquisition Policy, GSA (202) 501–4755.

SUPPLEMENTARY INFORMATION:

A. Purpose

This is a request for approval of a previously approved OMB Clearance Number 9000–0075. The reason we are seeking approval is that the clearance has been restructured from what was previously submitted.

"Property," as used in part 45, means all property, both real and personal. It includes facilities, material, special tooling, special test equipment, and agency-peculiar property. Government property includes both Government-furnished property and contractor-acquired property.

Contractors are required to establish and maintain a property system that will control, protect, preserve, and maintain all Government property because the contractor is responsible and accountable for all Government property under the provisions of the contract including property located with subcontractors.

The contractor's property control records shall constitute the Government's official property records and shall be used to:

(a) Provide financial accounts for Government-owned property in the contractor's possession or control;

(b) Identify all Government property (to include a complete, current, auditable record of all transactions);

(c) Locate any item of Government property within a reasonable period of time.

This clearance covers the following requirements:

(a) FAR 45.307–2(b) requires a contractor to notify the contracting officer if it intends to acquire or fabricate special test equipment.

(b) FAR 45.502–1 requires a contractor to furnish written receipts for Government property.

(c) FAR 45.502–2 requires a contractor to submit a discrepancy report upon receipt of Government property when overages, shortages, or damages are discovered.

(d) FAR 45.504 requires a contractor to investigate and report all instances of loss, damage, or destruction of Government property.

(e) FAR 45.505–1 requires that basic information be placed on the contractor's property control records.

(f) FAR 45.505–3 requires a contractor to maintain records for Government material.

(g) FAR 45.505–4 requires a contractor to maintain records of special tooling and special test equipment.

(h) FAR 45.505–5 requires a contractor to maintain records of plant equipment.

(i) FAR 45.505–7 requires a contractor to maintain records of real property.

(j) FAR 45.505–8 requires a contractor to maintain scrap and salvage records.

(k) FAR 45.505–9 requires a contractor to maintain records of related data and information.

(l) FAR 45.505–10 requires a contractor to maintain records for completed products.

(m) FAR 45.505–11 requires a contractor to maintain records of transportation and installation costs of plant equipment.

(n) FAR 45.505–12 requires a contractor to maintain records of misdirected shipments.

(o) FAR 45.505–13 requires a contractor to maintain records of property returned for rework.

(p) FAR 45.505–14 requires a contractor to submit an annual report of Government property accountable to each agency contract.

(q) FAR 45.508–2 requires a contractor to report the results of physical inventories.

(r) FAR 45.509–1(a)(3) requires a contractor to record work accomplished in maintaining Government property.

(s) FAR 45.509–1(c) requires a contractor to report the need for major repair, replacement and other rehabilitation work.

(t) FAR 45.509–2(b)(2) requires a contractor to maintain utilization records.

(u) FAR 45.606–1 requires a contractor to submit inventory schedules.

(v) FAR 45.606–3(a) requires a contractor to correct and resubmit inventory schedules as necessary.

(w) FAR 52.245–2(a)(3) requires a contractor to notify the contracting officer when Government-furnished property is received and is not suitable for use.

(x) FAR 52.245–2(a)(4) requires a contractor to notify the contracting officer when government-furnished property is not timely delivered and the contracting officer will make a determination of the delay, if any, caused the contractor.

(y) FAR 52.245–2(b) requires a contractor to submit a written request for an equitable adjustment if Government-furnished property is decreased, substituted, or withdrawn by the Government.

(z) FAR 52.245–4 requires a contractor to submit a timely written request for an equitable adjustment when Government-furnished property is not furnished in a timely manner.

(aa) FAR 52.245–5(a)(4) requires a contractor to notify the contracting officer when Government-furnished property is received that is not suitable for use.

(bb) FAR 52.245–5(a)(5) requires a contractor to notify the contracting officer when Government-furnished property is not received in a timely manner.

(cc) FAR 52.245–5(b)(2) requests a contractor to submit a written request for an equitable adjustment if Government-furnished property is decreased, substituted, or withdrawn by the Government.

(dd) FAR 52.245–7(f) requires a contractor to notify the contracting officer when use of all facilities falls below 75% of total use.

(ee) FAR 52.245–7(l)(2) requires a contractor to alert the contracting officer within 30 days of receiving facilities that are not suitable for use.

(ff) FAR 52.245–9(f) requires a contractor to submit a facilities use statement to the contracting officer within 90 days after the close of each rental period.

(gg) FAR 52.245–10(h)(2) requires a contractor to notify the contracting officer if facilities are received that are not suitable for the intended use.

(hh) FAR 52.245–11(e) requires a contractor to notify the contracting officer when use of all facilities falls below 75% of total use.

(ii) FAR 52.245–11(j)(2) requires a contractor to notify the contracting officer within 30 days of receiving facilities not suitable for intended use.

(jj) FAR 52.245–17 requires a contractor to maintain special tooling records.

(kk) FAR 52.245–18(b) requires a contractor to notify the contracting officer 30 days in advance of the contractor's intention to acquire or fabricate special test equipment (STE).

(ll) FAR 52.245–18(d) & (e) requires a contractor to furnish the names of subcontractors who acquire or fabricate special test equipment (STE) or components and comply with paragraph (d) of this clause, and contractors must comply with the (b) paragraph of this clause if an engineering change requires acquisition or modification of STE. In so complying, the contractor shall identify the change order which requires the proposed acquisition, fabrication, or modification.

(mm) FAR 52.245–19 requires a contractor to notify the contracting officer if there is any change in the condition of property furnished "as is" from the time of inspection until time of receipt.

This information is used to facilitate the management of Government property in the possession of the contractor.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average .5263 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to General Services Administration, FAR Secretariat, 18th & F Streets, NW., room 4037, Washington, DC 20405, and to the FAR Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The annual reporting burden is estimated as follows: Respondents, 26,084; responses per respondent, 522; total annual responses, 13,606,759; preparation hours per response, .5263; and total response burden hours, 7,161,405.

OBTAINING COPIES OF PROPOSALS: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (VRS), room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0075, Government Property, in all correspondence.

Dated: October 18, 1993.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 93–26203 Filed 10–25–93; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Information Resources Management Service, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before November 26, 1993.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Cary Green, Department of Education, 400 Maryland Avenue, SW., room 4682, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Cary Green (202) 401–3200. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Service, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Cary Green at the address specified above.

Dated: October 21, 1993.

Wallace R. McPherson, Jr.,

Deputy Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Lender's Participation Questionnaire.

Frequency: Annually.

Affected Public: Businesses and other for-profit; Non-profit institutions; Small Businesses or organizations.

Reporting Burden: Responses: 120. Burden Hours: 20.

Recordkeeping Burden: Recordkeepers: 0. Burden Hours: 0.

Abstract: The Lender's Participation Questionnaire is submitted by lenders who are eligible for reimbursement of interest and special allowance as well as Federal Insured Student Loan claim payments under the Federal Family Education Loan Program. The information will be used by ED to update Lender Identification Numbers, lender names, addresses with 9 digit zip codes, and other pertinent information.

[FR Doc. 93–26338 Filed 10–25–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

New Mexico, Mathematics Engineering, Science Achievement Program

AGENCY: Department of Energy, Albuquerque Operations Office (DOE/AL).

ACTION: Notice of Noncompetitive Financial Assistance Award.

SUMMARY: The DOE/AL, pursuant to the DOE Financial Assistance Rules, 10 CFR 600.7, intends to renew, on a noncompetitive basis, a grant with the New Mexico Mathematics, Engineering, Science Achievement (NM MESA) Inc., University of New Mexico, Albuquerque, NM. The renewal period is for five years.

DATES: Grant to be renewed fourteen days after publication of this notice.

FOR FURTHER INFORMATION CONTACT: Questions or comments shall be addressed to: Theresa Ponce, U.S. Department of Energy, Albuquerque Operations Office, Office of Equal Opportunity, P.O. Box 5400, Albuquerque, NM 87185–5400, phone number (505) 845–4479.

SUPPLEMENTARY INFORMATION: The intent of the program is promoting educational enrichment for pre-college students from historically underrepresented ethnic groups located in the state of New Mexico. NM MESA prepares these students for college majors and careers in mathematics, engineering, science and related fields. The basic grant was awarded in September 1989 and had a project period of five years. The renewal period is for five years and estimated DOE funding to be made available is $150,000 over the course of the proposed project period. The basis for this noncompetitive financial assistance renewal is that the activities are being or would be conducted by the applicant, using its own resources or those donated or provided by third parties; however, DOE support of these activities would enhance the public benefits to be derived and DOE knows of no other entity which is conducting or is planning to conduct such activities within the State of New Mexico.

Issued in Albuquerque, New Mexico on September 20, 1993.

Richard A. Marquez,

Assistant Manager for Management and Administration.

[FR Doc 93–26319 Filed 10–25–93; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of requests submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information:

(1) The sponsor of the collection:

(2) Collection number(s);

(3) Current OMB docket number (if applicable);

(4) Collection title;

(5) Type of request, e.g., new, revision, extension, or reinstatement;

(6) Frequency of collection;

(7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit;

(8) Affected public;

(9) An estimate of the number of respondents per report period;

(10) An estimate of the number of responses per respondent annually;

(11) An estimate of the average hours per response;

(12) The estimated total annual respondent burden; and

(13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed

below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI–73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254–5348.

SUPPLEMENTARY INFORMATION: The first energy information collection submitted to OMB for review was:

1. Office of Energy Markets and End Use
2. EIA–876A/E
3. 1905–0068
4. Residential Transportation Energy Consumption Survey
5. Revision
6. Triennially
7. Voluntary
8. Individuals or households
9. 3,200 respondents
10. .333 responses
11. .67 hours per response
12. 711 hours
13. This survey will provide information on the number and types of vehicles per household, annual mileage, gallons of fuel consumed, fuel type used, price paid for fuel, annual fuel expenditures and fuel efficiency as measured by miles-per-gallon. Data will be published.

The second energy information collection submitted to OMB for review was:

1. Office of Coal, Nuclear, Electric & Alternate Fuels
2. EIA–254, EIA–851 and EIA–858
3. 1905–0160
4. Nuclear and Uranium Data Program Package
5. Revision
6. Monthly, Annually
7. Mandatory
8. State or local governments, Businesses or other for-profit, Small businesses or organizations
9. 169 respondents
10. 2.07 responses
11. 10.90 hours per response
12. 3,805 hours
13. These survey forms collect data on the costs of nuclear power plants under construction, domestic uranium production, and certain aspects of uranium marketing, exploration and finances. Data are used in determining the viability of the domestic uranium industry.

STATUTORY AUTHORITY: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. No. 96–511), which amended chapter 35 of title 44 United States Code (see 44 U.S.C. 3506(a) and (c)((1)).

Issued in Washington, DC, October 18, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93–26318 Filed 10–25–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. PL93–2–003]

Prior Notice and Filing Requirements Under Part II of the Federal Power Act; Order Granting Motion for Intervention and Granting in Part and Denying in Part Motions for Clarification and Rehearing

Issued October 19, 1993.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

Introduction

On July 30, 1993, the Commission issued an order in this proceeding. Prior Notice and Filing Requirements Under Part II of the Federal Power Act, 64 FERC ¶ 61,139, 58 FR 41745 (1993). In that order, the Commission made a number of modifications to its enforcement of the prior notice and filing requirements of the Federal Power Act (FPA), 16 U.S.C. 824d(d) (1988). Among the modifications, the Commission: (1) Created a new, final amnesty period concerning the late filing of all types of jurisdictional agreements, to expire on December 31, 1993; (2) created a new remedy for future violations of the prior notice and filing requirements; and (3) relaxed the "extraordinary circumstances" test for waiver of the prior notice and filing requirements for service agreements filed under tariffs of general applicability ("umbrella tariffs"). The Commission also attached to that order, in response to requests for additional guidance from the utility industry, an Appendix clarifying the jurisdictional status of, and the attendant need to file, various types of rates and agreements.

On August 30, 1993, the Edison Electric Institute (EEI) filed a motion for clarification or, in the alternative, for rehearing of the July 30, 1993 order. Also on August 30, 1993, a group of six western utilities, consisting of PacifiCorp, Puget Sound Power & Light Company, Montana Power Company, Idaho Power Company, Washington Water Power Company, and Sierra Pacific Power Company (collectively, PacifiCorp), filed a petition for clarification or rehearing of the July 30, 1993 order.

EEI and PacifiCorp, while generally supportive of the July 30, 1993 order, ask us to confirm that service agreements filed under umbrella tariffs may include maximum, as opposed to actual, rates. PacifiCorp also asks for clarification on two additional issues: (1) Whether public utilities must file agreements that provide for the exchange of power as payment in kind for transmission losses; and (2) whether public utilities must file agreements that reduce or otherwise amend purchase entitlements from non-jurisdictional sellers.

In addition, on September 17, 1993, Pacific Gas and Electric Company (PG&E) filed separate motions for late intervention in this proceeding, and for clarification. PG&E requests clarification as to a new issue: Whether the Commission has jurisdiction over contracts to perform feasibility studies in response to requests for transmission service. It it does, PG&E alternatively seeks a declaration that such contracts need not be filed in advance of commencement of the studies.

We address each of these issues, with supporting arguments, in greater detail below. For the reasons stated below, we clarify that: (1) Service agreements may include "up to" rates for service to particular customers provided under umbrella tariffs; (2) an exchange of power to compensate for transmission losses, like all other types of exchanges involving a public utility, represents a jurisdictional transaction that must be submitted for Commission review; and (3) a reduction in or amendment to a public utility's entitlement to power from a nonpublic utility seller must be filed for Commission review only if it is part of an exchange of power among the two parties. In addition, we clarify that while transmission study contracts performed by public utilities are jurisdictional under the FPA, they need be filed only in the event of a customer-filed complaint.

Discussion

As a preliminary matter, we will grant PG&E's motion for late intervention for the purpose of filing its motion for clarification (which we address below).

PG&E's intervention in this proceeding will not result in any prejudice to any other part or lead to any disruption in our ability to resolve the issues raised. The overriding purpose of this proceeding is to clarify the filing obligations of, and to respond to the jurisdictional concerns raised by, public utilities such as PG&E. Nevertheless, future requests for clarification concerning matters not addressed in this order or the July 30 order should be raised through the filing of a petition for a declaratory order.

Service Agreements Under Umbrella Tariffs

In their motions for clarification, EEI and PacifiCorp both state that they interpret the July 30, 1993 order as making only one change in the Commission's prior policy regarding umbrella tariffs. EEI and PacifiCorp understand that if a utility has such a tariff on file, the Commission will relax the grounds for granting waiver for service agreements that are filed with less than 60 days' advance notice.[1] However, EEI and PacifiCorp remain uncertain about the meaning of a single sentence in the July 30 order that states that "the precise rate level should be included in the service agreements the utility will file for each customer." 64 FERC at _____, slip op. at 23 (emphasis added).

Read literally, that sentence appears to require utilities to include the exact price in their service agreements. Because, however, this sentence follows a reference to the fact that umbrella tariffs may use a "menu" format, and because of the stated need for flexibility in the negotiation and commencement of service on short-notice, EEI and PacifiCorp interpret it to mean that a service agreement must identify a rate level applicable to a particular customer. The price term, according to EEI and PacifiCorp, may consist of an "up to" rate (i.e., prices for individual transactions that may vary up to a predetermined ceiling).

We will grant EEI's and PacifiCorp's motions for clarification on this issue. As they point out, we have long permitted utilities to conduct individual transactions under ceiling rates, without filing transaction-specific information. Moreover, requiring utilities in all circumstances to file actual prices would conflict with our goal of encouraging flexibility in the negotiation and commencement of service on short-notice. The use of umbrella tariffs better enables utilities to meet the statutory prior notice and filing requirements. We do not intend to restrict utilities in conducting their business in an increasingly competitive generation market by requiring the prior filing of specific, as opposed to maximum, rates in service agreements.

Replacement of Transmission Losses

As noted above, PacifiCorp requests clarification as to the filing requirements for utilities replacing transmission losses. PacifiCorp states that in the Pacific Northwest, rather than pay as part of the rate a charge for power lost in transmission, a purchasing utility may reimburse the seller in kind. Specifically, "power purchasers return transmission losses to the transmission provider 168 hours later on the coincident hour of service." Petition at 5. Utilities in the Pacific Northwest, PacifiCorp tells us, view transmission loss returns as similar in some respects to energy returns under "naked capacity" purchases. Petition at 4.

PacifiCorp further states, *id.*, that the Commission Staff has taken the position that utilities must file the latter as a separate rate schedule. (The utility says it will do so). PacifiCorp, however, seeks clarification of the filing requirements for the return of transmission losses. In addition, if the Commission determines that the transmission loss returns are jurisdictional, PacifiCorp suggests that, in order to be consistent with "current and prior Commission practice," the Commission should consider a blanket waiver of any filing requirement "arising solely from the return of transmission losses." Petition at 5.

We will deny PacifiCorp's petition on this point. While PacifiCorp states that "current and prior" practice permits utilities to exchange power without filing the agreement for our review, the Petition for Clarification cites nothing to support that proposition. The claim, Petition at 5 n.2, that the exchange constitutes electricity "consumed by the transmitter," and thus falls outside our jurisdiction under section 201(b)(1) of the FPA, 16 U.S.C. 824(b)(1) (1988), misses the mark.

First, the statute states that the Commission "shall not have jurisdiction * * * over facilities for the transmission of electric energy consumed wholly by the transmitter." Electricity one utility transmits to another (even as reimbursement) does not come within the category of energy "consumed wholly by the transmitter." Second, PacifiCorp's question relates to our jurisdiction over a particular class of transactions, not facilities.

Moreover, as PacifiCorp itself points out, paying with electricity, rather than with money, for power lost in transmission constitutes an exchange, just as paying for an entitlement to generating capacity by providing power at another time constitutes an exchange. Indeed, § 35.2 of our regulations, which we referred to in the Appendix (at 16–17) to the July 30, 1993 order, treats as jurisdictional all contracts for "electric service" under which public utilities transfer electricity, "without regard to the form of payment or compensation." The regulation specifically mentions "exchanges."

Just because the exchange involves that portion of the power lost in transmission, rather than the entire volume, makes no difference. Indeed, we are aware of no precedent that would support that distinction. Moreover, as we noted above, PacifiCorp fails to cite any precedent to support its contention that "current and prior" practice allows utilities not to file certain types of exchanges.

We see no difference between the type of power exchange (to compensate for transmission losses) PacifiCorp now addresses and any other jurisdictional transfers, such as "naked capacity" exchanges[2] (that PacifiCorp concededly will file). We will, therefore, require public utilities to submit to us the exchanges they undertake, regardless (as explained further below) of whether the exchange is with a public or a non-public utility.

Amendments of Energy Entitlements

PacifiCorp also requests clarification as to the filing requirements for utilities reducing or otherwise amending their purchase entitlements from non-public utility sellers. This issue concerns the following discussion in the Appendix (at 16–17) to the July 30, 1993 order:

In simple terms, if public utilities assign back their entitlement to power or capacity

[1] The Commission explained in the July 30, 1993 order that, in such circumstances, it will grant waiver of notice if the service agreement is filed within 30 days after tariff service commences for a new customer.

[2] A naked capacity exchange has been characterized as capacity sold without any energy associated with it—although, strictly speaking, that is not entirely true (because energy is, in fact, also being provided). Naked capacity transactions are essentially barter transactions that are generally restricted to the Pacific Northwest because such service usually is provided by large hydroelectric systems. Under a naked capacity contract, the utility providing service will increase its hydroelectric generation during the day (i.e., on peak), thus providing both capacity and energy to the recipient. At night (i.e., off peak), the providing utility will back down its hydroelectric generation in order to effectively recover the water expended to provide the service, and thus take back during off-peak hours the energy it used on peak. It is for this reason, apparently, that it is sometimes—albeit inaccurately—said that naked capacity transactions do not involve a sale of energy.

in an exchange arrangement or enter a new agreement, the utilities must file the change because they had to file the agreement in the first place. Since exchanges involve transfers of electric energy at wholesale, even though for payment in kind, our regulations, 18 CFR 35.2 (1992), require public utilities to file those agreements.

* * *

Public utilities must submit amendments to exchanges of the actual electric energy or entitlement to production of generating plants in the United States. As the Ninth Circuit held in *California Energy Commission*, 831 F.2d at 1472, dividing use of the transmission lines does not relate to charges for [Bonneville Power Administration] service. An exchange of electric energy, as we noted above, amounts to a wholesale sale for payment in kind. Therefore, the utilities need not file agreements relating to capacity on any of the interties, but must submit those relating to electric energy.

PacifiCorp maintains that this language arguably could be interpreted to mean that jurisdiction, and thus a filling requirement, attaches to any reduction in, or other amendment to, any energy entitlement. PacifiCorp points out that, in the Pacific Northwest, public utilities frequently purchase from non-public utilities. For this reason, PacifiCorp requests that the Commission clarify whether a reduction in or an amendment to an entitlement to purchase power from a non-public utility seller necessarily gives rise to a filing requirement, notwithstanding the fact that there was no obligation to file the original purchase agreement by either party.

PacifiCorp's question is unclear, because it does not clarify whether its focus is on a bilateral exchange between a public utility and a non-public utility, or a unilateral sale by a non-public utility to a public utility. The language PacifiCorp quotes from the Appendix comes from the section on exchanges. There, the issues concerned whether public utilities must file amendments to exchange agreements with the Bonneville Power Administration (BPA). In response to an inquiry from PacificCorp, we found that public utilities must file for Commission review their exchange agreements with BPA and other non-public utility entities, because the public utilities are engaging in a wholesale sale for payment in kind. For similar reasons, public utilities must file amendments to exchange agreements, regardless of the jurisdictional status of the other contracting party.

PacifiCorp's Petition for Clarification (at 6–7), however, mentions "purchases," not exchanges. PacifiCorp wants us to clarify whether a purchase that does not require section 205 filing and review (because the selling entity is not a public utility) becomes jurisdictional when the amount in question changes. Specifically, the Petition for Clarification asks (at 7) whether an "amendment of a purchase by a jurisdictional utility from a non-jurisdictional party constitutes a sale by the purchasing utility for purposes of the Federal Power Act?"

We will clarify as follows. If PacifiCorp is referring to purchases from non-public utilities for which the public utility pays in money, we clarify that the FPA regulates sales public utilities make, not their purchase. Therefore, public utilities may buy from any seller without the need for FPA review at the time of the purchase.[3] That also applies to changes in the amounts contracted for by the purchasing jurisdictional utility. On the other hand, if PacifiCorp is referring to purchases as part of exchanges, we require public utilities to file changes in such agreements, just as our regulations (as explained above) require public utilities to file exchanges in the first place.

Transmission Study Contracts

PG&E points out, Motion for Clarification at 1–2, that before deciding whether to provide transmission to a particular customer, the public utility first must gauge the effect of the proposed service on its transmission grid. In order to do this, PG&E may enter into a contract with the requesting party, under which PG&E agrees to undertake necessary feasibility studies and the requesting party agrees to bear the corresponding costs of such studies. PG&E argues that we should decline jurisdiction over contracts for transmission feasibility studies.

First, the utility maintains, Motion at 4, that these contracts "relate solely to the development of information," not to the provision of transmission service. Second, PG&E states, Motion at 5, that in contrast with agreements to construct transmission lines, "there is no assurance that a transmission study agreement will result in * * * transmission between the parties."

Third, the utility argues that declining jurisdiction over agreements to conduct transmission feasibility studies in no way lessens our capability to regulate. PG&E points out that "[a]ny transmission study agreement that does result in a jurisdictional transmission transaction will be subject * * * to the Commission's full oversight and review process.

We disagree with PG&E's jurisdictional analysis. The July 30 order emphasized (Appendix at 3–5) that Congress gave the Commission jurisdiction over the rates for transmission of electric energy in interstate commerce by public utilities. As part of that authority, section 205 of the FPA permits the Commission to require public utilities to file all rates and charges that are "for or in connection with," and all agreements that "affect or relate to," jurisdictional activities. 16 U.S.C. 824d(a), 824d(c) (1988). The scope of this language is, as PG&E recognizes (Motion at 4), and as the Commission explained in the July 30 order (Appendix at 3–11), quite broad.

In our judgment, charges for analytical or engineering studies, to determine whether sufficient capacity is available to accommodate a transmission request, are charges "for or in connection with" jurisdictional service, regardless of whether additional jurisdictional service actually is provided. Moreover, if a public utility already is providing jurisdictional transmission service on behalf of others, agreements to perform studies to determine existing transmission constraints and remaining transmission capacity "affect or relate to" jurisdictional service the public utility currently provides or is committed to provide; likewise, charges for such studies are "in connection with" the public utility's pre-existing business of providing transmission service in interstate commerce. From a jurisdictional perspective, it does not matter whether the study at issue actually leads to additional service. Thus, we do not accept PG&E's contention that a transmission study contract is "for or in connection with," or "affects or relates to," only the transmission service, if any, that ultimately emerges from the study.[4]

Nevertheless, we agree with PG&E to the extent it argues that no legitimate purpose would be served by requiring the filing of all such contracts at least 60 days in advance of the commencement of feasibility studies. We wish to encourage, not stifle, the ability of utilities needing transmission to

[3] However, if the public utility purchaser seeks to recover the costs of such purchase in its wholesale rates, the justness and reasonableness of these costs is subject to Commission review under the FPA.

[4] PG&E does not contest that section 205 permits the Commission to require the filing of transmission study contracts that result in transmission service. In fact, PG&E acknowledges, Motion at 2 n.1, that it has included transmission study agreements in its filings when it has agreed, as part of an interconnection agreement, to perform feasibility studies in response to a request for transmission service.

respond to competitive market opportunities as they arise. As PG&E recognizes, many of these opportunities may pass if public utilities have to wait at least 60 days before commencing a transmission feasibility study.[5]

For these reasons, we clarify that transmission study contracts and charges, while jurisdictional, do not have to be filed at all, unless they are the subject of a complaint filed by the transmission requestor under section 206 of the FPA. See, e.g., *City of Cleveland* v. *FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (FERC has discretion to decide whether contracts which "affect or relate to" jurisdictional service must be filed). We have no interest in reviewing such agreements unless a requestor alleges that the rates charged for a transmission feasibility study are unjust and unreasonable, or unduly discriminatory or preferential in comparison with the rates charged other requestors for comparable transmission studies. Our principal concern is that the rates charged for a particular transmission feasibility study, if excessive or unduly discriminatory, could have the effect of discouraging, if not eliminating entirely, access to transmission.

The Commission orders:

(A) EEI's motion for clarification or, in the alternative, for rehearing is hereby granted, as discussed in the body of this order.

(B) PacificCorp's petition for clarification or, in the alternative, for rehearing is hereby granted in part and denied in part, as discussed in the body of this order.

(C) PG&E's motion for late intervention is hereby granted.

(D) PG&E's motion for clarification is hereby granted in part and denied in part, as discussed in the body of this order.

(E) The Secretary shall promptly publish a copy of this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26250 Filed 10–25–93; 8:45 am]

BILLING CODE 6717–01–M

[5] A 60-day prior filing requirement for transmission study contracts also could have the undesired effect, recognized by PG&E (Motion at 2–3), of undermining the ability of public utilities that also are transmitting utilities, see 16 U.S.C. 796(24) (West Supp. 1993), to analyze capacity constraints and to respond in a timely manner to requests for transmission service under sections 211 and 213 of the FPA, as amended and added by the Energy Policy Act of 1992, Pub. L. 102–486, 106 Stat. 2776 (1992).

[Docket No. ES93–28–001]

Midwest Power Systems, Inc.; Amended Application

October 20, 1993.

Take notice that by letter order dated April 27, 1993, the Chief Accountant, under delegated authority, authorized Midwest Power Systems Inc. (Midwest) to issue not more than 750,000 shares of preferred stock, no par value, over a two-year period. On October 15, 1993, Midwest amended its application and requested that the authorization be revised to authorize Midwest to issue not more than $75 million of preferred stock, no par value, over a two-year period.

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 October 28, 1993. Protests will be considered by the Commission 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 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. 93–26249 Filed 10–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–30–000]

Natural Gas Pipeline Co. of America; Application

October 20, 1993

Take notice that on October 15, 1993, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP94–30–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a six inch meter located in Marshall County, Oklahoma, all as more fully set forth in the application on file with the Commission and open to public inspection.

Natural states that it proposes to abandon such meter which was constructed as part of a project to transport gas for The Maple Gas Corporation (Maple Gas). It is also stated that no gas was ever received by Natural at the interconnect and the agreement between Natural and Maple Gas terminated.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1993, 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 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 the 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 permission and approval for the proposed abandonment are 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 Natural to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26248 Filed 10–25–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–183–000]

Northern Natural Gas Co. and Continental Gas Storage, L.P., Technical Conference

October 20, 1993

A technical conference will be held to discuss issues raised in the above-captioned proceeding on Friday, October 29, 1993, at 10 a.m., in room 2402–A at the offices of the Federal Energy Regulatory Commission, 825 N.

Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend. However, attendance does not confer party status.

For additional information, contact Carolyn Jones at (202) 208–1051.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26246 Filed 10–25–93, 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–29–000]

Paiute Pipeline Co.; Application

October 20, 1993

Take notice that on October 15, 1993, Paiute Pipeline Company (Applicant), P.O. Box 94197, Las Vegas, Nevada 89193–4197, filed in Docket No. CP94–29–000, an application pursuant to section 7 of the Natural Gas Act for authorization to construct and operate approximately 53.5 miles of new loop pipeline at various points along its existing mainline, its South Tahoe Lateral and its North Lateral in order to enable Southwest Gas Corporation-Northern California (Southwest-Northern California) to provide new service to the City of Truckee, California and to provide additional service to Southwest Gas Corporation-Northern Nevada (Southwest-Northern Nevada) for its Incline Village, Nevada market area. Applicant also seeks to install two compressors on its Elko Lateral in order to increase its capacity to provide additional delivery point flexibility to Southwest-Northern Nevada on the Elko Lateral, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to:

1. Construct and operate 33 miles of 24-inch O.D. loop pipelines at various points along its main transmission facility from the Idaho-Nevada border receipt point to the Lovelock Compressor Station;

2. Construct and operate 14 miles of 16-inch O.D. and 2.7 miles of 12.75-inch O.D. loop pipeline downstream of the Carson junction point to the North Tahoe delivery point and 3.8 miles of 12.75-inch O.D. loop pipeline on the South Tahoe lateral;

3. Construct and operate a 1,339 H.P. turbine driven compressor and an 800 H.P. reciprocating compressor on the Elko Lateral; and

4. Undertake miscellaneous work at mainline compressor stations.

The estimated cost of the proposed facilities is $35,152,194. Applicant expects to finance the cost of construction through ongoing regular financing programs and internally generated funds.

Applicant states that it has entered into a new transportation service agreement with Southwest-Northern California to transport an additional 10,333 Dth/d of gas to it; 6,333 Dth of gas would be delivered from Applicant's LNG plant and an additional 4,000 Dth/d would be received on behalf of Southwest-Northern California at the Nevada-Idaho border receipt point. Applicant states that it has entered into a transportation service agreement with Southwest-Northern Nevada under which it would increase its billing determinants for that customer by 3,951 Dth/d under Rate Schedule FT–1.

Applicant requests that the rates for these services be designed under an incremental facility surcharge in Rate Schedule FT–1, chargeable to the customers receiving additional service as a result of this expansion under which the cost and revenues related to the construction of the loop pipeline facilities for service to Truckee and Incline Village and the additional compression on the Elko Lateral will be considered on an incremental cost basis, with a levelized cost of service.

Applicant requests that the Commission issue a preliminary determination on all non-environmental issues, including the appropriate rate treatment and initial rates by April 1, 1994 and issue a final certificate order by September 1, 1994.

The Commission Staff will convene a technical conference, if necessary, after expiration of the protest/interventions period to allow all active parties the opportunity to identify and address substantive non-environmental issues.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1993, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.314 or 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 the 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 the 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 grant of certificate authority 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 Applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 93–26247 Filed 10–25–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Proposed Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of proposed implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the proposed procedures for disbursement of $626,450.47, plus accrued interest, in alleged crude oil overcharges obtained by the DOE under the terms of Consent Orders entered into with Gil-Mc Oil Corporation, Case No. LEF–0054, LeClair Operating Co., Inc., Case No. LEF–0055, and SRG Corporation, Arthur E. Clark, W.K. Downey, C.N. Griggs, John V. James, J.W. Little, Thomas L. Moody (Estate of) and R.N. Stine, Jr., Case No. LEF–0056. The OHA has tentatively determined that the funds obtained from these companies, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges.

DATES AND ADDRESSES: Comments must be filed in duplicate November 26, 1993, and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should display a reference to case number LEF–0054, LEF–0055, or LEF–0056.

FOR FURTHER INVORMATION CONTACT: Richard T. Tedrow, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–8018.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth the procedures that the DOE has tentatively formulated to distribute to eligible claimants $626,450.47, plus accrued interest, obtained by the DOE under the terms of Consent Orders entered into with Gil-Mc Oil Corporation on March 29, 1983, LeClair Operating Co., Inc. on November 5, 1992 and SRG Corporation, Arthur E. Clark, W.K. Downey, C.N. Griggs, John V. James, J.W. Little, Thomas L. Moody (Estate of) and R.N. Stine, Jr. on July 23, 1982. The funds were paid towards the settlement of alleged violations of the DOE price and allocation regulations involving the sale of crude oil during the period August 19, 1973 through January 27, 1981.

The OHA has proposed to distribute the Consent Order funds in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). Under the MSRP, crude oil overcharge monies are divided between the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states would be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers would be based on the number of gallons of petroleum products which they purchased and the degree to which they can demonstrate injury.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1 p.m. and 5 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: October 20, 1993.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 20, 1993.

Implementation of Special Refund Procedures

Names of Firms: Gil-Mc Oil Corporation, LeClair Operating Co., Inc., and SRG Corporation

Date of Filings: July 20, 1993

Case Numbers: LEF–0054, LEF–0055, LEF–0056

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. 10 CFR 205.281. These procedures are used to refund monies to those injured by actual or alleged violations of the DOE price regulations.

In this Decision and Order, we consider three Petitions for Implementation of Special Refund Procedures filed by the ERA on July 20, 1993 with respect to crude oil overcharge funds. The funds at issue in these Petitions were obtained from Gil-Mc Oil Corporation (Gil-Mc) (Case No. LEF–0054), LeClair Operating Co., Inc. (LeClair) (Case No. LEF–0055) and SRG Corporation, Arthur E. Clark, W.K. Downey, C.N. Griggs, John V. James, J.W. Little, Thomas L. Moody (Estate of) and R.N. Stine, Jr. (SRG) (Case No. LEF–0056). All of these funds are crude oil overcharge funds.

On June 16, 1982, the DOE issued a Proposed Remedial Order (PRO) to Gil-Mc which alleged that certain first sales of crude oil by Gil-Mc had been in excess of applicable ceiling prices during the period August 19, 1973 through January 27, 1981 (the period covered by the Consent Order). The DOE and Gil-Mc entered into a Consent Order which satisfied the DOE's claim against Gil-Mc. The Consent Order became effective on March 29, 1983. The DOE collected a total of $53,337.39 from Gil-Mc in settlement of this matter.

On June 3, 1982, the DOE issued a PRO to LeClair which alleged that certain first sales of crude oil by LeClair had been in excess of applicable ceiling prices during the period August 19, 1973 through January 27, 1981 (the period covered by the Consent Order). The DOE and LeClair entered into a Consent Order which satisfied the DOE's claim against LeClair. The Consent Order became effective on November 5, 1982. The DOE collected a total of $220,875.60 from LeClair in settlement of this matter.

The DOE alleges that during the period of the Consent Order, August 19, 1973 through January 27, 1981, crude oil was sold from certain properties operated by SRG in excess of the applicable lawful selling prices. The DOE and SRG Corporation entered into a Consent Order which satisfied the DOE's claim against SRG. The Consent Order became effective on July 23, 1982. The DOE collected a total of $352,237.48 from SRG in settlement of this matter.

In sum, Gil-Mc, LeClair and SRG remitted a total of $626,450.47 to the DOE. This Decision and Order establishes the OHA's procedures to distribute those funds.

The general guidelines which the OHA may use to formulate and implement a plan to distribute refunds are set forth in 10 CFR part 205, subpart V. The subpart V process may be used in situations where the DOE cannot readily identify the persons who may have been injured as a result of actual or alleged violations of the regulations or ascertain the amount of the refund each person should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). We have considered the ERA's request to implement subpart V procedures with respect to the monies received from Gil-Mc, LeClair and SRG and have determined that such procedures are appropriate.

I. Background

On July 28, 1986, the DOE issued a Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges, 51 FR 27899 (August 4, 1986) (the MSRP). The MSRP, issued as a result of a court-approved Settlement Agreement in *In re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. No. 378 (D. Kan. 1986) (the Stripper Well Agreement), provides that crude oil overcharge funds will be divided among the states, the federal government, and injured purchasers of refined petroleum products. Under the MSRP, up to twenty percent of these crude oil overcharge funds will be reserved to satisfy valid claims by injured purchasers of petroleum products. Eighty percent of the funds, and any monies remaining after all valid claims are paid, are to be disbursed equally to the states and federal government for indirect restitution.

Shortly after the issuance of the MSRP, the OHA issued an Order that announced its intention to apply the Modified Policy in all subpart V

proceedings involving alleged crude oil violations. Order Implementing the MSRP, 51 FR 29689 (August 20, 1986). In that Order, the OHA solicited comments concerning the appropriate procedures to follow in processing refund applications in crude oil refund proceedings. On April 6, 1987, the OHA issued a Notice analyzing the numerous comments and setting forth generalized procedures to assist claimants that file refund applications for crude oil monies under the subpart V regulations. 52 FR 11737 (April 10, 1987) (the April Notice).

The OHA has applied these procedures in numerous cases since the April Notice, *e.g., New York Petroleum, Inc.*, 18 DOE ¶ 85,435 (1988) (*NYP*); *Shell Oil Co.*, 17 DOE ¶ 85,204 (1988); *Ernest A. Allerkamp*, 17 DOE ¶ 85,079 (1988) (*Allerkamp*); and the procedures have been approved by the United States District Court for the District of Kansas as well as the Temporary Emergency Court of Appeals (TECA). In the case *In re: The Department of Energy Stripper Well Exemption Litigation*, various states filed a Motion with the Kansas District Court, claiming that the OHA violated the Stripper Well Agreement by employing presumptions of injury for end-users and by improperly calculating the refund amount to be used in those proceedings. *In re: The Department of Energy Stripper Well Exemption Litigation*, 671 F. Supp. 1318 (D. Kan. 1987), *aff'd*, 857 F.2d 1481 (Temp. Emer. Ct. App. 1988). On August 17, 1987, Judge Theis issued an Opinion and Order denying the states' Motion in its entirety. The court concluded that the Stripper Well Agreement "does not bar [the] OHA from permitting claimants to employ reasonable presumptions in affirmatively demonstrating injury entitling them to a refund." *Id.* at 1323. The court also ruled that, as specified in the April Notice, the OHA could calculate refunds based on a portion of the M.D.L. 378 overcharges. *Id.* at 1323–24.

II. The Proposed Refund Procedures

A. Refund Claims

We now propose to apply the procedures discussed in the April Notice to the crude oil Subpart V proceeding that is the subject of the present determination. As noted above, the monies deposited with the DOE in settlement of the alleged crude oil violations totalling $626,450.47 plus accrued interest, are covered by this proposed Decision. We have decided to reserve the full twenty percent of the alleged crude oil violation amount, or $125,290.09, plus interest, for direct refunds to claimants, in order to insure that sufficient funds will be available for refunds to injured parties.

The process which the OHA will use to evaluate claims based on alleged crude oil violations will be modeled after the process the OHA has used in subpart V proceedings to evaluate claims based upon alleged overcharges involving refined products. *E.g., Mountain Fuel Supply Co.*, 14 DOE ¶ 85,475 (1986) (*Mountain Fuel*). As in non-crude oil cases, applicants will be required to document their purchase volumes of covered products and prove that they were injured as a result of the alleged violations. Generally, we will presume that an applicant incurred a crude oil overcharge in the purchase of a product if the product was either identified as a covered product in the Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751–760, or if the product was purchased from a crude oil refinery or originated in a crude oil refinery and was purchased from a reseller. *Notice of General Interest Concerning DOE's Crude Oil Overcharge Refund Program*, 57 FR 30,731, 30,732 (July 10, 1992); *Great Lakes Carbon Corporation*, 22 DOE ¶ 85,248, at 88,662 (1993). Applicants, who were end-users or ultimate consumers of petroleum products, whose businesses are unrelated to the petroleum industry, and who were not subject to the DOE price regulations are presumed to have been injured by any alleged crude oil overcharges. In order to receive a refund, end-users need not submit any further evidence of injury beyond the volume of petroleum products purchased during the period of price controls. *E.g. A. Tarricone, Inc.* 15 DOE ¶ 85,495, at 88,893–96 (1987). However, the end-user presumption of injury can be rebutted by evidence which establishes that the specific end-user in question was not injured by the crude oil overcharges. *E.g., Berry Holding Co.*, 16 DOE ¶ 85,405, at 88,797 (1987). If an interested party submits evidence that is sufficient to cast serious doubt on the end-user presumption, the applicant will be required to produce further evidence of injury. *E.g. NYP*, 18 DOE at 88,701–03.

Reseller and retailer claimants must submit detailed evidence of injury, and may not rely on the presumptions of injury utilized in refund cases involving refined petroleum products. They may, however, use econometric evidence of the type employed in the OHA Report to the District Court in the Stripper Well Litigation, *reprinted in* 6 Fed. Energy Guidelines ¶ 90,507. Applicants who executed and submitted a valid waiver pursuant to one of the escrows established in the Stripper Well Agreement have waived their rights to apply for crude oil refund under subpart V. *Mid-America Dairyman, Inc.* v. *Herrington*, 878 F.2d 1448 (Temp. Emer. Ct. App. 1989); *accord, Boise Cascade Corp.*, 18 DOE ¶ 85,970 (1989).

Refunds to eligible claimants who purchased refined petroleum products will be calculated on the basis of a volumetric refund amount derived by dividing the alleged crude oil violation amounts involved in this determination ($626,450.47) by the total consumption of petroleum products in the United States during the period of price controls (2,020,997,335,000 gallons). *Mountain Fuel*, 14 DOE at 88,868 n.4. This yields a volumetric refund amount of $0.0000003099 per gallon.

As we stated in previous Decisions, a crude oil refund applicant will be required to submit only one Application for crude oil overcharge funds. *E.g., Allerkamp*, 17 DOE at 88,176. Any party that has previously submitted a refund Application in the crude oil refund proceedings need not file another Application. That previously filed Application will be deemed to be filed in all crude oil proceedings as the procedures are finalized. The DOE has established June 30, 1994 as the current deadline for filing an Application for Refund from the crude oil funds. *Anchor Gasoline Corp.*, 22 DOE ¶ 85,071 (1992). It is the policy of the DOE to pay all crude oil refund claims filed within this deadline at the rate of $.0008 per gallon. However, while we anticipate that applicants that filed their claims within the original June 30, 1988 deadline will receive a supplemental refund payment, we will decide in the future whether claimants that filed later Applications should receive additional refunds. *E.g., Seneca Oil Co.*, 21 DOE ¶ 85,327 (1991). Notice of any additional amounts available in the future will be published in the **Federal Register**.

B. Payments to the States and Federal Government

Under the terms of the MSRP, we propose that eighty percent of the alleged crude oil violation amounts subject to this Proposed Decision, or $501,160.38, plus interest, should be disbursed in equal shares to the states and federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls. The share or ratio of the funds which each state will receive is contained in Exhibit H of the Stripper Well Agreement. When disbursed, these funds will be subject to

the same limitations and reporting requirements as all other crude oil monies received by the states under the Stripper Well Agreement.

It is Therefore Ordered That:

The refund amounts remitted to the Department of Energy by Gil-Mc Oil Corporation, pursuant to the Consent Order which became effective on March 29, 1983, LeClair Operating Co., Inc., pursuant to the Consent Order which became effective November 5, 1982, and SRG Corporation, Arthur E. Clark, W.K. Downey, C.N. Griggs, John V. James, J.W. Little, Thomas L. Moody (Estate of) and R.N. Stine, Jr., pursuant to the Consent Order which became effective July 23, 1982 will be distributed in accordance with the foregoing Decision.

[FR Doc. 93–26320 Filed 10–25–93; 8:45 am]

BILLING CODE 6450–01–P

Western Area Power Administration

Boulder Canyon Project Proposed Power Rate Adjustment

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice to extend consultation and comment period.

SUMMARY: Western Area Power Administration (Western) is announcing an extension of the consultation and comment period for the Boulder Canyon Project (BCP) proposed annual rate review process. The extension to the consultation and comment period was announced in the Federal Register notice on September 29, 1993, at 58 FR 50916. The consultation and comment period was to end on October 18, 1993.

Due to the need for additional time to respond to some of the questions asked by the BCP customers in the August 31, 1993, public information forum, Western is again extending the consultation and comment period for an additional 30 days. The consultation and comment period will now end November 15, 1993. The proposed BCP rates will become effective February 1, 1994.

Following the close of the consultation and comment period, Western will prepare, if necessary, another power repayment spreadsheet study for the BCP which will include any changes due to consideration of public comments. Western will recommend the results of those studies as the final proposed rates to the Acting Assistant Secretary for Energy Efficiency and Renewable Energy to be placed into effect on an interim basis as provisional rates and submitted to the Federal Energy Regulatory Commission for approval on a final basis.

EFFECTIVE DATES: The consultation and comment period for the BCP proposed annual rate review will end on November 15, 1993. Written comments should be received by the end of the consultation and comment period to be assured consideration. Comments may be sent to: Mr. Thomas A. Hine, Area Manager, Phoenix Area Office, Western Area Power Administration, P.O. Box 6457, Phoenix, AZ 85005–6457.

SUPPLEMENTARY INFORMATION: Power rates for the BCP are established pursuant to the various laws cited in the initial Federal Register notice at 58 FR 43631.

The procedures for public participation in rate adjustments for power and transmission service marketed by Western, which are found at 10 CFR part 903, were published in the Federal Register at 50 FR 37835 on September 18, 1985.

Issued in Golden, Colorado, October 15, 1993.

William H. Clagett,

Administrator.

[FR Doc. 93–26317 Filed 10–25–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4794–1]

Proposed Maximum Pressures for Rule-Authorized Enhanced Recovery Injection Wells in Michigan—Third Group Fields

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Maximum Injection Pressure in Fields with Rule-Authorized Enhanced Recovery Injection Wells in Michigan—Third Group Fields.

SUMMARY: The United States Environmental Protection Agency (USEPA or Agency) today is proposing pressure gradients for calculating the maximum allowable liquid injection pressure for rule-authorized Class II enhanced recovery injection wells in nine Michigan fields. Therefore, operators of rule-authorized enhanced recovery wells in the nine fields must limit their liquid injection pressure as directed in this notice, if the notice is finalized as proposed. After final publication in the Federal Register, the notice will become part of the applicable Underground Injection Control program for the State of Michigan, administered by Region 5 of USEPA, promulgated under the provisions of the Safe Drinking Water Act.

DATES: The USEPA requests public comments on today's proposed rules. Comments will be accepted until November 26, 1993. Notice is also being given to persons on a state-wide mailing list who have indicated an interest in Class II injection wells in Michigan. To request that a public hearing be held, contact the person listed below.

ADDRESSES: The technical basis for each of the proposed maximum pressures is found in the Administrative Record for this action, which is available for viewing at the USEPA Region 5 office listed below. A packet of materials summarizing the basis is also available for viewing in Roscommon, Michigan. The location can be obtained from the person listed as the contact for further information below. Submit written comments to: USEPA Region 5 (WD–17J), Underground Injection Control Section, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, Attn: Richard J. Zdanowicz, Chief.

FOR FURTHER INFORMATION CONTACT: Patrick Saieh, Underground Injection Control Section, Water Division, (312) 886–4240, 17th floor Metcalfe Building, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

SUPPLEMENTARY INFORMATION:

I. Background

The Underground Injection Control program for the State of Michigan is administered by the USEPA. Federal regulations at 40 CFR 147.1154 stipulate that the Regional Administrator shall establish maximum injection pressures for rule-authorized enhanced recovery injection wells in Michigan fields, after proper notice and opportunity for public comment and public hearing. This notice concerns liquid injection in nine State-approved enhanced recovery fields in Michigan. The Region has previously established maximum pressures for 20 additional fields (57 FR 61084, 58 FR 42543). To establish these pressures, USEPA used instantaneous shut-in pressures (ISIP) and step rate test results from the injection zones of enhanced recovery injection wells in the given fields. Additional background information is found in a Federal Register notice dated September 11, 1992 (57 FR 41751).

II. Proposed Maximum Pressures

As was established for the first two groups of Michigan fields, USEPA today proposes that rule-authorized, enhanced recovery, injection wells in the additional fields listed in this notice

operate below a maximum liquid injection pressure calculated using the following formula:

Pm = (FPG − 0.433 Sg)d

where

Pm = injection pressure at the wellhead (psi)

FPG = fracture pressure gradient from Table 1 (psi/ft)

Sg = specific gravity of the injection fluid (dimensionless)

d = depth to top of injection zone (ft)

III. Alternative Maximum Pressures

Federal regulations make two provisions for owners and operators who wish to operate at pressures above those defined above in two ways. First, after this notice is finalized, owners and operators may submit a request that the USEPA establish an alternative maximum pressure for a particular field and formation. This request may allow injection at higher pressures if the operator can demonstrate to the satisfaction of the Agency that the desired injection pressure will not fracture the confining layer adjacent to the lowermost USDW and that there will be no migration of fluids into a USDW. The Agency may grant such a request after notice and opportunity for public comment and a public hearing, according to the provisions of 40 CFR Part 124.

Second, if this request is denied, the owner or operator may apply for a UIC permit under 40 CFR 144.25(c). The final permit decision, including permit conditions which the owner or operator considers to be inappropriate, may be subject to administrative review pursuant to 40 CFR 124.19. To be added to a mailing list to receive notice of Agency decisions in Michigan regarding Alternative Maximum Pressures or Class IIR permits, contact USEPA, Region 5 Underground Injection Control Section at the address given above.

IV. Notice to Owners and Operators

After this notice is finalized, USEPA will send certified written notices to owners and operators informing them of the applicable formula to be used in determining the maximum allowable liquid injection pressure. Thereafter, owners and operators who exceed the injection pressure established under the formula or the alternative maximum pressure approved by USEPA will be considered in violation of 40 CFR 147.1154(a), and may be subject to enforcement action, including the assessment of civil penalties and the issuance of compliance orders. If an owner or operator does not receive a certified written notice from USEPA within thirty (30) days after the final notice is published in the **Federal Register**, he or she should immediately contact USEPA, Region 5 at the telephone number given above, to avoid the possibility of violating UIC regulations.

Dated: October 15, 1993.

Edward P. Watters,

Acting Director, Water Division, Region 5, U.S. Environmental Protection Agency.

TABLE 1.—FRACTURE PRESSURE GRADIENT VALUES

Field	Formation	County	Township/range/section	FPG (psi/ft)
Bear Lake	Niagaran	Manistee	T23N, R15W, S12	0.58
Beaverton	Dundee	Gladwin	T17N, R2W, S19	1.11
Falmouth	Richfield	Missaukee	T22N, R6W, S30, 31 and T22N, R7W, S25, 36	1.10
Grout	Richfield	Gladwin	T18N, R2W, S10, 11, 14, 15	1.05
Kawkawlin	Dundee	Bay	T15N, R4E, S27, 28, 33, 34 and T14N, R4E, S3.	1.23
Onondaga 21A	A–1 Carbonate (Salina)	Ingham	T1N, R2W, S15–17, 21, 22	0.81
Richfield	Richfield	Lapeer	T10N, R10E, S21–23, 26–28, 33–35	1.09
West Branch 28	Dundee	Ogemaw	T22N, R2E, S28, S/2 of NW/4	1.25
North Wise	Dundee	Isabella	T16N, R3W, S17	1.12

[FR Doc. 93–26312 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–P

[FRL-4794-3]

Science Advisory Board Environmental Futures Committee; Public Meetings, November 10, 1993, December 8, 1993 and January 20, 1994

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Environmental Futures Committee (EFC) of the Science Advisory Board (SAB) will conduct public meetings from 8:30 a.m. to 5 p.m. on the following dates: November 10, 1993, December 8, 1993 and January 20, 1994. These meetings will be held at U.S. EPA, Crystal Station, Conference Room A (November 10, 1993 and January 20, 1994) and Conference Room C (December 8, 1993), 2nd Floor, 2800 Crystal Drive, Arlington, Virginia 22202.

The Environmental Futures Committee (EFC) was formed by the SAB at the request of Administrator Browner to assist the Agency in anticipating environmental problems, issues and opportunities. The charge to this Committee includes: developing a procedure for short and long-term forecasting of natural and anthropogenic developments which may affect environmental quality and its protection; develop detailed examinations procedures and apply them to some future developments; and draw implications from the examinations of future developments and recommend actions for EPA to address them. At these meetings, the EFC will receive briefings on Futures issues; discuss the overall progress of the project (including tracking the activities of the SAB Standing Committees that are involved in the project); and begin to outline its draft report.

This meetings are open to the public, but seating is limited and available on a first come basis. Any member of the public wishing further information concerning the meetings or who wishes to submit oral or written comments (at least 25 copies) should contact the Designated Federal Officer, Mr. Robert Flaak, Assistant Staff Director, Science Advisory Board (Mail Code 1400F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; telephone (202) 260-6552; FAX (202) 260-7118.

Dated: October 19, 1993.

A. Robert Flaak,

Acting Staff Director, Science Advisory Board.

[FR Doc. 93–26314 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4789–3]

Science Advisory Board; Emergency Notification of Public Advisory Committee Meetings

This **Federal Register** Notice was prepared by the Science Advisory Board and forwarded to the EPA **Federal Register** Office for publication on September 28, 1993. Unfortunately, due to unknown circumstances, we were notified on October 21, 1993 that the Notice had been lost and was, therefore, not published as required by the provisions of the Federal Advisory Committee Act, 5 U.S.C. app. 2 section (a)(2). These meetings represent the initial sessions of the SAB for FY94 and involve over 100 persons attending seven separate meetings. At this point it is impossible to cancel or reschedule the meetings as we have contractual arrangements with hotels and airlines, moreover, airline tickets are in the hands of most of those attending the meetings. Many of whom are already on other travel and will come to our meetings directly from other locations—these individuals cannot be contacted to make changes. This emergency notice (which is a revised copy of the original notice) is being published in order to notify the public of the following meetings. Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, notice is hereby given that various committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All meetings are open to the public. Due to limited space, seating at all meetings will be on a first-come basis. For further information concerning each meeting, please contact the individuals listed below. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB staff.

Executive Committee

The Executive Committee of the Science Advisory Board will meet on Tuesday and Wednesday, October 26–27, 1993, in the Administrator's Conference Room, room W1103 (West Tower), US Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The meeting will begin at 8:30 am on Tuesday, October 26, and adjourn at noon on Wednesday, October 27.

At this meeting, the Executive Committee plans to review the following reports from its Committees:

(a) A series of reports related to the Agency's RCRA Corrective Action Regulatory Impact Analysis (Health benefits assessment; Ecological assessment; MMSOILS transport model; Contingent Valuation Methodology; Economic Aspects of the RIA; and an Overview report);

(b) A report on the Agency's evaluation of the epidemiological studies on the herbicide 2,4–D;

(c) A report on the Agency's Technical Guidance for Biocriteria for Streams document;

(d) A report on the Agency's EMAP Assessment Framework document;

(e) A report on the Agency's Arsenic Drinking Water Criteria Document;

(f) A report on the Agency's Disinfection and Disinfection Byproducts Research program; and

(g) a commentary on peer-review.

In addition to updates on activities from the various committees, the agenda includes an introduction of new members, a discussion of the role of science in the regulatory negotiation process, updates on Social Sciences Research and on global climate change research, and a discussion with the Deputy Administrator on activities of the Science Advisory Board.

Any member of the public wishing further information concerning the meeting, including an agenda, or who wishes to obtain draft reports or submit comments should contact Ms. Priscilla Tillery, Office of the Staff Director, Science Advisory Board (Mail Code 1400), US Environmental Protection Agency, Washington, DC 20460. Phone 202–260–4126; Fax: 202–260–9232. INTERNET [BARNES.DON@EPAMAIL.EPA.GOV]. Due to the late public notification of this meeting, the SAB will accept comments on draft reports until November 19, 1993.

Drinking Water Committee (DWC)

The Drinking Water Committee (DWC) will meet on Thursday, October 28, 1993, from 8:30 a.m. to 5 p.m. The meeting will be at the Old Colony Inn, 625 First Street, Alexandria, VA 22304. At this meeting, the Committee will: (a) Receive a briefing regarding the Agency's efforts to develop criteria and monitoring methods for insuring the public health of users of recreational/bathing beach waters; (b) receive a briefing concerning "The Economic and Technical Capacity of States and Public Water Systems to Implement Drinking Water Regulations" (Chaffee-Lautenberg Report); and (c) begin its activities in reference to the Environmental Futures Project of the SAB. The Chaffee-Lautenberg report is available by calling the Drinking Water Hotline at 1–800–426–4791 or writing to the EPA Water Resource Center, 401 M Street SW. (Mail Code RC4100), Washington, DC 20460. The report is not available from the Science Advisory Board. No background documents are available for items (a) and (c) above.

For additional information, including a draft agenda, please contact Ms. Mary Winston, Staff Secretary, or Mr. Manuel R. Gomez, Designated Federal Official, Science Advisory Board (Mail Code 1400F), US Environmental Protection Agency, Washington, DC 20460. Phone: (202) 260–6552; FAX: (202) 260–7118. Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Gomez in order to be included on the Agenda.

Environmental Engineering Committee (EEC)

The Environmental Engineering Committee will meet on Thursday and Friday, October 28–29, 1993 at the Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC. The meeting will begin at 9 a.m. on Thursday, October 28, and adjourn no later than 3 p.m. on Friday, October 29. The Committee will be briefed on several tasks in progress, including the MMSoils review, the research strategy commentary, and the Ground Water Monitoring Design Review Subcommittee. The Committee will discuss possible new projects for FY94 with Agency staff and will consider how to contribute to the SAB Environmental Futures Project. The Committee will begin its review of the Office of Research and Development's Ground Water Strategic Issues Plan. The Committee will also hear a presentation on results of International Model Validation Studies Using Chernobyl Data.

Additional information, including a draft agenda, is available from Mrs. Kathleen Conway, Designated Federal Official on 202–260–2558, or Mrs. Dorothy Clark, Staff Secretary at 202–260–6552. FAX: 202–260–7118, or at Science Advisory Board (Mail Code 1400F), US Environmental Protection Agency, Washington, DC 20460.

Ecological Processes and Effects Committee (EPEC)

The Ecological Processes and Effects Committee of the SAB will meet on Thursday and Friday, October 28–29, at the Old Colony Inn, 625 First Street, Alexandria, VA 22304. The meeting will begin each day at 8 a.m. and end no later than 3 p.m. on October 29.

EPEC will meet to receive briefings from the Agency on several proposed review topics for FY94, discuss the Committee's role in the SAB's Environmental Futures Project, and review the Midwest Agrichemical

Surface/Subsurface Transport and Effects Research (MASTER) Program. The MASTER Program is a watershed-based research program designed to assess the ecological effects of agrichemicals in the Walnut Creek watershed in Iowa. The program is intended to quantify and predict the effectiveness of agricultural management practices in enhancing water quality and ecological resources on a landscape scale (e.g., regional and watershed scales). The Agency has asked the Committee to evaluate the MASTER Program in terms of the following:

(a) Are the goals and objectives of the program clear, and appropriate to the environmental problem being addressed?

(b) Is the assessment approach appropriate to define longer-term research needs in the watershed?

(C) Is there adequate progress toward interdisciplinary integration? and

(d) Do the research projects reflect an appropriate balance between assessment and management in the pilot watershed vs. development of regionalization assessment techniques?

Single copies of the MASTER Research Plan and summary of research findings provided to EPEC for this review are available from Dr. Robert Swank, MASTER Program Manager, US EPA, Environmental Research Laboratory, 960 College Station Road, Athens, GA 30605–2720. Phone: 706–546–3128. For additional information concerning this meeting or to obtain a draft agenda, please contact Ms. Stephanie Sanzone, Designated Federal Official on (202) 260–6557 or Ms. Marcia Jolly, Staff Secretary on (202) 260–6552, Science Advisory Board (Mail Code 1400F), US Environmental Protection Agency, Washington, DC 20460. Anyone wishing to make a presentation at the meeting must notify Ms. Jolly and forward twenty-five copies of a written statement to her.

Indoor Air Quality and Total Human Exposure Committee (IAQC)

The Indoor Air Quality/Total Human Exposure Committee (IAQC) will meet on Thursday, October 28, 1993. The Committee will meet from 9 a.m. to 5 p.m. at the Howard Johnson National Airport Hotel, 2650 Jefferson Davis Highway, Arlington, Virginia. At this meeting, the Committee will discuss its contributions to the ongoing Environmental Futures Project of the SAB. As time permits, the Committee may receive additional briefings related to its activities for the coming year. No documents have been provided to the Committee as background for this discussion.

For additional information, including a draft agenda, please contact Ms. Dorothy Clark, Staff Secretary, or Mr. Manuel R. Gomez, Designated Federal Official, Science Advisory Board (Mail Code 1400F), US Environmental Protection Agency, Washington, DC 20460. Telephone: 202–260–6552; FAX: 202–260–7118. Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Gomez in order to be included on the Agenda.

Radiation Advisory Committee (RAC)

The Radiation Advisory Committee (RAC), will conduct a planning, coordination and review meeting on Thursday and Friday, October 28–29, 1993. The meeting will be at the Savoy Suites Georgetown Hotel, 2505 Wisconsin Avenue, NW Washington, DC 20007 (hotel telephone number is 202–337–9700). On Thursday, October 28, the RAC will meet at 9 a.m. and adjourn no later than 6 p.m. On Friday, October 29, the RAC will meet at 8:30 a.m. and will adjourn no later than 4 pm.

At this meeting, the RAC intends to complete its review of the Agency's draft scoping study on naturally-occurring radioactive materials (NORM), entitled "Diffuse NORM—Waste Characterization and Preliminary Risk Assessment." This document is available from EPA's Air Docket at 401 M Street, SW, Washington, DC 20460 (202–260–7548). The Docket Number is R–82–01, and the Item Number is IIA–38. There may be a newer draft document with a different docket and item number. For technical information on the NORM draft document, please contact Mr. William E. Russo of the EPA's Office of Radiation and Indoor Air (ORIA) at 202–233–9215. The RAC also plans to continue review of its own self-initiated resolutions, which include: (a) The Radon Science Initiative (the last public meeting on this subject was September 7 & 8, 1993; see below for latest meeting information); (b) the Waste Classification of Radionuclides using a risk-based approach; and (c) a retrospective study of the RAC's accomplishments over the years. In addition, the RAC will receive briefings from the staff of the Office of Radiation and Indoor Air (ORIA) on a Program Update, Cleanup Standards, and Radiation Risk Assessment, and there may be discussion on other topics, such as the radon measurement protocol. The RAC is also planning to discuss the Environmental Futures Project of the SAB.

For additional information, including a draft agenda, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, or Mrs. Diana L. Pozun, Staff Secretary, Science Advisory Board (Mail Code 1400F), US Environmental Protection Agency, Washington, DC 20460. Phone: 202–260–6552 or FAX: 202–260–7118. At this time, there are no draft SAB reports on any of the above review topics available to the public. Members of the public who wish to make a brief oral presentation must contact Dr. Kooyoomjian in order to be included on the agenda.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of five minutes. For conference call meetings, opportunities for oral comment will be limited to no more than five minutes per speaker and no more than fifteen minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant Committee up until the time of the meeting.

Dated: October 21, 1993.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 93–26410 Filed 10–22–93; 10:43 am]

BILLING CODE 6560–60–P

[FRL–4794–4]

Proposed Administrative Cost Recovery Agreement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act, Regarding the Philmar Electronics Site, Morrisonville, New York

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed administrative agreement and opportunity for public comment.

In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability

Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9622(i), the U.S. Environmental Protection Agency ("EPA") Region II announces a proposed settlement pursuant to section 122(h)(1) of CERCLA, 42 U.S.C. 9622(h)(1), relating to the Philmar Electronics Site ("Site") in Morrisonville, Clinton County, New York. This Site is not on the National Priorities List established pursuant to section 105(a) of CERCLA. This notice is being published to inform the public of the proposed settlement and of the opportunity to comment.

The settlement, memorialized in an Administrative Cost Recovery Agreement ("Agreement"), is being entered into by EPA and the United States Air Force ("USAF"). Under the Agreement, USAF shall pay EPA the sum of $864,493.70, in reimbursement of the past response costs incurred by EPA with respect to the Site as of approximately July 30, 1993.

DATES: EPA will accept written comments relating to the proposed settlement for a period of thirty days from the date of publication of this notice.

ADDRESSES: Comments should be sent to: Eric Schaaf, Chief, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 26 Federal Plaza, room 437, New York, N.Y. 10278. For a copy of the Agreement, contact the individual listed below.

FOR FURTHER INFORMATION CONTACT: Juan M. Fajardo, Assistant Regional Counsel, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 26 Federal Plaza, room 437, New York, NY 10278, telephone: (212) 264–6455.

Dated: September 30, 1993

William J. Muszynski,

Acting Regional Administrator.

[FR Doc. 93–26315 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–M

[OPPTS–44602; FRL–4738–9]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on 4-vinylcyclohexene (4-VCH) (CAS No. 100–40–3), submitted pursuant to a testing consent order under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 consent orders must contain a statement that results of testing conducted pursuant to these testing consent orders will be announced to the public in accordance with section 4(d).

I. Test Data Submissions

Test data for 4-VCH were submitted by the Chemical Manufacturers Association Butadiene Panel pursuant to a testing consent order at 40 CFR 799.5000. They were received by EPA on September 20 and 22, 1993. The submissions describe a "rat and mouse bone marrow micronucleus assay of 4-VCH following subchronic inhalation exposure and an "*in vitro* metabolism of 4-VCH and metabolites." This chemical is used as an intermediate in the manufacture of 4-VCH mono- and diepoxides, which are used to make epoxy resins, polyesters, coatings, and plastics; and may also be used in the manufacture of flame retardants, insecticides, plasticizers, and antioxidants.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPPTS–44602). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Nonconfidential Information Center, also known as the TSCA Public Docket Office, Rm. ET-G102, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

List of subjects

Environmental protection, Test data.

Dated: October 12, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–26309 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59326; FRL–4650–6]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–93–22. The test marketing conditions are described below.

EFFECTIVE DATES: October 14, 1993. Written comments will be received until November 10, 1993.

ADDRESSES: Written comments, identified by the document control number "(OPPTS–59326)" and the specific TME number "TME–93–22" should be sent to: Document Control Officer (7407), Confidential Data Branch, Information Management Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–201, 401 M St., SW., Washington, DC 20460, (202) 260–1532.

FOR FURTHER INFORMATION CONTACT: Edna G. Pleasants, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, D.C. 20460, (202) 260–4142.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–93–22. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

Inadvertently, notice of receipt of the application was not published. Therefore, an opportunity to submit comments is being offered at this time. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), Rm. ETG–102 at the above address between 8 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. EPA may modify or revoke the test marketing exemption if comments are received which cast significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury.

The following additional restrictions apply to TME–93–22. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.
2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.
3. Copies of the bill of lading that accompanies each shipment of the TME substance.

T–93–22

Date of Receipt: September 2, 1993.

Close of Review Period: October 16, 1993. The extended comment period will close November 10, 1993.

Applicant: Mitsubishi Kasei America Inc.

Chemical: (S) 4–Phosphoric methyl styrene divinylbenzene polymer.

Use/Import.: (G) Semi-conductor business. Import range: Confidential.

Production Volume: 120 kg/yr.

Number of Customers: One.

Test Marketing Period: 365 days commencing on the first day of non-exempt commercial manufacture.

Risk Assessment: EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to health or the environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

List of Subjects

Environmental protection, Test marketing exemption.

Dated: October 14, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–26310 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59302B; FRL–4739–9]

Certain Chemical; Approval of Modifications to Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of modifications of the test marketing period for a test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA designated the original test marketing application as TME–92–1. The test marketing conditions are described below.

EFFECTIVE DATES: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: David Di Fiore, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–611, 401 M St. SW., Washington, D.C. 20460, (202 260–3374).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves the modifications of the test marketing periods for TME–92–1. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME applications and modification requests, and for the modified time periods specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the original Notice of Approval of Test Marketing Application must be met.

T–92–1

Notice of Approval of Original Application: December 12, 1991 (56 FR 61426).

Modified Test Marketing Period: 12 months.

Commencing On: Date of manufacture.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

List of Subjects

Environmental protection, Test marketing exemptions.

Dated: October 18, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–26311 Filed 10–25–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1000–DR]

Kansas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of

Kansas, (FEMA–1000–DR), dated July 22, 1993, and related determinations.

EFFECTIVE DATE: October 15, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Kansas dated July 22, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 22, 1993:

Cherokee and Crawford Counties for Public Assistance. (Already designated for Individual assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

Assistant Associate Director, Disaster Assistance Programs.

[FR Doc. 93–26341 Filed 10–25–93; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1004–DR]

Oregon; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Oregon (FEMA–1004–DR), dated October 15, 1993, and related determinations.

EFFECTIVE DATE: October 15, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated October 15, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster relief and Emergency Assistance Act (42 U.S.C. 5121 *et al.*), as follows:

I have determined that the damage in certain areas of the State of Oregon, resulting from earthquakes on September 20, 1993, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Oregon.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Charles L. Steele of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Oregon to have been affected adversely by this declared major disaster.

Klamath County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James Lee Witt,

Director.

[FR Doc. 93–26340 Filed 10–25–93; 8:45 am]

BILLING CODE 6718–02–M

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: November 26, 1993.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street, SW., room 840, Washington, DC 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: Larry Maruskin, Office of Fire Prevention and Arson Control, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1141.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Tuesday, November 24, 1992, 57 FR 55314, and published changes approximately monthly since then.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 58 FR 17020 on March 31, 1993. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices.

Each update contains or may contain three categories: "Additions;" "Corrections/changes;" and "Deletions." For the purposes of the updates, the three categories mean and include the following:

"Additions" are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

"Corrections/changes" are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

"Deletions" are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

The update to the national master list follows below.

Dated: October 21, 1993.

John P. Carey,

General Counsel.

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 10/18/93 UPDATE

Property name	PO Box/Rt. No.	Street address	City and State/ZIP	Telephone
ADDITIONS				
Alaska				
Best Western Lake Lucille Inn		1300 W. Lake Lucille Dr	Wasilla, AK 99645–	
Arizona				
Budgetel Inn		2123 Burnham Rd	Fort Smith, AR 72903–	501–484–5770
Budgetel Inn #781		4311 Warden Rd	North Little Rock, AR 72116–	501–758–8888
Budgetel Inn		5102 N. State Line Ave	Texarkana, AR 75502–	501–773–1000
California				
Best Western Andersens Inn		850 Palomar Airport Rd	Carlsbad, CA 92008–	619–438–7880
Country Side Inn & Suites		325 Bristol St	Costa Mesa, CA 92626–	714–549–0300
Doubletree Club Hotel LAX		1985 E. Grand	El Segundo, CA 90245–	310–322–0999
Hyatt Grand Champions		44 600 Indian Wells Ln	Indian Wells, CA 92210–	619–341–1000
Renaissance Hotel Long Beach		111 E. Ocean Blvd	Long Beach, CA 90802–	310–437–5900
Sheraton Inn Napa Valley		3425 Solano Ave	Napa, CA 94558–	707–253–7433
Holiday Inn San Francisco		275 S. Airport Blvd	S. San Francisco, CA 94080–	415–873–3500
ANA Hotel San Francisco		50 Third St	San Francisco, CA 94103–	415–974–6400
Doubletree Hotel and Marina		2800 Via Cabrillo Marina	San Pedro, CA 90731–	310–514–3344
Doubletree Hotel		3555 Round Barn Blvd	Santa Rosa, CA 95403–	707–523–7555
Idaho				
Teton West Super 8		State Hwy. 33	Driggs, ID 83422–	208–354–2363
Stardust Motel		410 Pine St	Wallace, ID 83873–	208–752–1213
Louisiana				
Budgetel Inn 744		10555 Rieger Rd	Baton Rouge, LA 70809–	504–291–6600
Comfort Inn East		6322 Chef Hwy	New Orleans, LA 70126–	504–241–5650
Massachusetts				
Harborside Hyatt Conference Center and Hotel.		101 Harborside Dr	Boston, MA 02128–	617–568–1234
Cape Ann Motor Inn		33 Rockport Rd	Gloucester, MA 01930–	508–281–2900
Susse Chalet Tewksbury		1695 Andover St	Tewksbury, MA 01876–	508–640–0700
Minnesota				
Budgetel Inn		70 S. 37th Ave.	St. Cloud, MN 56301–	612–253–4444
Mississippi				
Budgetel Inn		1400 Roebuck Dr	Meridian, MS 39301–	601–693–2300
Montana				
Red Lion Missoula Village		100 Madison	Missoula, MT 59802–	406–728–3100
New Jersey				
Holiday Inn	PO Box 304	Center Sq. Rd	Bridgeport, NJ 08014–	609–467–3322
Sandpiper Beach Inn		Beach & Grant St	Cape May, NJ 08204–	609–884–4256
Grand Hotel's Palace		Oceanfront at Philadelphia	Cape May, NJ 08204–	800–257–8550
Hyatt Cherry Hill		2349 W. Marlton Pike	Cherry Hill, NJ 08002–	609–662–1234
Ramada Hotel		3050 Woodbridge Ave	Edison, NJ 08837–	908–494–2000
Fairfield Executive Inn/Best Western.		216–234 Rt. 46 E	Fairfield, NJ 07004–	201–575–7700
Irvington Motor Lodge		100 Union Ave	Irvington, NJ 07111–	201–371–3000
Crossroads Motor Lodge		Rt. 73 N. & Rt. 38	Maple Shade, NJ 08052–	609–235–3200
Hampton Inn Philadelphia/Mt Laurel.		4000 Crawford Pl	Mt Laurel, NJ 08054–	609–778–5535
Ramada Mt Laurel		555 Fellowship Rd	Mr Laurel, NJ 08054–	609–273–1900
Hojo Inn by Howard Johnson		625 Rt. 46 E	Parsippany, NJ 07054–	201–882–8600
Nassau Inn		10 Palmer Sq	Princeton, NJ 08542–	609–921–7500
Novotel Hotel Princeton		100 Independence Way	Princeton, NJ 08822–	609–520–1200
Gull Island Inn		205 Broadway	Pt Pleasant Beach, NJ 08742–	908–295–5500
Harbor Lights Inn		301 Broadway	Pt Pleasant Beach, NJ 08742–	908–295–3440
Gateway Motor Lodge		119 Rt. 202	Raritan, NJ 08869–	908–722–5400
Oyster Point Hotel		146 Bodman Pl	Red Bank, NJ 07701–	908–530–8200
New York				
Fire Island Hotel and Resort		20 W. Main St	Bayshore, NY 11706–	516–583–8000
Lord Amherst Motor Hotel		5000 Main St	Buffalo, NY 14226–	716–839–2200
Algonquin, A Westin Hotel		59 W. 44th St	New York, NY 10036–	212–840–6800
Grand Hyatt New York		Park Ave. at Grand Central	New York, NY 10017–	212–883–1234

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 10/18/93 UPDATE—Continued

Property name	PO Box/Rt. No.	Street address	City and State/ZIP	Telephone
Oregon				
Red Lion Eugene		205 Coburg Rd	Eugene, OR 97401–	503–342–5201
Val U Inn		531 SW Fall St	Newport, OR 97365–	503–265–6303
Red Lion Springfield		3280 Gateway Rd	Springfield, OR 97477–	503–726–8181
South Carolina				
Chestnut Cottage Bed and Breakfast.		1718 Hampton St	Columbia, SC 29201–	803–256–1718
Holiday Inn Express North Charleston.		2070 McMillan Ave	North Charleston, SC 29405–	803–554–1600
Utah				
Best Western Ogden Park Hotel		247 4th St	Ogden, UT 84401–	801–627–1190
Virginia				
Travelers Motel		5916 Richmond Hwy	Alexandria, VA 22303–0000	703–329–1310
Doubletree Hotel National Airport South Tower.		300 Army Navy Dr	Arlington, VA 22202–	703–892–4100
Doubletree Hotel National Airport North Tower.		300 Army Navy Dr	Arlington, VA 22202–	703–892–4100
Executive Club Suites in Arlington		108 S. Courthouse Rd	Arlington, VA 22204–0000	703–522–2582
Days Inn Manassas		10653 Balls Ford Rd	Manassas, VA 22110–0000	703–368–2800
OMNI Newport News Hotel		1000 OMNI Blvd	Newport News, VA 23606–0000	804–873–6664
OMNI International Norfolk		777 Waterside Dr	Norfolk, VA 23510–0000	804–622–6644
Comfort Inn		1109 Horner Rd	Woodbridge, VA 22191–0000	703–494–0300
Washington				
Elliot Bay East		2415 Western Ave	Seattle, WA 98104–	206–329–8000
2300 Elliot Avenue		2300 Elliot Ave	Seattle, WA 98104–	206–329–8000
CORRECTIONS/CHANGES				
South Carolina				
Holley House Inn		235 Richland Ave	Aiken, SC 29801	803–648–4265
DELETIONS				
California				
Ramada Renaissance Hotel		111 E. Ocean Blvd	Long Beach, CA 90802–	310–437–5900
Carion Inn Napa Valley		3425 Solano Ave	Napa, CA 94558–	707–253–7433
Radisson Inn San Francisco		275 S. Airport Blvd	S. San Francisco, CA 94080–	415–873–3550
Ana Hotel San Francisco		50 Third St	San Francisco, CA 94103–	415–974–6400
South Carolina				
Hilton Inn		12 Park Ln	Hilton Head Island, SC 29928–	803–686–5700
Utah				
Holiday Inn Downtown		230 W. 600 S	Salt Lake City, UT 84101–	801–532–7000
Virginia				
Days Inn—Tysons		1587 Spring Hill Road	VA	
Embassy Suites—Tysons		1587 Spring Hill Road	VA	
Holiday Inn—Fair Oaks		11787 Lee Jackson Hwy	VA	
Holiday Inn—Tysons		1960 Chain Bridge Road	VA	
Keystone Motel—Groveton		8588 Richmond Hwy	VA	
Ramada Inn		I–95 at Ashland	VA	
Red Roof Inn—Groveton		5975 Richmond Hwy	VA	
Residence Inn—Tysons		8616 Westwood Center Drive	VA	
Sheraton Premier—Tysons		8661 Leesburg Pike	VA	
Spring Hill Lodge—Bailey's		5666 Columbia Pike	VA	
Staunton Shoney's Inn		August County	VA	
Super 8 Motel		Town of Appomatox	VA	
Traveler's Motel—Groveton		5916 Richmond Hwy	VA	
Holiday Inn Express		940 East Main Street	Abingdon, VA 24210–	
Super 8 Motel		298 Towne Centre Drive	Abingdon, VA 24210–	
Blue Crab Inns			Accomac, VA	
Embassy Suites Hotel		1900 Diagonal Road	Alexandria, VA 22314—	
Morrison House		116 S Alfred Street	Alexandria, VA 22314–	
Radisson Mark Center Plaza		5000 Seminary Road	Alexandria, VA 22311–	
Princely B & B Ltd		819 Prince Street	Alexandria, VA 22314–3006	
Ama Valley Family Suites		2601 S Glebe Road	Arlington, VA 22206–	
Best Western Arlington		2480 S Glebe Road	Arlington, VA 22206–	
Clarendon Hotel Court		3824 Wilson Blvd	Arlington, VA 22203.	
Crystal City Motor Inn		901 S Clark Street	Arlington, VA 22202	
Econo-Lodge/National Airport		2458 S Glebe Road	Arlington, VA 22206–	

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 10/18/93 UPDATE—Continued

Property name	PO Box/Rt. No.	Street address	City and State/ZIP	Telephone
Econo-Travel Lodge		6800 Lee Hwy	Arlington, VA 22203–	
Econo-Travel Motor Hotel		3335 Lee Hwy	Arlington, VA 22207–	
Highlander Motor Inn		3336 Wilson Blvd	Arlington, VA 22201–	
Marriott Suites		1001 S Fern Street	Arlington, VA 22202–	
Marriott Courtyard		1533 Clarendon Blvd	Arlington, VA 22201–	
Motel Fifty		1601 Arlington Blvd	Arlington, VA 22209–	
Ramada Renaissance Ballston Metro Center.		950 N Stafford Street	Arlington, VA	
Sheraton Crystal City		1800 Jefferson Davis Hwy	Arlington, VA	
Mr. & Mrs. Vince Scoffone		871 N Kensington Street	Arlington, VA 22205–1327	
Ashland Truck Stop		I–95 @ Ashland	Ashland, VA	
Comfort Inn		I–95 @ Ashland	Ashland, VA	
Holiday Inn		I–95 @ Ashland	Ashland, VA	
Holiday Inn at Afton Mountain			Augusta County, VA	
Best Western/Terrace House Inn		921 Blue Ridge Avenue	Bedford, VA	
Blue Ridge B & B	RR2 Box 3895		Berryville, VA 22611–9527	
Comfort Inn	PO Box 350		Bluefield, VA 24605–	
English Inn, of Charlottesville		2000 Morton Drive	Charlottesville, VA 22902–	
Hampton Inn Hotel		2035 India Road	Charlottesville, VA	
Holiday Inn		US 29 North	Charlottesville, VA 22902–	
South Street Inn 200		200 South Street	Charlottesville, VA 22902–	
Bowers Hill Comfort Inn		4433 Military Hwy South	Chesapeake, VA	
Chesapeake Travelodge		701 Woodlake Drive	Chesapeake, VA	
Chesapeake Super 8 Motel Inc		100 Red Cedar Court	Chesapeake, VA	
Chesapeake Super 8 Motel Inc		3216 Churchland Blvd	Chesapeake, VA	
Days Inn		1433 Battlefield Blvd N	Chesapeake, VA	
Econo Lodge Karpri Associates		2220 Military Hwy South	Chesapeake, VA	
Hampton Inn, Chesapeake		701 Woodlake Drive	Chesapeake, VA	
Holiday Inn, Chesapeake		725 Woodlake Drive	Chesapeake, VA	
Red Roof Inn		724 Woodlake Drive	Chesapeake, VA	
Super 8 Motel		2421 Southland Drive	Chester, VA 23831–	
Sunrise Motel Inn		4491 Chicken City Road	Chincoteague, VA 23336–	804–336–6671
Super 8 West		55 Laurel Street	Christiansburg, Va 24073–	
Firmstone Manor		RFD 1, Rt 60	Clifton Forge, VA 24422–	
The Days Inn			Colonial Beach, VA	
Innkeeper		2901 Candlers Mt. Road	Colonial Heights, VA 23834–	
Interstate Inn		2201 Indian Hills Road	Colonial Heights, VA 23834–	
Arborgate Inn		I–64 and US 60	Covington, VA 24426–	
Comfort Inn		Mallow Road	Covington, VA 24426–	
Milton Hall		Johnson Creek	Covington, VA 24426–	
Baileywick Farm B & B		1250 Roanoke Road	Dalesville, VA 24083–	
Best Western, of Danville		2121 Riverside Drive	Danville, VA	
Green Tree Inn		3500 West Main Street	Danville, VA	
Super 8 Motel		2385 Riverside Drive	Danville, VA	
Virginia Manor Inn		3050 West Main Street	Danville, VA	
Comfort Inn		1411 Skippers Road	Emporia,VA 23847–	
Reste Motel		3190 Sussex Drive	Emporia, VA 23847–	
Travel Lodge		3173 Sussex Drive	Emporia, VA 23847–	
Days Inn		Hwy 15 Prince Edward County	Farmville, VA 23901–	
Best Western Franklin Inn	Rt 1 Box 47		Franklin, VA	
Days Inn		1600 Armory Drive	Franklin, VA	
Super 8 Motel		1599 Armory Drive	Franklin, VA	
Best Western Motel		3000 Plank Road	Fredericksburg, VA 22401–	
Dunning Mills Inn		2305 Jefferson Davis Hwy	Fredericksburg, VA 22401–	
Econo Lodge		2802 Plank Road	Fredericksburg, VA 22401–	
Hampton Inn		2310 Plank Road	Fredericksburg, VA 22401–	
Super 8 Motel		3002 Mall Court	Fredericksburg, VA 22401–	
Super 8 Motel		South Street	Front Royal, VA 22630–	
Richmond Inn, Inc. T/A Amerisuites—Richmond.		4100 Cox Road	Glen Allen, VA	
Wheelers Motor Inn	Rt 1 Box 405A		Goode, VA 24556–	
Super 8 Motel		US Hwy 58	Halifax, VA 24558–0786	
Hampton Inn		85 University Blvd	Harrisonburg, VA	
Knights Inn		10 Linda Lane	Harrisonburg, VA	
Shoney's Inn of Harrisonburg		45 Burgess Road	Harrisonburg, VA	
Luxury Budget Inn		485 Elden Street	Herndon, VA 22070–	
Marriott Courtyard		533 Herndon Pkwy	Herndon, VA 22070–	
Residence Inn		315 Elden Street	Herndon, VA 22070–	
Welesley Inn—Herndon		485 Elden Street	Herndon, VA	
Comfort Inn		5380 Oaklawn Blvd	Hopewell, VA 23860–	
Days Inn Motel		4911 Oaklawn Blvd	Hopewell, VA 23860–	

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 10/18/93 UPDATE—Continued

Property name	PO Box/Rt. No.	Street address	City and State/ZIP	Telephone
Evergreen Motel		711 W Randolph Road	Hopewell, VA 23860–	
Innkeeper Motel		3952 Courthouse Road	Hopewell, VA 23860–	
Town & Country Motor Lodge Inc .			Lebanon, VA 24266–	
Virginia Handbooks	PO Box 1527		Leesburg, VA 22075–1527	
Village Motel			Lovingston, VA	
Shenandoah Countryside B & B	RR 2 Box 370		Luray, Va 22835–9313	
Best Western		2815 Candlers Mt. Road	Lynchburg, VA 24502–	
Comfort Inn		Rt 29 & Odd Fellows Road	Lynchburg, VA 24501–	
Days Inn		3320 Chandlers Mt. Road	Lynchburg, Va 24502–	
Econo Lodge		Rt 29S Expressway	Lynchburg, VA 24501–	
Harvey's Motel		2018 Wards Road	Lynchburg, VA 24501–	
Holiday Inn	Rt 29	Old Fellows Road	Lynchburg, Va 24501–	
Radisson Hotel		601 Main Street	Lynchburg, VA 24504–	
Red Carpet Inn		1500 E Main Street	Lynchburg, VA 24504–	
Best Western Manassas		8640 Mathis Avenue	Manassas, VA 22110–	
Days Inn		10653 Balls Ford Road	Manassas, VA 22110–	
Home Style Inn		9913 Cockrell Road	Manassas, VA 22110–	
Shoney's Inn Manassas		8691 Phoenix Drive	Manassas, VA 22110–	
East River Travellers	PO Box 1377		Mathews, VA 23109–	
Best Travel Inn		I–85 Exit 25	Max Meadows, VA 24360–	
Fox Mountain Inn		I–81 Exit 27	Max Meadows, VA 24360–	
Gateway Motel No. 2		I–81 Exit 28	Max Meadows, VA 24360–	
Captains's Quarters Motel			Melfa, VA	
360 Motel		10202 Hull Street Road	Midlothian, VA 23112–	
Paradise Inn	Rt 4 Box 50		Moneta, VA 24121–	
Days Inn			New Market, VA	
Econo Lodge		1111 E. Ocean View Avenue	Norfolk, VA	
Hampton Inn—Airport		1450 N Military Hwy	Norfolk, VA	
Holiday Sands Motel		1330 E Ocean View Avenue	Norfolk, VA 23503–	
Ramada Inn		6360 Newton Road	Norfolk, VA	
Super 8 Motel		7940 Shore Drive	Norfolk, VA	
Travel Lodge		7969 Shore Drive	Norfolk, VA	
Comfort Inn			Onley, VA	
The Owl Motel			Parksley, VA	
Econolodge, West		11974 S Crater Road	Petersburg, VA 23805–	
Rose Garden Inn		16600 Sunnybrook Road	Petersburg, VA 23805–	
Super 8 Motel		Hwy 15	Prince Edward County, VA 23901–.	
Comfort Inn		I–81 Exit 32	Pulaski, VA 24301–	
Super 8 Motel		1600 Tyler Avenue	Radford, VA 24141–	
Sheraton—Reston		11810 Sunrise Valley Drive	Reston, VA	
Airport Inn		5700 Williamsburg Road	Richmond, VA	
Alpine Motel		7009 Brook Road	Richmond, VA	
Best Western Governor's Inn		9848 Midlothian Turnpike	Richmond, VA 23235	
Best Western Va Inn		5700 Chamberlayne Avenue	Richmond, VA	
Cavalier Manor Motel		8827 Brook Road	Richmond, VA	
Comfort Inn Executive		Center—7201 W. Broad	Richmond, VA	
Commonwealth Park		900 Bank Street	Richmond, VA	
Cricket Inn		7300 W Broad Street	Richmond, VA	
Days Inn of America		5500 Williamsburg Road	Richmond, VA	
Econo-Lodge North		5221 Brook Road	Richmond, VA	
Hampton Inn		5300 Airport Square Lane	Richmond, VA	
Holiday Inn Airport		5203 Williamsburg Road	Richmond, VA	
Howard Johnson		801 Parham Road	Richmond, VA	
Imperial 400		5215 W Broad Street	Richmond, VA	
Motel 6, O. L. P		5704 Williamsburg Road	Richmond, VA	
Quality Inn North		Washington Hwy	Richmond, VA	
Regency Suites & Inn		1500 East Ridge Road	Richmond, VA	
Residence Inn		2121 Dickens Road	Richmond, VA	
Richmond Airport Hilton		5501 Eubank Road	Richmond, VA	
Richmond Super 8 Motel		5615 Chamberlayne Road	Richmond, VA	
Richmond Super 8 Motel		5110 Williamsburg Road	Richmond, VA	
Richmond Econo Lodge		8008 W Broad Street	Richmond, VA	
Roslyn Conference		8227 River Road	Richmond, VA	
Sheraton Park South		9901 Midlothian Turnpike	Richmond, VA 23235–	
The Knights Inn		5252 Airport Square Lane	Richmond, VA	
Town Motel #2		5214 Brook Road	Richmond, VA	
Innsitting By Marge		1313 Hillside Avenue	Richmond, VA 23229–5921	
Motels At Massanutten Resort			Rockingham County, VA	
Confort Inn		US 220 Business North Main St.	Rocky Mount, VA 24151–	
Franklin Motel		US 220 North	Rocky Mount, VA 24151–	

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 10/18/93 UPDATE—Continued

Property name	PO Box/Rt. No.	Street address	City and State/ZIP	Telephone
Econo Lodge		20080 Brewers Neck Blvd	Smithfield, VA 23430–	
Smithfield Station		415 South Church Street	Smithfield, VA 23430–	
Anna Point Inn	Rt 1 Box 360 .	Courthouse Road	Spotsylvania, VA	
Astna Motel	Rt 18 Box 199	Jefferson Davis Hwy	Spotsylvania, VA	
Baldwin Motel	Rt 18 Box 182	Jeff Davis Hwy	Spotsylvania, VA	
Days Inn		5316 Jefferson Davis Hwy	Spotsylvania, VA	
Econo Lodge		5321 Jefferson Davis Hwy	Spotsylvania, VA	
Holiday Inn		5324 Jefferson Davis Hwy	Spotsylvania, VA	
Lakewood Motel		5152 Courthouse Road	Spotsylvania, VA	
Royal Inn Motel		5309 Jefferson Davis Hwy	Spotsylvania, VA	
Scottish Inns		5308 Jeff Davis Hwy	Spotsylvania, VA	
Econolodge—Springfield		6868 Springfield Blvd	Springfield, VA	
Holiday Inn—Springfield		6401 Brandon Avenue	Springfield, VA	
Downtown Inn of Staunton		268 North Central Avenue	Staunton, VA 24401	
Super 8 Motel		1015 Richmond Avenue	Staunton, VA 24401	
Hotel Strasburg			Strasburg, VA	
Inn Sights		841 Colonel Meade Drive	Suffolk, VA 23434–7541	
American Efficiency Inns		502 S Pollard Street	Vinton, VA 24179	
Alamar Motel/Apts		311 16th Street	Virginia Beach, VA 23452–2	
Atrium Hotel		315 21st Street	Virginia Beach, VA 23452	
Balboa Motel		2902 Pacific Avenue	Virginia Beach, VA 23452	
Barclay Towers		809 Atlantic Avenue	Virginia Beach, VA 23452	
Beach Carousel Motel		1300 Pacific Avenue	Virginia Beach, VA 23452	
Blue Marlin Lodge		2411 Pacific Avenue	Virginia Beach, VA 23452	
Capes Ocean Resort		2001 Atlantic Avenue	Virginia Beach, VA 23452	
Captain's Quarters		304 28th Street	Virginia Beach, VA 23452	
Carriage Inn Motel		1500 Atlantic Avenue	Virginia Beach, VA 23452	
Castle Motel		2700 Pacific Avenue	Virginia Beach, VA 23452	
Cherry Motel		2903 Arctic Avenue	Virginia Beach, VA 23452	
Clarion Resort Inn		501 Atlantic Avenue	Virginia Beach, VA 23452	
Comfort Inn		804 Lynnhaven Parkway	Virginia Beach, VA 23452	
Comfort Inn		5189 Shore Drive	Virginia Beach, VA 23452	
Coral Sands Motel		207 23rd Street	Virginia Beach, VA 23452	
Cricket Inn		5745 Northampton Blvd	Virginia Beach, VA 23452	
Days Inn		4564 Bonney Road	Virginia Beach, VA 23452	
Dunes Motor Inn		901 Atlantic Avenue	Virginia Beach, VA 23452	
Econo Lodge		3637 Bonney Road	Virginia Beach, VA 23452	
Econo Lodge Motel		5819 Northampton Blvd	Virginia Beach, VA 23452	
Econo Lodge		5713 Shore Drive	Virginia Beach, VA 23452	
El Camino Motel		1808 Diamond Springs Road	Virginia Beach, VA 23452	
Founders Inn-Lodge A		5637 Indian River Road	Virginia Beach, VA 23452	
Founders Inn-Lodge B		5629 Indian River Road	Virginia Beach, VA 23452	
Four Sails Condo Motel		3301 Atlantic Avenue	Virginia Beach, VA 23452	
Hampton Inn		5793 Greenwich Road	Virginia Beach, VA 23452	
Holiday Inn Oceanside		2105 Atlantic Avenue	Virginia Beach, VA 23452	
Holy Kove Motel		395 Norfolk Avenue	Virginia Beach, VA 23452	
Islander Motel		207 29th Street	Virginia Beach, VA 23452	
Lacoquille Motel/Apts		314 16th Street	Virginia Beach, VA 23452	
Mardi Gras Motel		2802 Atlantic Avenue	Virginia Beach, VA 23452	
Newcastle Motel		1202 Atlantic Avenue	Virginia Beach, VA 23452	
Ocean Cove		300 24th Street	Virginia Beach, VA 23452	
Pinehurst Motel		2906 Atlantic Avenue	Virginia Beach, VA 23452	
Plantation Motel		2906 Atlantic Avenue	Virginia Beach, VA 23452	
Quality Inn Pavilion		716 21st Street	Virginia Beach, VA 23452	
Radisson Hotel		1901 Pavilion Drive	Virginia Beach, VA 23452	
Red Roof Inn		196 Ballard Court	Virginia Beach, VA 23452	
Rodeway Inn		2707 Atlantic Avenue	Virginia Beach, VA 23452	
Royal Clipper Motor Lodge		3506 Atlantic Avenue	Virginia Beach, VA 23452	
Sandcastle Oceanfront		1307 Atlantic Avenue	Virginia Beach, VA 23452	
Sea Vacationer Hotel		3309 Atlantic Avenue	Virginia Beach, VA 23452	
Seagull Motel		2613 Atlantic Avenue	Virginia Beach, VA 23451	804–425–5711
Seascape Condominiums		805 Atlantic Avenue	Virginia Beach, VA 23452	
Sir Afton Inn		516 19th Street	Virginia Beach, VA 23452	
Station One Hotel		2321 Atlantic Avenue	Virginia Beach, VA 23452	
Sun Dial Motel/Apts		0308 21st Street	Virginia Beach, VA 23452	
Surfside Inn		1300 Atlantic Avenue	Virginia Beach, VA 23452	
The Sundowner Motel		2701 Pacific Avenue	Virginia Beach, VA	
The Virginian Motel		0310 24th Street	Virginia Beach, VA	
The Beach Cabanna Motel		2301 Atlantic Avenue	Virginia Beach, VA	
Travelodge		4600 Bonney Road	Virginia Beach, VA 23452–	
Triton Towers Motel		2207 Atlantic Avenue	Virginia Beach, VA	

HOTEL AND MOTEL FIRE SAFETY ACT NATIONAL MASTER LIST 10/18/93 UPDATE—Continued

Property name	PO Box/Rt. No.	Street address	City and State/ZIP	Telephone
Viking Motel		2700 Atlantic Avenue	Virginia Beach, VA 23452–	
Virginia Beach Resort and Conference Center.		2800 Shore Drive	Virginia Beach, VA 23452–	
Virginia Beach Omni		4453 Bonney Road	Virginia Beach, VA 23452–	
Wachapreague Hotel			Wachapreague, VA	
The Hampton Inn		501 Blackwell Road	Warrenton, VA 22186–	
Warrenton Comfort Inn	Rt 29		Warrenton, VA 22186–	
Comfort Inn		640 W Broad Street	Waynesboro, VA 22980–	
General Wayne Motor Inn		620 W Main Street	Waynesboro, VA 22980–	
Hiezers Exxon & Cabin Court		1307 W Main Street	Waynesboro, VA 22980–	
Capitol Motel			Williamsburg, VA 23185–	
Colonial Capitol Inn			Williamsburg, VA 23185–	
Comfort Inn		120 Bypass Road	Williamsburg, VA	
Comfort Inn—Pottery		5611 Richmond Road	Williamsburg, VA 23188–	
Commonwealth Inn			Williamsburg, VA 23185–	
Days Inn—Pottery		6488 Richmond Road	Williamsburg, VA 23188–	
Days Inn East		90 Old York Road	Williamsburg, VA	
Hampton Inn		201 Bypass Road	Williamsburg, VA	
John Yancey Motel			Williamsburg, VA 23185–	
Liberty Inn			Williamsburg, VA 23185–	
Motel Six			Williamsburg, VA 23195–	
Patrick Henry Inn			Williamsburg, VA 23185–	
Quality Suites Hotel		152 Kingsgate Parkway	Williamsburg, VA	
Quality Inn at Kingsmill		480 McLaws Circle	Williamsburg, VA 23185–	
Rodeway Inn			Williamsburg, VA 23185–	
Virginia Inn			Williamsburg, VA 23185–	
White Lion Motel			Williamsburg, VA 23185–	
Williamsburg Inn Providence Hall Wing.			Williamsburg, VA 23185–	
Williamsburg Lodge East, South & Tazewell Wgs.			Williamsburg, VA 23185–	
York Street Inn			Williamsburg, VA 23185–	
York Street Hotel Suites			Williamsburg, VA 23185–	
Budgetel		800 Millwood Avenue	Winchester, VA 22601–	
Hamilton			Woodstock, VA	
Best Western		355 Nye Road	Wytheville, VA 24382–	
Comfort Inn		315 Holston Road	Wytheville, VA 24382–	
Days Inn		150 Malin Drive	Wytheville, VA 24382–	
Ho Jo Inn		1950 E Market Street	Wytheville, VA 24382–	
Ramada Inn		955 Peppers Ferry Road	Wytheville, VA 24382–	
Save Inn		2020 E Main Street	Wytheville, VA 24382–	
Comfort Inn	Bypass Road .		Yorktown, VA 23690–	
Days Inn		Old York Road	Yorktown, VA 23690–	
Days Inn		By Pass Road	Yorktown, VA 23690–	
Hampton Inn		Waller Mill Road	Yorktown, VA 23690–	
Holiday Inn Express		By Pass Road	Yorktown, VA 23690–	
Quality Inn		Kings Gate Parkway	Yorktown, VA 23690–	

[FR Doc. 93–26339 Filed 10–25–93; 8:45 am]

BILLING CODE 6718–26–P

FEDERAL MARITIME COMMISSION

Southern and Eastern Africa Conference; Agreements(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, 800 North Capitol Street, NW., 9th Floor. 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.: 202–011259–006.

Title: United States/Southern and Eastern Africa Conference.

Parties: Bank Line East Africa Limited, Empresa de Navegacao Internacional, Lykes Bros. Steamship Co., Inc., Safbank Line, Ltd., Wilhelmsen Lines AS.

Synopsis: The proposed amendment provides that any party who is a member of the Agreement for less than ninety days shall be reimbursed $20,000 of the $35,000 admission fee.

Dated: October 21, 1993.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93–26352 Filed 10–25–93; 8:45 am]

BILLING CODE 6730–01–M

[Petition Nos. P82–93, P83–93, P84–93 and P85–93]

Petition for Temporary Exemption From Electronic Tariff Filing Requirements

Notice is hereby given of the filing of petitions by the above named petitioners, pursuant to 46 CFR 514.8(a), for temporary exemption from electronic tariff filing requirements of the Commission's ATFI System.

To facilitate thorough consideration of the petitions, interested persons are requested to reply to the petition no later than November 2, 1993. Replies shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001, shall consist of an original and 15 copies, and shall be served as follows:

P82–93—Wayne R. Rohde, Esq., Sher & Blackwell, 1255 Twenty-third Street, NW., Suite 500, Washington, DC 20037–1194.

P83–93—Mr. James C. Olsson, President, Pacific Coast Tariff Bureau, 221 Main Street, Suite 530, San Francisco, California 94105–1915.

P84–93—Mr. Robert Hadow, Director, World Tariff Services, Inc., 14 Commerce Drive, Cranford, New Jersey 07016.

P85–93—Ms. Meiko Geyer, Pricing Supervisor, Trans-American Steamship Agency, 140 W. 6th Street, San Pedro, California 90731.

Copies of the petitions are available for examination at the Washington, D.C. office of the Secretary of the Commission, 800 N. Capitol Street, NW., room 1046.

Joseph C. Polking,

Secretary.

[FR Doc. 93–26218 Filed 10–25–93; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Creditanstalt-Bankverein, 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 15, 1993.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. Creditanstalt-Bankverein, Vienna, Austria; to engage *de novo* through its subsidiary, Steinberg Asset Management Company, L.P., New York, New York, in investment advisory activities, pursuant to § 225.25(b)(4) of the Board's Regulation Y.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Keystone Financial, Inc., Harrisburg, Pennsylvania; to engage *de novo* through its subsidiary, Keystone Brokerage, Inc., Williamsport, Pennsylvania, in full service brokerage activities, pursuant to § 225.25(b)(15)(ii) of the Board's Regulation Y.

C. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Star Banc Corporation, Cincinnati, Ohio; to engage *de novo* through its subsidiary, Star Bank, FSB, Lexington, Kentucky, in owning, controlling and operating a federal savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

D. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Alan J. Lewis Financial Services Trust, Road Town, Tortola, British Virgin Islands; to engage *de novo* through its subsidiary, Anglo-American Bancshares Corporation, Baton Rouge, Louisiana, in making, acquiring and servicing loans or other extensions of credit, pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted throughout the United States and the United Kingdom.

2. Barnett Banks, Inc., Jacksonville, Florida; to engage *de novo* through its subsidiaries, Barnett Subsidiary, Jacksonville, Florida, and Main America Capital, L.C., Atlanta, Georgia, in the acquisition, through the lending of money or otherwise, of mortgages and mortgage notes encumbering commercial and multi-family real estate, and such other activities as are incidental to the foregoing, pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted through a joint venture with Mac Partners, Atlanta, Georgia.

E. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Cass Commercial Corporation, St. Louis, Missouri; to engage *de novo* through its subsidiary, Cass Logistics, Inc., Bridgeton, Missouri, in providing data processing and data trasmission services, facilities, data bases, and access thereto, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-26294 Filed 10-25-93; 8:45 am]

BILLING CODE 6210-01-F

Lee D. Cameron, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of

Governors. Comments must be received not later than November 15, 1993.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Lee D. Cameron, Trustee, the Trust of Louise Cameron to retain 50 percent, and the Trust of Robert B. Cameron to retain 50 percent, of the voting shares of First National Agency Company of Deer River, Inc. and thereby indirectly acquire First National Bank of Deer River, all of Deer River, Minnesota.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Aaron S. Kaufman, Richardson, Texas; to acquire an additional 15 percent, for a total of 24.99 percent, of the voting shares of Texas Community Bancshares, Inc., Dallas, Texas, and thereby indirectly acquire First Lakewood National Bank, Dallas, Texas.

Board of Governors of the Federal Reserve System, October 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-26295 Filed 10-25-93; 8:45 am]

BILLING CODE 6210-01-F

Firstbank of Illinois Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for 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 19, 1993.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Firstbank of Illinois Co., Springfield, Illinois; to acquire 100 percent of the voting shares of Colonial Bancshares, Inc., Des Peres, Missouri.

In connection with this application, Applicant also proposes to acquire Guido Insurance Agency, Des Peres, Missouri, and thereby engage in credit-related insurance agency activities, pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-26296 Filed 10-25-93; 8:45 am]

BILLING CODE 6210-01-F

The Magnolia State Corporation, 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 19, 1993.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Magnolia State Corporation, Bay Springs, Mississippi; to acquire Jones County Finance Company, Laurel, Mississippi, and thereby engage in selling as agent credit life, credit accident, and health and property insurance in connection with extensions of credit made, acquired, or serviced by the bank holding company, pursuant to §§ 225.25(b)(8)(i) and (ii) 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. ABN AMRO Bank N.V., Amsterdam, The Netherlands; ABN AMRO Holding N.V., Amsterdam, The Netherlands; Stichting Administratiekantoor ABN AMRO Holding, Amsterdam, The Netherlands; Stichting Prioriteit ABN AMRO Holding, Amsterdam, The Netherlands; and ABN AMRO North America, Inc., Chicago, Illinois, to acquire Cragin Financial Corp., Chicago, Illinois, and thereby engage in operating a thrift, pursuant to § 225.25(b)(9) of the Board's Regulation Y; CAAC, Chicago, Illinois, and thereby engage in the sale of credit life insurance, pursuant to §

225.25(b)(8)(i) of the Board's Regulation Y; CSC, Chicago, Illinois, and thereby engage in the securities brokerage activities and investment advisory services to the general public through a relationship with Laughlin Group Advisors, Inc., Beaverton, Oregon, pursuant to § 225.25(b)(15) of the Board's Regulation Y; and a 5 percent interest in Savings and Loan Network, Inc., Chicago, Illinois, and thereby engage in the development and construction of affordable housing in low- and moderate-income neighborhoods and rehabilitation, marketing and management of low- and moderate-income rental housing, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-26297 Filed 10-25-93; 8:45 am]

BILLING CODE 6210-01-F

Peoples Savings Financial Corporation, 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 19, 1993.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. Peoples Savings Financial Corporation, Ridgway, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Savings Bank, Ridgway, Pennsylvania.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. East Side Financial, Inc., Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of East Side Savings Bank, Chicago, Illinois, formerly known as East Side Savings and Loan Association, Chicago, Illinois.

2. First Park Ridge Corporation, Chicago, Illinois; to acquire 100 percent of the voting shares of Stanford State Bank, Morton Grove, Illinois.

3. Lea County Bancshares, Inc., Hobbs, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of Lea County State Bank, Hobbs, New Mexico.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. First Commercial Corporation, Little Rock, Arkansas; to acquire at least 80 percent of the voting shares of Clinton Bancshares, Inc., Clinton, Arkansas, and thereby indirectly acquire Clinton State Bank, Clinton, Arkansas.

D. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. BNCCORP, Inc., Bismarck, North Dakota; to merge with Farmers and Merchants, Inc., Beach, North Dakota, and thereby indirectly acquire Farmers and Merchants Bank, Beach, North Dakota.

2. Northwest Wisconsin Bancorp, Inc., Chippewa Falls, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of BCB Bancorp, Inc., Chippewa Falls, Wisconsin, and thereby indirectly acquire Bank of Barron, Barron, Wisconsin, and Chetek State Bank, Chetek, Wisconsin.

E. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. Clatonia Bancshares, Inc., Clatonia, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Bank of Clatonia, Clatonia, Nebraska.

F. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Intercontinental Bank Shares Corporation, San Antonio, Texas; to acquire 99 percent of the voting shares of Garden Ridge State Bank, San Antonio, Texas.

Board of Governors of the Federal Reserve System, October 20, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-26298 Filed 10-25-93; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 93F-0358]

Cytec Industries; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cytec Industries has filed a petition proposing that the food additive regulations be amended to provide for the safe use of *meta*-tetramethylxylene diisocyanate for reaction with one or more of the polyols and polyesters listed in the adhesive regulations and with dimethylolpropionic acid and triethylamine, *N*-methyldiethanolamine, 2-dimethylaminoethanol, 2-dimethylamino-2-methyl-1-propanol, and/or 2-amino-2-methyl-1-propanol in the production of polyurethane resins intended for use as components of adhesive formulations used in food packaging applications.

DATES: Written comments on the petitioner's environmental assessment by November 26, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9500.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 3B4401) has been filed by Cytec Industries, c/o Keller and Heckman, 1001 G St., NW., suite 500 West, Washington, DC 20001. The petition proposes that the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of *meta*-tetran:ethylxylene diisocyanate for reaction with one or

more of the polyols and polyesters listed in § 175.105 and with dimethylolpropionic acid and triethylamine, *N*-methyldiethanolamine, 2-dimethylaminoethanol, 2-dimethylamino-2-methyl-1-propanol, and/or 2-amino-2-methyl-1-propanol in the production of polyurethane resins intended for use as components of adhesive formulations used in food packaging applications.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before November 26, 1993, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 14, 1993.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93–26274 Filed 10–25–93; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 93N–0267]

Medical Device Reference List

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its "Medical Device Reference List" (hereinafter referred to as the Reference List) procedures. This document sets forth the circumstances under which manufacturers of medical devices are placed on the Reference List and the effect of such action on the agency's normal scientific review and clearance of premarket notification (510(k)) submissions. It also describes the actions manufacturers must take before the agency will resume processing affected applications and delineates the responsibilities of various FDA offices in this effort.

DATES: The procedures have been in effect since April 1992. Comments may be submitted at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION: Marje Hoban, Office of Compliance (HFZ–331), Center for Devices and Radiological Health, Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4695.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, increased attention has been drawn to the issue of medical device manufacturers seeking FDA clearance to market new products irrespective of their compliance standing with the agency with respect to current good manufacturing practices (CGMP) requirements. In response to this problem, in December 1990, FDA's Center for Devices and Radiological Health (CDRH) increased its commitment to a program linking CGMP inspections with premarket approval decisions. This program entails: (1) Review of a firm's inspectional history and, (2) inspection of the site of manufacture prior to approval of the product for marketing. Under this program, agency field investigators inspect a firm's manufacturing operations and verify CGMP compliance for virtually all original PMA's, as well as for PMA supplements involving manufacturing site changes for which no recent CGMP inspection of a similar manufacturing process has been performed.

The main purpose of these inspections is to ensure, prior to approval, that applicants are in conformance with all production specifications contained in pending PMA's and with applicable CGMP requirements. The program also provides for a subsequent site inspection within 1 year following product marketing to confirm that production plans reviewed at the preapproval inspection stage are being fully and responsibly carried out.

Following the agency's effort to increase its emphasis on the PMA preapproval program, in February 1992, the General Accounting Office submitted a report to the House of Representatives' Subcommittee on Oversight and Investigations. The report, entitled "Medical Technology—Quality Assurance Needs Stronger Management Emphasis and Higher Priority," stated:

> The coordination of GMP inspections with premarket approval is important because, according to the literature on manufacturing reliability, the frequency of design and manufacturing defects is greatest when a product is first manufactured. However, the coordination with premarket approval contrasts with the lack of coordination for devices that reach the market through the 510(k) review. The overwhelming majority of all classes of devices reach the market through the 510(k) or "substantially equivalent" route, which does not require a GMP inspection.
>
> When the Office of Device Evaluation (in the Center for Devices and Radiological Health) completes its review of a 510(k) application with a finding of substantial equivalence, the appropriate district office receives a copy of the letter sent to the manufacturer. However, the letter does not help the district office to identify GMP risks in changing technology and to target inspections accordingly."

(GAO/PEMD–92–10, pg. 32.)

To rectify this situation, in April 1992, CDRH expanded the scope of its CGMP compliance verification program to encompass 510(k) submissions, and PMA supplements not covered by the PMA preapproval inspection program described above. As with the preapproval inspection program for PMA's and PMA supplements involving changes in manufacturing sites, the primary objective of this program is to prevent market clearances of devices manufactured by companies with significantly noncompliant CGMP conditions that might result in unsafe or ineffective devices.

The processes under which a device is manufactured have a significant impact on the safety and effectiveness of the device. Consequently, both a change in manufacturing processes and the violation of CGMP's may have a significant impact on the question of substantial equivalence. A device that is manufactured under processes that constitute significant CGMP violations does not satisfy the criteria for a finding of substantial equivalence under section 513(i) (A) of the Federal Food, Drug, and Cosmetic Act (the act) for two reasons. First, because manufacturing processes affect the technological characteristics of a device, a device manufactured

under violative manufacturing conditions may not have "the same technological characteristics as the predicate device." Second, a device manufactured under violative conditions would "raise different questions of safety and efficacy than the predicate device." The significance of manufacturing processes with respect to the equivalency of a device is reflected in 21 CFR 807.81(a) (3) (i), which requires that a new 510(k) be submitted for changes or modifications in an existing device "that could significantly affect the safety or effectiveness of the device, e.g., a significant change or modification in * * * manufacturing process."

Because of the sheer volume of 510(k) submissions it receives, FDA cannot practically conduct preclearance inspections for all 510(k)'s and, therefore, is pursuing a dual approach. In the case of 510(k)'s for devices claiming substantial equivalence to a class III preamendments device, the agency is following the inspectional history review/site inspection process employed for PMA's. For these 510(k)'s, an inspection of the applicant firm will be conducted unless an inspection has been conducted within 2 years prior to agency action on the pending 510(k) submission. The CGMP program for class III 510(k)'s began on March 9, 1993.

If an inspection has been conducted within that time, and for all other 510(k)'s (approximately 6,500 annually) the agency will utilize the Reference List as a compliance "screen." FDA believes this approach is appropriate because it puts premarket submissions for all class III devices on an equal footing with respect to CGMP compliance verification. This approach is also practical for the agency because of the manageable number of class III 510(k) submissions (approximately 200 annually) received by the agency.

The major source of information for the Reference List is FDA's Compliance Status Information System (COMSTAT), formerly known as the firm profile system. Under COMSTAT, inspectional and compliance status information for every registered device, drug facility, and foreign facility FDA inspects, is compiled and maintained by the Office of Regulatory Affairs in a central database. One of the purposes of this database is to assure that FDA administrative approvals for medical devices and drugs are not granted to companies that are in serious violation of FDA statutes or regulations. Device companies in the COMSTAT database that have serious CGMP violations are used to make up the Reference List. These companies account for more than 95 percent of the companies on the Reference List. The remaining companies on the Reference List are companies that have been entered into the COMSTAT database for other regulatory violations.

A device manufacturer is placed on the Reference List whenever the most recent FDA inspection reveals violative conditions that are classified as "Official Action Indicated" (OAI) or "Voluntary Action Indicated–3" (VAI–3) accompanied by the issuance of a warning letter. Thus, a medical device company knows it is on the Reference List if it has received a warning letter from the agency citing CGMP deficiencies.

The Reference List process has two significant steps. The first step is simply to determine, prior to giving marketing clearance to a 510(k) submission, whether the applicant is identified on the Reference List. If the applicant is not on the Reference List, the process is complete and 510(k) clearance may be given. In these cases, the initial "screen" will have served its purpose.

If one of the manufacturing sites identified in the application is on the Reference List, this triggers a further check. In that case, CDRH contacts the appropriate district office as to the nature and status of the violation(s) and their relevance to the pending 510(k). Thus, clearance of a 510(k) will not be held up solely because a firm is included on the Reference List. Rather, CDRH will postpone clearance of a 510(k) only when the FDA district office has confirmed that: (1) The site conditions leading to an OAI or VAI–3 with warning letter classification were the result of CGMP noncompliance and the violative conditions have not been corrected; and (2) the deficiencies are relevant to the application pending before the agency. Under these circumstances, the agency will notify the applicant in writing of its decision to postpone final processing of the 510(k) submission and will inform the firm of the steps necessary to permit resumption of the final clearance process.

When a company's CGMP violations are corrected and the agency documents such corrections through an inspection, the applicant company will be removed from the Reference List. In some circumstances, a written reply may satisfactorily resolve the CGMP problem(s), obviating the need for a reinspection. FDA field offices are required to promptly update the COMSTAT database.

Since the Reference List has been in operation, and through August 1993, more than 640 510(k)'s have undergone the full gamut of CGMP compliance review—from initial "screening" of the Reference List by FDA headquarters personnel to verification by agency field investigators—resulting in the postponement of 179 submissions due to CGMP problems. During that same time period, the agency granted marketing clearance for more than 5,300 510(k) submissions.

Publication of this notice is in keeping with the spirit of openness in Government. It also responds to concerns raised over the past year by representatives of the medical device industry and others regarding the need for universal access to information concerning FDA's increased enforcement of Federal medical device statutes and applicable regulations.

II. Reference List

The Reference List procedure applies to all generic types of devices manufactured by domestic and foreign firms. At the discretion of the directors of CDRH's Office of Device Evaluation (ODE) and Office of Compliance (OC), selected class I devices may be exempt from coverage under this program due to their low risk potential. "Special" PMA supplements (as defined in 21 CFR 814.39(d)) will not be subject to this process.

III. Terminology

The terms "applicant" and "application" are used broadly. References to the "applicant" include any person within the meaning of section 201(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(e)), who submits to FDA data or other information to influence or support an agency decision regarding clearance to market a medical device. References to "application" include any premarket notification submission, PMA, or supplement to a PMA.

IV. Implementation

Three FDA offices are responsible for the coordination and implementation of this procedure: ODE, OC, and FDA's Office of Regulatory Affairs (ORA), as part of the Office of the Commissioner with its network of headquarters and district offices located throughout the United States, and its responsibility for management and operation of the COMSTAT system. Under the terms of an internal working agreement ratified by these three offices referenced above and the Office of General Counsel, the following responsibilities have been assigned to each of these organizations.

A. Office of Device Evaluation, Center for Devices and Radiological Health

1. Prior to final market clearance, ODE will identify any 510(k) submission or PMA supplement (not covered by the PMA preapproval inspection program) for any applicant on the Reference List and send the file for such application to the OC. Inquiries regarding the need to file a 510(k) for certain changes or "add-to" 510(k) will not be referred to OC.

2. ODE will not find any 510(k) submission substantially equivalent, nor approve any PMA supplement, for a firm on the Reference List until notified in writing by OC that the 510(k) or PMA supplement applicant and device manufacturer (if different) and/or contract sterilizer are in compliance with the CGMP regulation.

3. In appropriate cases, ODE will issue a letter to the applicant (with a copy to OC and the appropriate district office) notifying the applicant that agency processing of its 510(k) submission or PMA supplement is being postponed until corrections of outstanding CGMP problems are made, whether at the applicant's own site of manufacture or at contract manufacturing/sterilizing sites. In this letter, ODE will instruct the firm to contact the district office to ascertain what corrective action steps are necessary to overcome the firm's CGMP deficiencies and thus avoid further postponement by CDRH in the processing of the application.

B. Office of Compliance, Center for Devices and Radiological Health

1. OC will maintain the Reference List, with supporting data obtained from the agency's COMSTAT and from compliance status information gathered from FDA's field operations offices. The Reference List will be updated regularly and supplied daily to ODE.

2. Upon receipt of a 510(k) submission file or a PMA supplement file from ODE, if necessary, OC will contact the applicant to identify the manufacturing/sterilizing site(s) of the subject device. At the same time, OC staff will inquire whether the device is to be marketed as sterile; if it is, the location(s) of the sterilizer(s) must be made known, if different from the manufacturing site(s).

3. OC will contact the district office(s) to determine the current state of CGMP compliance of the product manufacturing and/or sterilization site(s).

4. Depending upon the response from the district office, OC will recommend to ODE that the processing of the 510(k) or PMA "proceed" or be "postponed." OC will recommend postponement when the district office informs it that the device manufacturer or sterilizer is in a VAI–3 with warning letter or OAI state of CGMP compliance, and that the noncompliant state is relevant to the manufacture of the subject device. OC will notify ODE in writing of its recommendation upon receipt of the 510(k) or PMA supplement referral from ODE. When postponement is recommended, OC will simultaneously notify the district office of its recommendation to ODE.

5. When normal processing of a 510(k) submission or PMA supplement is postponed, and the manufacturer subsequently corrects the noncompliant CGMP conditions that resulted in the postponement, OC will notify ODE in writing that processing of the 510(k) submission or PMA supplement may be resumed.

C. Office of Regulatory Affairs—District Office In Which the Manufacturer Is Located

1. When a district office receives from OC/CDRH an inquiry concerning the current CGMP status of a device manufacturer with a 510(k) submission or PMA supplement pending before the agency, district officials will respond by facsimile, as to whether the firm has known serious CGMP deficiencies with respect to the device.

2. When serious CGMP deficiencies are found, the district office will also be responsible for notifying OC/CDRH, by facsimile, when a firm has satisfactorily corrected the noncompliant CGMP conditions that initially resulted in the postponement of FDA review of the applicant's 510(k) submission or PMA supplement. Communication will be by facsimile in order that final marketing clearances can be expedited to the maximum extent possible. The district office will also simultaneously update FDA's COMSTAT system to reflect the change in the facility's compliance status to "acceptable."

The procedures described above occur near the end of the normal product review cycle. This is to ensure that a firm is in CGMP compliance at or near the time of an agency decision to grant marketing clearance. Compliance verification by FDA field offices, if necessary, ordinarily has minimal impact on the overall review time.

The exception to this sequence of actions is 510(k) submissions for devices claiming equivalence to class III preamendments devices. Because of the relatively small number of such submissions, and the comparatively larger investment of agency review time due, in general, to product complexity and the frequent necessity for supporting clinical data, for these 510(k)'s, verification of the regulatory compliance status of the applicant firm is made prior to commencement of agency review. This is accomplished either by a preclearance site inspection or a Reference List check as described previously in this notice.

In an effort to further economize and make more efficient use of device evaluation resources, CDRH is presently considering possible mechanisms to employ the Reference List earlier in the review process. Having knowledge about a firm's CGMP compliance status at an earlier stage in the review cycle will allow for more efficient use of resources by permitting allocation of review time to applications from manufacturers in full compliance with CGMP rules.

By these actions, the agency expects to satisfy the dual objectives of protecting consumers from potentially unsafe or ineffective medical devices before they are introduced into commerce, while, at the same time, minimizing unnecessary delays in the approval of important new medical technologies. In addition, these actions have a beneficial effect on the efficiency and productivity of CDRH premarket reviews of medical devices.

V. Public Disclosure of Reference List Entries

In recent years, FDA-regulated industries have questioned the agency's use of mechanisms to verify regulatory compliance as a condition to marketing approval. The industries have expressed concern about the potential for misuse and abuse of such mechanisms, in part because of the prohibition against public disclosure of the identity of firms placed on compliance monitoring "lists" such as the Reference List described in this notice.

The prohibition against public disclosure applies to the Reference List. The Reference List as a predecisional document that contains advisory information that is neither adopted nor incorporated into a final decisional document. The Reference List is intended to provide current information that may be relevant to decisions about clearance or disapproval of industry submissions in the medical device review process. Public disclosure of the list could interfere with the agency's ability to evaluate preliminary recommendations and interfere with the deliberative process. In addition, because the Reference List is a compilation of recommendations for regulatory action in response to inspections made to enforce the act, the

Reference List also constitutes a record compiled for law enforcement purposes, the disclosure of which could reasonably be expected to interfere with enforcement proceedings.

Therefore, the Reference List is exempt from public disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552(b)(5) and (b)(7)(A)) as both an intra-agency memorandum and as a law enforcement record. The Department of Health and Human Services' regulations implementing the FOIA, (45 CFR 5.66(a) and 5.68(a)) and applicable FDA regulations, (21 CFR 20.62 and 20.64(a)(1)), provide for exemptions from public disclosure for intra-agency memoranda and records compiled for law enforcement purposes.

The Reference List is intended for internal use only, as described above. It is not intended as a means of communicating FDA's concerns about a particular firm's compliance with CGMP's. Instead, that information will be communicated directly to the firm, as it always has been, through such vehicles as establishment inspection reports and warning letters. Similarly, at any time OC forwards a "postponement" recommendation to ODE, ODE will notify the applicant that a final marketing clearance decision regarding a pending 510(k) or PMA is being withheld until corrections of the CGMP violations have been made. ODE will also advise the applicant to contact the district office to determine what specific remedial actions are necessary for the firm to be in full compliance with the law and thereby avoid further postponement of decisions on pending 510(k)'s or PMA's. The agency believes that taking these actions fulfills all "due process" requirements.

Interested persons may, at any time, submit to the Docket Management Branch (address above) written comments on these procedures. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Comments will be considered in determining whether to revise these procedures.

Dated: October 20, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93–26212 Filed 10–25–93; 8:45 am]

BILLING CODE 4160–01–F

National Institutes of Health

Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20882, telephone 301–594–7265, will furnish summaries of the meeting and roster of panel members.

Meeting to Review Individual Small Business Innovation Research Program Applications

Scientific Review Administrator: Dr. Keith Murray (301) 594–7145

Date of Meeting: November 12–13, 1993

Place of Meeting: Holiday Inn Chevy Chase, MD

Time of Meeting: 9 a.m.

Meeting to Review Individual Grant Applications

Scientific Review Administrator: Dr. Carol Campbell (301) 594–7165

Date of Meeting: November 16, 1993

Place of Meeting: Westwood Bldg., room 306B, NIH, Bethesda, MD (Telephone Conference)

Time of Meeting: 11 a.m.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–396, 93.837–844, 93.846–878, 93.892–893, National Institutes of Health, HHS)

Dated: October 20, 1993

Susan K. Fieldman,

Committee Management Office, NIH.

[FR Doc. 93–26214 Filed 10–25–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Center for Health Statistics; The ICD–9–CM Coordination and Maintenance Committee Meeting

AGENCY: National Center for Health Statistics, DHHS.

ACTION: Notice of meeting.

SUMMARY: The ICD–9–CM Coordination and Maintenance Committee (C&M) will be holding its third meeting of the year on December 2, 1993. The C&M is a public forum for the presentation of proposed modifications to the International Classification of Diseases, ninth-revision, clinical modification.

DATES: The meeting will be held on December 2, 1993 from 9:00 a.m.–5:00 p.m.

ADDRESSES: The Hubert H. Humphrey building, rm. 703A, 200 Independence Ave., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Amy Blum, 301–436–4216.

SUPPLEMENTARY INFORMATION: Tentative agenda—Bilateral neoplasms, Obstetrical fifth-digits, Rehabilitation codes, Vitiligo, Toxic effect of second-hand smoke, Chiari malformations, Prophylactic organ removal, Stem-cell transplant, 14C-urea breath teat, Coronary atherectomy, Progesterone-hormone versus steroid, Continuous mechanical ventilation, Addenda.

Sue Meads,

Co-chair, ICD–9–CM Coordination and Maintenance Committee.

[FR Doc. 93–26272 Filed 10–25–93; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–5440–10–ZBBB, CACA–30070, CACA–25594, CACA–31926]

Availability of the Record of Decision for the Eagle Mountain Landfill Project

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with section 202 of the National Environmental Policy Act of 1969 (42 U.S.C. 4371 *et seq.*) and in compliance with the regulations contained in 40 CFR part 1505, the Bureau of Land Management (BLM), California Desert District, has completed its environmental review of the above referenced project and has issued a Record of Decision (ROD). This ROD approves a land exchange with Kaiser Eagle Mountain, Inc. and the

issuance of two right-of-way grants, one to Kaiser and one to both Kaiser and the Metropolitan Water District for joint use, for the Eagle Mountain Landfill Project, a Class III nonhazardous regional solid waste landfill located in Riverside County, California.

ADDRESSES: Copies of the ROD may be requested, in writing, from: Area Manager, Palm Springs-South Coast Resource Area, 63–500 Garnet Ave., P.O. Box 2000, North Palm Springs, CA 92258–2000.

SUPPLEMENTARY INFORMATION: The Eagle Mountain Landfill Project was analyzed in a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) in compliance with the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA). The Bureau of Land Management served as the Federal lead agency for NEPA compliance and Riverside County served as the State lead agency for CEQA compliance. The BLM's decision to approve the land exchange and issue the right-of-way grants is conditioned on the implementation of the Reduced Landfill Operations alternative and all of the mitigation and monitoring requirements identified in the ROD. The factors considered by the District Manager in arriving at his decision are discussed in the ROD.

Dated: October 20, 1993.

Henri R. Bisson,

District Manager.

[FR Doc. 93–26354 Filed 10–25–93; 8:45 am]

BILLING CODE 4310–40–M

[WY–060–04–4120–03; WYW124783]

Coal—Eagle Butte Maintenance Tract, WY

AGENCY: BLM, Interior.

ACTION: Notice of Public Hearing, Eagle Butte Maintenance Tract.

SUMMARY: This Notice announces the scheduled date and place for a public hearing pursuant to 43 CFR 3425.4 to receive comments on the draft environmental assessment (EA) and the proposed sale, as well as comments on the fair market value (FMV) and maximum economic recovery (MER) of the Federal coal resources affected by the proposed coal lease application filed by AMAX Land Company (formerly Meadowlark Farms, Inc.).

DATES: The public hearing will be held on Wednesday, December 8, 1993, 7 p.m., at the Holiday Inn, 2009 South Douglas Highway, Gillette, WY. The EA will be released to the public in early November 1993. The public comment period will end on December 30, 1993.

ADDRESSES: Comments, concerns, and requests for copies of the EA should be addressed to the Casper District Office, BLM, Attn: Nancy Doelger, 1701 East "E" Street, Casper, WY 82601.

FOR FURTHER INFORMATION CONTACT: Nancy Doelger or Mike Karbs, (307) 261–7600, or contact the address listed above.

SUPPLEMENTARY INFORMATION: AMAX Land Company has filed a coal lease application with the BLM pursuant to provisions of 43 CFR 3425.1 as a lease by application (LBA) for the following land located in Campbell County, Wyoming:

T. 51 N., R. 72 W., 6th P.M., Wyoming
Sec. 33: Lots 1–3 (All), Lots 6–10 (All), E½ of Lot 11, E½ of Lot 14, Lots 15–16 (All);
Sec. 34: Lots 3–6 (All), Lots 9–16 (All)

Total applied for: 914.535 acres more or less, containing estimated in-place coal reserves of 158,631,112 million tons.

To prevent a potential coal bypass situation in the future, the BLM is considering adding additional land to the tract. The legal description of the land in Campbell County, Wyoming, proposed for addition to the Eagle Butte LBA tract by the BLM is as follows:

T. 51 N., R. 72 W., 6th P.M., Wyoming
Sec. 28: W½ of Lot 13;
Sec. 33: Lot 4, E½ of Lot 5, W½ of Lot 11, E½ of Lot 12, and W½ of Lot 14.

Total proposed to be added by BLM: 144.645 acres more or less.

The addition to the above land would bring the total acreage in the tract to: 1,059.175 acres more or less, containing estimated in-place reserves of 182,859,470 million tons.

The lease application area is contiguous with the Eagle Butte Mine, operated by AMAX Coal West, Inc. AMAX proposes to lease the proposed Eagle Butte tract as a maintenance tract for the Eagle Butte Mine. Written comments will be accepted from the date of publication of this Notice in the **Federal Register** through December 30, 1993. Comments may be submitted in writing or expressed verbally at the hearing.

Lynn E. Rust,

Chief, Branch of Mining Law & Solid Minerals.

[FR Doc. 93–26255 Filed 10–25–93; 8:45 am]

BILLING CODE 4310–22–M

National Park Service

Public Notice—Chesapeake and Ohio Canal National Historical Park

Notice is hereby given that 60 days after this date, the Superintendent of C&O Canal National Historical Park proposes to negotiate a concession permit with Frederick O. Swain and Beverly A. Swain, d.b.a. Swain's Lock, authorizing them to continue to provide bicycle, canoe and boat rental, merchandise sales for visitor convenience (soft drinks, packaged candy and ice cream, bait, minor fishing tackle), and services incident to the operation for the public at the Park for four (4) years pursuant to the Concessions Policy Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20). Frederick O. Swain and Beverly A. Swain, d.b.a. Swain's Lock, have performed satisfactorily under their permit which expires December 31, 1993, and are entitled to a preference in removal of this authorization as further described in 36 CFR part 51.

The proposed permit has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

Additional information is available from the Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland, 21782, (301) 739–4200.

Dated: October 19, 1993.

Chrysandra L. Walter,

Regional Director, National Capital Region.

[FR Doc. 93–26261 Filed 10–25–93; 8:45 am]

BILLING CODE 4310–70–M

Statue of Liberty National Monument, Ellis Island, New York, NY

Draft Environmental Impact Statement—Bridge to Ellis Island and Other Access Alternatives

Notice of Public Information Meetings and Availability of Progress Report

Congress appropriated $15 million in the Congressional Appropriations Act for 1992 to develop a permanent bridge to Ellis Island from Liberty State Park in Jersey City, New Jersey. Ellis Island is one of two islands comprising the Statute of Liberty National Monument, New York, which is managed by the National Park Service (NPS). Visitors currently access Ellis Island and Liberty Island by means of ferry service from both New York and New Jersey; a temporary construction bridge is in place from Liberty State Park to Ellis Island for use by contractors, emergency vehicles and some staff.

Because construction of a permanent bridge is considered a major federal action, an Environmental Impact Statement (EIS) on the proposed action and feasible alternatives is to be

prepared in accordance with the National Environmental Policy Act of 1969 (NEPA). The NPS held two public meetings (July 21 and July 30, 1992) to invite oral comments on potential impacts, issues and alternative actions that should be analyzed in the EIS; written comments were received through September 1, 1992.

In May 1993, the NPS retained an independent consultant to assist the NPS in developing the scope of work, including the alternatives, to be analyzed in the EIS. The scope of the EIS takes into consideration the comments received at the July 1992 public meetings, as well as during the written comment period. Available data has also been reviewed and discussions have been held with federal, New York and New Jersey regulatory and policy agencies and organizations whose interests and responsibilities bear on the environmental, social, historic/cultural and economic analyses of the EIS.

Preparation of the draft EIS is now expected to begin in December 1993. After initial evaluation, the following alternatives are considered to be feasible and will be given detailed analysis in the EIS: the No Action and No Build Alternatives, and the following Build Alternatives: upgrade the existing temporary construction bridge; build a new bridge on three different possible alignments; build a tunnel; or build elevated transit, such as a monorail.

The NPS has prepared an illustrated progress report—"Ellis Island Bridge and Access Alternatives"—that explains the EIS process and graphically illustrates and describes the alternatives to be studied in the EIS. A free copy of the Progress Report can be obtained by calling or writing to Richard Wells, Project Director, Ellis Island Project Office, 52 Vanderbilt Avenue, New York, New York, 10017 or call (212) 883–1986.

Two additional public information meetings have been scheduled as described below. The proposed project, its alternatives, and EIS process and work schedule will be explained at these meetings. Copies of the report will also be available at two public information meetings which will be held as follows:

Monday, November 15, 1993 at 6:30 p.m. at Federal Hall National Monument, 26 Wall Street, New York, New York (in the Rotunda; use main entrance)

Tuesday, November 16, 1993 at 6:30 p.m. at Liberty State Park Interpretive Center, Freedom Way, Jersey City, New Jersey (off New Jersey Turnpike, Exit 14B).

Further questions and comments from the public are invited. Written comments and suggestions received by December 31, 1993 will be considered as the EIS is being prepared. Comments may be sent to Superintendent, Statue of Liberty National Monument, Ellis Island, New York 10004. The responsible official for the EIS is Marie Rust, Director, North Atlantic Region, National Park Service.

Dated: October 18, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 93–26259 Filed 10–25–93; 8:45 am]

BILLING CODE 4310–70–M

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 Oct. 16, 1993. Pursuant to section 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 November 10, 1993.

Carol D. Shull,

Chief of Registration, National Register.

ARKANSAS

Benton County

Bentonville Third Street Historic District (Benton County MPS), Roughly, 3rd St. SE. from Main St. to C St. SE., Bentonville, 93001202

Jefferson County

Nichol House (Thompson, Charles L., Design Collection TR), 205 Park Pl., Pine Bluff, 93001201

Randolph County

Old Union School, 504 Old Union Rd., Birdell vicinity, 93001203

FLORIDA

Martin County

Lyric Theatre, 59 SW. Flagler Ave., Stuart, 93001204

ILLINOIS

Fulton County

Dilworth, Robert, House, 606 E. Fifth St., Vermont, 93001236

Duvall—Ash Farmstead, Off IL 9, 1 mi. E and 1.2 mi. N of jct. with IL 97, Fiatt vicinity, 93001237

Kendall County

Chicago, Burlington & Quincy Railroad Depot, 101 W. Main St., Plano, 93001238

Plano Hotel, 120 W. Main St., Plano, 93001239

Lake County

Lamont, Robert P., House, 810 S. Ridge Rd., Lake Forest, 93001240

MINNESOTA

Hennepin County

Station 28 Minneapolis Fire Department, 2724 W. 43rd St., Minneapolis, 93001235

Stearns County

Church of St. Boniface, 203 S. 5th Ave. East, Melrose, 93001234

NEW MEXICO

Bernalillo County

Aztec Auto Court (Route 66 Through New Mexico MPS), 3821 Central Ave. NE., Albuquerque, 93001217

Cottage Bakery (Route 66 Through New Mexico MPS), 2000 Central Ave. SE., Albuquerque, 93001218

El Vado Auto Court (Route 66 Through New Mexico MPS), 2500 Central Ave. SW., Albuquerque, 93001214

Jones Motor Company (Route 66 Through New Mexico MPS), 3226 Central Ave. SE., Albuquerque, 93001219

La Mesa Motel (Route 66 Through New Mexico MPS), 7407 Central Ave. NE., Albuquerque, 93001220

Maisel's Indian Trading Post (Route 66 Through New Mexico MPS), 510 Central Ave. SW., Albuquerque, 93001215

Modern Auto Court (Route 66 Through New Mexico MPS), 3712 Central Ave. SE., Albuquerque, 93001221

Pig 'n Calf Lunch (Route 66 Through New Mexico MPS), 2106 Central Ave. SE., Albuquerque, 93001222

Tower Courts (Route 66 Through New Mexico MPS), 2210 Central Ave. SW., Albuquerque, 93001216

Guadalupe County

Abandoned Route 66—Cuervo to NM 156 (Route 66 Through New Mexico MPS), Cuervo SW to jct. with NM 156, Cuervo vicinity, 93001206

McKinley County

Herman's Roy T., Garage and Service Station (Route 66 Through New Mexico MPS), NM 122, 150 yds. W of I–40 exit, Thoreau, 93001212

Log Cabin Motel (Route 66 Through New Mexico MPS), 1010 W. 66 Ave., Gallup, 93001213

State Maintained Route 66—Manuelito to the Arizona Border (Route 66 Through New Mexico MPS), W side of the Manuelito grade separation SW to AZ border, Mentmore vicinity, 93001209

Quay County

Blue Swallow Motel (Route 66 Through New Mexico MPS), 815 E. Tucumcari Blvd., Tucumcari, 93001210

Locally Maintained Route 66—Glenrio to San Jon (Route 66 Through New Mexico MPS), Texas border W to San Jon, San Jon vicinity, 93001207

State Maintained Route 66—Palomas to Montoya (Route 66 Through New Mexico

MPS), State frontage rd. from SE of Palomas W to Montoya, Montoya vicinity, 93001208

Torrance County

Evans, Greene, Garage (Route 66 Through New Mexico MPS), Jct. of Broadway and Rt. 66, NW corner, Moriarty, 93001211

NEW YORK

Greene County

All Souls Church, Rt. 23–C N of Tannersville, Tannersville vicinity, 93001223

Botsford, Henry T., House, NY 81 W of jct. with NY 32, Greenville, 93001224

Monroe County

Honeoye Falls Village Historic District, Roughly, jct. of Main, Monroe and Ontario Sts. and adjacent areas, Honeoye Falls, 93001225

Sullivan County

Riverside Cemetery (Upper Delaware Valley, New York and Pennsylvania, MPS), NY 97 SE of jct. with Church St., Long Eddy vicinity, 93001226

PUERTO RICO

Vieques Municipality

Case Delerme—Anduze No. 2, 355 Antonio Mellado St., Isabel Segunda, 93301205

WEST VIRGINIA

Greenbrier County

Alderson Historic District, Roughly, along Monroe St., Riverview Dr., Railroad Ave. and adjacent streets, Alderson, 93001231

Hampshire County

Capon Springs, Address Restricted, Capon Springs, 93001228

Hancock County

Marland Heights Park and Margaret Manson Weir Memorial Pool, Jct. of Williams Dr. and Riverview Dr., Weirton, 93001230

Harrison County

Glen Elk Historic District, Roughly bounded by Elk Cr. and the Baltimore & Ohio RR tracks, Clarksburg, 93001232

Monongalia County

Ford House, 310 Ford St., Morgantown, 93001227

Ohio County

Russell, Charles W., House, 75 Twelfth St., Wheeling, 93001229

Wyoming County

Mullens Historic District, Roughly bounded by Lusk and Highland Aves., the Norfolk & Southern RR tracks and Water St., Mullens, 93001233

[FR Doc. 93–26260 Filed 10–25–93; 8:45 am]

BILLING CODE 4310–70–M

Maine Acadian Culture Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (PL 92–463) that the Maine Acadian Culture Preservation Commission will meet on Wednesday, November 17, 1993, at 7:30 p.m. in the Gymnasium of the Dr. Levesque Elementary School, Frenchville, Arrostook County, Maine. Prior to the meeting the Frenchville Historical Society will present a history of the St. Luce Church in the St. Luce Church located in front of the Dr. Levesque Elementary School on U.S. Route 1 in Frenchville.

The Commission was appointed pursuant to the Maine Acadian Culture Preservation Act (PL 101–543) to advise the Secretary of the Interior with respect to:

- The development and implementation of an interpretive program of Acadian culture in the state of Maine; and
- The selection of sites for interpretation and preservation by means of cooperative agreements.

The Agenda for this meeting is as follows:

1. Review and approval of the summary report of the meeting held September 21, 1993.
2. Reports of the following Maine Acadian Culture Preservation Commission working groups: Cooperations and Public Involvement.
3. Report of the National Park Service planning team.
4. Opportunity for public comment.
5. Proposed agenda, place, and date of the next Commission meeting.

The meeting is open to the public. Interested persons may make oral/written preservation to the Commission or file written statements. Such requests should be made at least seven days prior to the meeting to: Superintendent, Acadian National Park, P.O. Box 177, Bar Harbor, Maine 04609 or call (207) 288–5472.

Dated: October 18, 1993.

John C. Reed,

Acting Regional Director.

[FR Doc. 93–26258se e6355 Filed 10–25–93; 8:45 am]

BILLING CODE 4310–70–M

Committee for the Preservation of the White House; Meeting

In compliance with the Federal Advisory Committee Act, notice is hereby given of a meeting of the Committee for the Preservation of the White House. The meeting will be held at the Old Executive Office Building, Washington, DC, at 1 p.m., Monday, November 8, 1993. It is expected that the agenda will include policies, goals and long range plans. The meeting will be open, but subject to appointment and security clearance requirements, including clearance information by November 1, 1993.

Inquiries may be made by calling the Committee for the Preservation of the White House between 9 a.m. and 4 p.m., weekdays at (202) 619–6344. Written comments may be sent to the Executive Secretary, Committee for the Preservation of the White House, 1100 Ohio Drive, SW., Washington, DC 20242.

Dated: October 21, 1993.

James I. McDaniel,

Executive Secretary, Committee for the Preservation of the White House.

[FR Doc. 93–26355 Filed 10–25–93; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32357]

Georgia Northeastern Railroad Company, Inc.—Lease And Operation Exemption—CSX Transportation, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the prior approval requirements of 49 U.S.C. 11343 the lease and operation by Georgia Northeastern Railroad Company, Inc. (GNRR), of about 6,600 feet of track in Elizabeth, GA, owned by CSX Transportation, Inc. (CSXT). The exemption is subject to standard employee protective conditions.

DATES: This exemption will be effective November 25, 1993. Petitions for stay must be filed by November 10, 1993. Petitions to reopen must be filed by November 22, 1993.

ADDRESSES: Send pleadings referring to Finance Docket No. 32357 to (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; (2) Kevin R. Armbruster, Georgia Northeastern Railroad Company, Inc., 2323 Peachtree Center Cain Tower, 229 Peachtree St., NE, Atlanta, GA 30303; and (3) C. M. Rosenberger, CSX Transportation, Inc., 500 Water St. J150, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 927–5610 [TDD for hearing impaired: (202) 927–5721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call,

or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: October 19, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioner Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–26299 Filed 10–25–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice hereby is given that a consent decree in *United States* v. *Hobucken Gun Club, Inc. and Hale & McCotter, Inc.*, No. 92–96–CIV–4–H, was lodged with the United States District Court for the Eastern District of North Carolina on October 8, 1993.

The proposed consent decree concerns alleged violations of sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311, 1344, as a result of unpermitted discharges of fill material onto portions of property located in Pamlico County, North Carolina, that constitute "waters of the United States." The consent decree encompasses permanent injunctions and requires defendants to perform full restoration of the violated forty acres of wetlands and to pay a civil penalty of $2,500 to the U.S. Treasury.

The Department of Justice will receive written comments relating to this consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: David M. Thompson, Attorney, Environmental Defense Section, Environment and Natural Resources Division, U.S. Department of Justice, room 7120, 10th & Pennsylvania, Washington, DC 20530 and should refer to *United States* v. *Hobucken Gun Club, Inc. and Hale & McCotter, Inc.*, DJ Reference No. 90–5–1–4–300.

The consent decree and accompanying exhibit may be examined at the Clerk's Office, United States District Court for the Eastern District of North Carolina, Post Office & Federal Building, Middle Street, New Bern, North Carolina 28560, or a copy may be requested from David M. Thompson, (202) 514–2617.

Lois J. Schiffer,

Acting Assistant Attorney General, Environment & Natural Resources Division.

[FR Doc. 93–26205 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree; United States v. Oak Grove Sanitary Landfill Trust, et al.

Notice is hereby given that a Consent Decree in *United States* versus *Oak Grove Sanitary Landfill Trust, et al.*, Civil Action No. 4:92–CV–985, was lodged with the United States District Court for the District of Minnesota on September 29, 1993. This action was brought under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and liability Act of 1980, as amended, ("CERCLA"), 42 U.S.C. 9606 and 9607, with respect to the Oak Grove Sanitary Landfill Superfund Site (the "Site") located in Oak Grove Township, Anoka County, Minnesota. The Consent Decree provides that the settling defendants will implement the remedial action at the Site selected by the United States Environmental Protection Agency in two Records of Decision dated September 30, 1988 and December 21, 1990. The remedial action, which is estimated to cost $5 million, includes the construction and maintenance of a suitable cap covering the landfill and the long term monitoring of groundwater. The Consent Decree also provides that the settling defendants will pay the united States approximately $2 million in reimbursement of costs incurred to date in connection with the Site, and that the settling defendants will reimburse the United States for future costs associated with the Site.

For thirty (30) days from the date of publication of this notice, the Department of Justice will receive written comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* versus *Oak Grove Sanitary Landfill Trust, et al.*, D.O.J. Ref. No. 90–11–2–280A.

The Consent Decree may be examined at the Office of the United States Attorney, District of Minnesota, 110 South 4th Street, Minneapolis, Minnesota 55401 and at the Region 5 office of the U.S. Environmental Protection Agency, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

A copy of the Consent Decree also may be examined at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 2005, telephone number (202) 624–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library. The proposed Consent Decree package consists of an 84 page Consent Decree and 491 pages of appendices and exhibits. A request for a copy of the proposed Consent Decree should be accompanied by a check in the amount of $21.00 (25 cents per page reproduction charge) for the Consent Decree only, or $123.00 for the whole package, payable to "Consent Decree Library."

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–26291 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")

In accordance with Departmental policy, 28 CFR 50.7, and section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("CERCLA"), 42 U.S.C. 9622, notice is hereby given that a proposed consent decree in *United States* v. *Phillipp Brothers, Inc. and Federal-Hoffman, Inc.*, Civil No. *93–717–WDS*, was lodged on October 14, 1993, with the United States District Court for the Southern District of Illinois.

The Consent Decree requires the defendants to pay to the Hazardous Substances Superfund the sum of $1 million, plus interest accruing from June 14, 1993, in resolution of civil claims under sections 106 and 107 of CERCLA, 42 U.S.C. 9606 and 9607, relating to the NL Industries/Taracorp Superfund Site in Granite City, Illinois.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC, 20530, and should refer to *United States* v. *Philipp Brother, Inc. and Federal-Hoffman, Inc.* (S.D. Ill.) and DOJ Ref. No. 90–11–3–608B.

The proposed Consent Decree may be examined at any of the following offices: (1) The Office of the United States Attorney, Southern District of Illinois,

room 330, 750 Missouri Avenue, East St. Louis, Illinois (62201); (2) The Region V office of U.S. EPA, 77 West Jackson Blvd., Chicago, Illinois (60604–3590); and (3) The Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC (20005), (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy please enclose a check in the amount of $6.25 (25 cents per page reproduction costs) payable to "Consent Decree Library."

Lois J. Schiffer,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–26290 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Amendment to Consent Decree in *United States* v. *Sherwood Medical Company, et al.*, Civil Action No. 91–802–CIV–ORL–20 was lodged on October 4, 1993, with the United States District Court for the Middle District of Florida, Orlando Division. This amendment incorporates into the existing Consent Decree for the Sherwood Medical Superfund Site in Deland, Volusia County, Florida ("Site") the performance standards for groundwater, institutional controls, and other requirements set forth in a final Record of Decision ("Final ROD") executed by EPA on October 6, 1992.

EPA had previously executed an Interim Action Record of Decision ("Interim Action ROD") on March 27, 1991, which set forth the interim remedy of a groundwater pump and treat system to contain a plume of contamination in the surficial aquifer underlying the Site. Pursuant to this Interim Action ROD, and the Consent Decree entered by the court on February 3, 1992, Sherwood Medical Company ("Sherwood") constructed a system for pumping and treating the groundwater in the surficial aquifer.

The Final ROD requires Sherwood to continue operation of the pump and treat system, and establishes the performance standards for groundwater and institutional controls. The Amendment to Consent Decree will incorporate these requirements into the existing Consent Decree.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Sherwood Medical Company*, et al., DOJ Ref. #90–11–3–765.

The proposed consent decree may be examined at the Office of the United States Attorney, 201 Federal Building, Orlando, Florida 32801; the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, NE., Atlanta, Georgia, 30365; and at the Consent Decree Library, 1120 G Street, NW., Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $2.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Myles E. Flint,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–26289 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

Pursuant to the National Cooperative Research and Production Act of 1993—Bell Communications Research, Inc.

Notice is hereby given that, on August 18, 1993, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* ("the Act"), Bell Communications Research, Inc. ("Bellcore") has filed written notifications on behalf of Bellcore and its shareholders Ameritech Services, Inc., Bell Atlantic Network Services, Inc., BellSouth Telecommunications, Inc., Pacific Bell, Southwestern Bell Telephone Company, Telesector Resources Group, Inc., and U S WEST Communications, Inc. simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to Bellcore, and its general areas of planned activities, are given below.

Bellcore is a joint venture corporation with its principal place of business and facilities located in the U.S. Its shareholders, which are all U.S. corporations, are as follows: Ameritech Services, Inc., Hoffman Estates, IL; Bell Atlantic Network Services, Inc., Arlington, VA; BellSouth Telecommunications, Inc., Atlanta, GA; Pacific Bell, San Francisco, CA; Southwestern Bell Telephone Company, St. Louis, MO; Telesector Resources Group, Inc., White Plains, NY; and U S WEST Communications, Inc., Denver, CO.

Each of these shareholders is either a first or lower-tier subsidiary of one of the following Regional Holding Companies resulting from the AT&T divestiture. Their affiliated Operating Telephone Companies affiliated with each Regional Holding Company are also listed. (All of these listed companies are U.S. corporations):

Regional Holding Companies (Publicly Held)

A. Ameritech Corporation

Operating Telephone Companies Owned by Ameritech Corporation

1. Illinois Bell Telephone Company
2. Indiana Bell Telephone Company, Incorporated
3. Michigan Bell Telephone Company
4. The Ohio Bell Telephone Company
5. Wisconsin Bell, Inc.

B. Bell Atlantic Corporation

Operating Telephone Companies Owned by Bell Atlantic Corporation

1. New Jersey Bell Telephone Company
2. The Bell Telephone Company of Pennsylvania
3. The Chesapeake and Potomac Telephone Company
4. The Chesapeake and Potomac Telephone Company of Maryland
5. The Chesapeake and Potomac Telephone Company of Virginia
6. The Chesapeake and Potomac Telephone Company of West Virginia
7. The Diamond State Telephone Company

C. BellSouth Corporation

Operating Telephone Companies Owned by BellSouth Corporation

1. BellSouth Telecommunications, Inc.

D. NYNEX Corporation

Operating Telephone Companies Owned by NYNEX Corporation

1. New York Telephone Company
2. New England Telephone and Telegraph Company

E. Pacific Telesis Group

Operating Telephone Companies Owned by Pacific Telesis Group

1. Pacific Bell
2. Nevada Bell

F. Southwestern Bell Corporation

Operating Telephone Company Owned by Southwestern Bell Corporation

1. Southwestern Bell Telephone Company

G. U S WEST, Inc.

Operating Telephone Companies Owned by U S WEST, Inc.

1. U S WEST Communications, Inc.

Bellcore originally filed a notification dated January 7, 1985 as a joint research and development venture under the National Cooperative Research Act of 1984 on behalf of itself and its shareholders, and a notice thereof was published in the **Federal Register** on January 30, 1985.

Bellcore's refiling (1) continues to seek the protection of the Act for Bellcore's R & D activities, as described therein and in the January 7, 1985 filing, and (2) through supplementing the disclosure notification given in its prior filing, seeks the protection of the Act for Bellcore's activities, as described therein, comprising the "production" of innovative telecommunications service concepts, network architectures, supporting technologies, engineering and software systems usable by its shareholders and their affiliates in the provision of telecommunications services to their customers and testing in connection therewith.

Bellcore's shareholders have entered into a Shareholders' Agreement effective as of October 2, 1984 and amended as of January 1, 1988, which defines their basic rights and obligations as shareholders of Bellcore and an agreement to re-form the joint venture and republish such Shareholders' Agreement, effective as of August 10, 1993. Bellcore and the shareholders have also entered into a Service Agreement effective January 1, 1988, which is a successor to an earlier Service Agreement among the parties, effective as of January 1, 1984; an Intellectual Property Agreement effective as of January 1, 1984 and amended as of November 3, 1988; an agreement covering Bellcore's training services entitled Bellcore TEC Agreement, effective as of January 1, 1986 and amended as of January 1, 1988; and a National Security/ Emergency Preparedness Agreement dated March 6, 1984.

Bellcore has entered into service agreements with two nonowners which are U.S. corporations—Southern New England Telephone Company ("SNET") and Cincinnati Bell, Inc. ("CBI"). These service agreements permit SNET and CBI to participate in many of the projects which Bellcore offers to its owners, including projects comprising the activities described herein. Bellcore has also entered into more limited project participation agreements with Stentor Resource Centre Inc., a consortium of Canadian telephone companies, and Sprint/United Management Company, a U.S. corporation, and may permit other non-owner exchange carriers to participate in certain Bellcore projects from time to time.

Bellcore's purpose is to enable its shareholders and their affiliates to maintain high quality and technologically up-to-date network capabilities to support their provision of exchange and exchange access telecommunications services and such other telecommunications services as Bellcore's shareholders authorize it to support. In doing so, Bellcore seeks to create and develop innovative and improved technologies, processes, software systems and service ideas that support its shareholders and their affiliates as enablers or providers of telecommunications services that allow people and their machines to cost-effectively access information and communicate with each other easily, reliably, and securely anywhere, any time, in any medium or combination of media. Bellcore's work for its shareholders and their affiliates encompasses applied research, new service development and related network planning, engineering, training, innovative development and production of software systems and associated economic research.

Bellcore's general areas of planned activities include work focused on enterprise efficiency, robust (dependable, flexible, secure) networks and operations, advanced voice and messaging capabilities, personal nomadic communications and information access, public data networking, video dialtone and related services, and network-related support for new information service capabilities.

Bellcore's technical support includes its undertaking of applied research in such fields as physical science, computer science, mathematics and switching and transmission technologies and includes the creation of experimental prototypes as needed for experimental demonstration and testing of research results and technical feasibility. Bellcore then extends its findings of technological possibilities to new or improved technological applications in the networks of its shareholders or their affiliates, through such activities as the creation and development of new telecommunications network service concepts and related network planning, engineering (including development of technical requirements, testing and support for standards-related activities) and software development and production.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 93–26204 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 25, 1993, and published in the **Federal Register** on September 1, 1993, (58 FR 46216), Cambridge Isotope Lab, 20 Commerce Way, Woburn, Massachusetts 01801, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Morphine (9300)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, 1301.54(e), the Director hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 18, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–26286 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on July 26, 1993, Eli Lilly Industries, Inc., Chemical Plant,

Kilometer 146 7, State Road 2, Mayaguez, Puerto Rico 00680, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Dextropropoxyphene, bulk (non-dosage forms) (9273).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 26, 1993.

Dated: October 18, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–26284 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 25, 1993, and published in the **Federal Register** on September 1, 1993, (58 FR 46216), Johnson Matthey Inc., Custom Pharmaceuticals Dept., 2003 Nolte Drive, West Deptford, New Jersey 08066, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of 2,5-Dimethoxyamphetamine (7396), a basic class of controlled substance listed in Schedule I.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Director hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: October 18, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–26287 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances; Notice of Registration

By Notice dated August 25, 1993, and published in the **Federal Register** on September 1, 1993, (58 FR 46217), Stepan Company, Natural Products Dept., 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Coca Leaves (9040)	II
Cocaine (9041)	II
Benzoylecgonine (9180)	II

No comments or objections have been received. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with title 21, Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: October 18, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–26288 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 25, 1993, and published in the **Federal Register** on September 1, 1993, (58 FR 46217), Stepan Company, Natural Products Dept., 100 W. Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cocaine (9041)	II
Benzoylecgonine (9180)	II

No comments or objections have been received. Therefore, pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 1301.54(e), the Director hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 18, 1993.

Gene R. Haislip,

Director, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 93–26285 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–09–M

Manufacturer of Controlled Substances; Notice of Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on January 21, 1993, Sanofi Winthrop L. P., DBA Sterling Organics, 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance Meperidine (9230).

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Director, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than November 26, 1993.

Dated: October 18, 1993.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–26283 Filed 10–25–93; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether

the workers are eligible to apply for adjustment assistance under title II, chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 5, 1993.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 5, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 12th day of October, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
Enron Corp, Intratex Gas (Workers)	Houston, TX	10/12/93	09/29/93	29,100	Processes gas in plant facility.
Heintz Corp (UAW)	Philadelphia, PA	10/12/93	09/30/93	29,101	Produces low pressure turbine.
Hansone Energy Systems (Workers)	Linden, NJ	10/12/93	09/28/93	29,102	Electric motors and generators.
The Greenleaf Corp. (Workers)	Saegertown, PA	10/12/93	09/27/93	29,103	Ceramic inserts & ceramic electro parts.
Eltech Systems Corp (Workers)	Chardon, OH	10/12/93	09/27/93	29,104	Anodes & steel galvanizing anodes.
Custom Resins (Workers)	Henderson, KY	10/12/93	09/29/93	29,105	Nylon 6 resins.
AT&T Global Communications Systems (IBEW).	Shreveport, LA	10/12/93	09/27/93	29,106	Telephone terminals.
Advertising Processing, Inc. (Workers)	Amsterdam, NY	10/12/93	09/29/93	29,107	Advertising design.
Roseburg Forest Product (Workers)	Roseburg, OR	10/12/93	09/27/93	29,108	Lumber and plywood.
Titanium Metals Corp (USWA)	Toronto, OH	10/12/93	09/28/93	29,109	Titanium sponge, ingots, etc.
Texasgulf, Inc (Co)	New Gulf, TX	10/12/93	09/27/93	29,110	Mining, exploration & elemental sulfur.
Texasgulf, Inc (Co)	Midland, TX	10/12/93	09/27/93	29,111	Mining, exploration elemental sulfur.
Simpson Paper Co (UPWIU)	Anderson, CA	10/12/93	09/27/93	29,112	Softwood pulp for paper.
Seyuoyah Fuels Corp (Workers)	Gore, OK	10/12/93	09/30/93	29,113	Fuels for military.
R.E. Phelon Co., Inc (Workers)	East Longmeadow, MA	10/12/93	08/17/93	29,114	Capacitors/condensors.
Pugsley Cedar Products, Inc (Co/Workers).	Lake Stevens, WA	10/12/93	09/27/93	29,115	Cedar shakes and shingles.
Penick Corp (Workers)	Newark, NY	10/12/93	09/30/93	29,116	Narcotics, antibiotics.
Midwest Truckbody, Inc (AIW)	Paris, IL	10/12/93	09/28/93	29,117	Truck beds.
Linden Sportswear (ACTWU)	Linden, AL	10/12/93	09/30/93	29,118	Ladies sportswear.
Kenbridge Sportswear/Hampton Ind. (Workers).	Kenbridge, LA	10/12/93	09/28/93	29,119	Men's & boy's robes and shorts.
John Roberts Ltd/Act II (ACTWU)	Biddeford, ME	10/12/93	09/20/93	29,120	Men, women and boys' clothing.
Sun Sportswear, Inc (Workers)	Johnson City, TN	10/12/93	09/29/93	29,121	Adult & youth sportswear.
Gitano (Workers)	Edison, NJ	10/12/93	09/24/93	29,122	Womens', mens' & childrens' clothing.
Reltoc Manufacturing Co (ACTWU)	Florence, AL	10/12/93	09/30/93	29,123	Men's jeans & distribution center.
Cotler Distribution Center (ACTWU)	Winfield, AL	10/12/93	09/30/93	29,124	Men's jeans and distribution center.
Carole Hockman Designs (ACTWU)	Williamsport, PA	10/12/93	09/27/93	29,125	Ladies' lingerie.
Labor Contractors, dba Rocky Mtn. (Workers).	Troy, MT	10/12/93	09/27/93	29,126	Contract labor.
Jefferson Smurfit Corp (Co)	New Hartford, NY	10/12/93	09/17/93	29,127	Corrugated shipping containers.
Hitchcock, Ind., Inc (Workers)	Bloomington, MN	10/12/93	09/229/93	29,128	Aerospace components.
Hitchcock Ind., Inc (Workers)	Lakeville, MN	10/12/93	09/29/93	29,129	Aerospace components.
Federal Deposit Insurance Corp (Co Workers).	Oklahoma City, OK	10/12/93	09/24/93	29,130	Financial/legal services.
Eaton Corp (Workers)	Athens, AL	10/12/93	09/27/93	29,131	Thermostats.

[FR Doc. 93–26351 Filed 10–25–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,706]

Leslie Fay Castlebrook Division, New York, NY; Negative Determination Regarding Application for Reconsideration

By an application dated October 10, 1993, after being granted a filing extension, one of the workers requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on August 10, 1993 and published in the **Federal Register** on August 27, 1993 (58 FR 45357).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the

determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioner stated that the Department investigated the wrong division of Leslie Fay—the Castlebrook Division instead of the Castleberry Division. The petitioner stated that the workers produce an article—samples for ladies' dresses and that the Department's determination is not consistent with the Department's certification (TA–W–28,707) for a different division of the same company—the Andrea Gayle Division.

The Department's denial was based on the fact that the Castlebrook workers did not produce an article within the meaning of the Trade Act of 1974. The workers performed design and administration services.

Workers providing services can only be certified in very limited circumstances. Their worker separations must have been caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under a certification for TAA. These limited conditions for service workers were not met.

The petition clearly states that the workers petitioned for TAA for the Castlebrook Division of Leslie Fay in New York City. The workers were laid off in 1992 before the Castlebrook Division was consolidated into the Castleberry Division, which took place in March 1993. The findings show that the Castlebrook Division employed four workers—two were laid off and the other two were transferred to other corporate locations.

The findings also show that all manufacturing for the Castlebrook Division was performed by outside domestic contractors whose workers are not certified for TAA. Workers at Leslie Fay's Andrea Gayle Division in New York City were certified for TAA under TA–W–28,707 because they produced an article and met all the Group Eligibility Requirements of the Trade Act of 1974.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC this 18th day of October 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93–26348 Filed 10–25–93; 8:45 am]

BILLING CODE 4510–30–M

[TA–W–28,470]

Vought Aircraft Co., Dallas, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance applicable to all workers of Job Family 7380 Department of Vought Aircraft Company in Dallas, Texas. The certification notice was published in the **Federal Register** on July 2, 1993 (58 FR 35981).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The investigation findings show that many of the claimants' wages for Vought Aircraft have wages reported under an LTV Aerospace and Defense Unemployment Insurance Tax Account.

Accordingly, the Department is amending the certification to properly reflect the correct worker group.

The amended notice applicable to TA–W–28,470 is hereby published as follows:

"All workers of Job Family 7380 Department producing aircraft skin panels at Vought Aircraft Company, Dallas, Texas, also known as (a/k/a) LTV Aerospace and Defense, Dallas, Texas who became totally or partially separated from employment on or after March 8, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974."

Signed at Washington, DC, this October 14, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93–26350 Filed 10–25–93; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. S & T Coal Company

[Docket No. M–93–262–C]

S & T Coal Company, R.D. #1, Box 56A, Hegins, Pennsylvania 17938 has filed a petition to modify the application of 30 CFR 75.1714 (availability of approved self-rescue devices; instructions in use and location) to its Bixler Mine (I.D. No. 36–01984) located in Dauphin County, Pennsylvania. The petitioner proposes to continue using self-rescuers already in place at the mine. The petitioner states that to use the new self-rescuers would result in added expense with no additional safety. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

2. Rock Mt. Coal

[Docket No. M–93–263–C]

Rock Mt. Coal, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1200(i) (mine map) to its Rock Ridge Slope (I.D. No. 36–07175) located in Schuylkill County, Pennsylvania. The petitioner proposes to limit the mapping of mine workings above and below to those present within 100 feet of the vein being mined except when veins are interconnected to other veins beyond the 100 feet limit through rock tunnels. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

3. B & B Anthracite Coal

[Docket No. M–93–264–C]

B & B Anthracite Coal, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1200(i) (mine map) to its Rock Ridge Slope 1 (I.D. No. 36–07741) located in Schuylkill County, Pennsylvania. The petitioner proposes to limit the mapping of mine workings above and below to those present within 100 feet of the vein being mined except when veins are interconnected to other veins beyond the 100 feet limit through rock tunnels. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

4. Rock Mt. Coal

[Docket No. M–93–265–C]

Rock Mt. Coal, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Rock Ridge Slope (I.D. No. 36–07175) located in Schuylkill County,

Pennsylvania. The petitioner proposes to transport persons in a man cage or a gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device, instead of safety catches or no other less effective devices, because of steeply pitching and undulating slopes with numerous curves and knuckles in the main haulage slopes. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

5. B & B Anthracite Coal

[Docket No. M–93–266–C]

B & B Anthracite Coal, 225 Main Street, Joliett, Pennsylvania 17981 has filed a petition to modify the application of 30 CFR 75.1400 (hoisting equipment; general) to its Rock Ridge Slope 1 (I.D. No. 36–07741) located in Schuylkill County, Pennsylvania. The petitioner proposes to transport persons in a man cage or a gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device, instead of safety catches or no other less effective devices, because of steeply pitching and undulating slopes with numerous curves and knuckles in the main haulage slopes. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

6. AMAX Coal Company

[Docket No. M–93–267–C]

AMAX Coal Company, One Riverfront Place, 20 N.W. First Street, Evansville, Indiana 47708–1258 has filed a petition to modify the application of 30 CFR 77.900 (low- and medium-voltage circuits serving portable or mobile three-phase alternating current equipment; circuit breakers) to its Ayrshire Mine (I.D. No. 12–01031) located in Warrick County, Indiana; its Chinook Mine (I.D. No. 12–00322) located in Clay County, Indiana; its Minnehaha Mine (I.D. No. 12–00332) located in Sullivan County, Indiana; and its Sycamore Mine (I.D. No. 12–02063) located in Knox County, Indiana. The petitioner proposes to use electronic pump controllers to sense the volume of water coming into the pit pumps and electronically turn the pump on and off automatically. The petitioner states that application of the standard would result in a diminution of safety to the miners. In addition, the petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

7. Black Hawk Coal Corporation

[Docket No. M–93–268–C]

Black Hawk Coal Corporation, P.O. Box 101, Regina, Kentucky 41559 has filed a petition to modify the application of 30 CFR 75.1710–1 (canopies or cabs; self-propelled electric face equipment; installation requirements) to its No. 1 Mine (I.D. No. 15–16766) located in Pike County, Kentucky. The petitioner proposes to operate electric face equipment without canopies. The petitioner states that due to the dips in the coal bed, the use of canopies would create a hazard to the equipment operator and other employees in the mine, because the use of canopies would limit the operator's visibility and position and such conditions could contribute to accidents.

8. Philippi Development, Inc.

[Docket No. M–93–269–C]

Philippi Development, Inc., Route 12, Box 245, Morgantown, West Virginia 26505 has filed a petition to modify the application of 30 CFR 75.380(d)(4) (escapeway; bituminous and lignite mines) to its Sentinel Mine (I.D. No. 46–04168) located in Barbour County, West Virginia. The petitioner proposes to post signs along the relevant portion of the escapeway to indicate a tight clearance; to install two switches to allow immediate deenergization of the belt lines; and to keep walkways free of hazards. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

9. Clinchfield Coal Company

[Docket No. M–93–270–C]

Clinchfield Coal Company, P.O. Box 4000, Lebanon, Virginia 24266 has filed a petition to modify the application of 30 CFR 75.804 (underground high-voltage cables) to its McClure No. 1 Mine (I.D. No. 44–04251) located in Dickenson County, Virginia. The petitioner proposes to use a high-voltage longwall system, specifically a 4 LS Joy shearer, and high-voltage cable with a minimum rating of 5,000 volts and an outer jacket that has been accepted by MSHA as flame-resistant. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

10. Peabody Coal Company

[Docket No. M–93–271–C]

Peabody Coal Company, P.O. Box 1990, Henderson, Kentucky 42420–1990 has filed a petition to modify the application of 30 CFR 75.364(b)(1) (weekly examination) to its Camp No. 1 Mine (I.D. No. 15–02709) located in Union County, Kentucky. Due to hazardous roof conditions, the petitioner proposes to establish evaluation points in each of the aircourse entries (#1, #2, and #3 entries) at the outby end of the 1st Sub-main North aircourse near coordinate 1+70 and at the inby end near coordinate 12+70; to test for methane and oxygen at these evaluation points on a weekly basis; to record the test results in a designated book; and to travel the "neutral entries" adjacent to the 1st Sub-main North entries on a weekly basis when monitoring the atmosphere that ventilates the entries. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard and that application of the existing standard would result in a diminution of safety.

11. Mallie Coal Company, Inc.

[Docket No. M–93–272–C]

Mallie Coal Company, Inc., Route 1, Box 211, Woodbine, Kentucky 40771 has filed a petition to modify the application of 30 CFR 75.342 (methane monitors) to its No. 3 Mine (I.D. No. 15–17436) located in Knox County, Kentucky. The petitioner proposes to monitor continuously with a hand-held methane and oxygen detector instead of using a methane monitoring system on permissible three-wheel tractors with drag type buckets. The petitioner asserts that the proposed alternate method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 26, 1993. Copies of these petitions are available for inspection at that address.

Dated: October 15, 1993.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 93–26349 Filed 10–25–93; 8:45 am]

BILLING CODE 4510–43–P

Occupational Safety and Health Administration

Oregon State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of subpart D to part 1952 containing the decision.

The Oregon plan provides for adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required. The Oregon plan also provides for the adoption of Federal standards as State standards by reference.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.101, Compressed Gases, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original adoption of Compressed Gases was promulgated as OAR 437, Chapter 22–050, and received Federal Register approval at 40 FR 57801 on December 12, 1975. The State's standard was subsequently recodified as OAR 437, Division 122, with Federal Register approval at 52 FR 27076 on July 17, 1987. The State has repealed OAR 437, Division 122, in its entirety, and has incorporated 29 CFR 1910.101, Compressed Gases, by reference as OAR 437–02–1910.101.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.102, Acetylene, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original adoption of Acetylene was promulgated as OAR 437, Chapter 22–051, and received Federal Register approval at 40 FR 57801 on December 12, 1975. The State's standard was subsequently recodified as OAR 437 Division 142, with Federal Register approval at 52 FR 27076 on July 17, 1987. The State has repealed OAR 437 Division 142 in its entirety, and has incorporated 29 CFR 1910.102, Acetylene, by reference as OAR 437–02–1910.102.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.103, Hydrogen, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original standard was promulgated as OAR 437, Chapter 22–052, Hydrogen, and received Federal Register approval at 40 FR 57801 on December 12, 1975. The State's standard was subsequently recodified as OAR 437 Division 143, with Federal Register approval at 52 FR 17076 on July 17, 1987. The State has repealed OAR 437, Division 143, Hydrogen, in its entirety and has incorporated 29 CFR 1910.103, Hydrogen by reference as OAR 437–02–1910.103. The State's readoption by reference of 29 CFR 1910.103 also incorporates: Selected General and Special Industry Safety and Health Standards, Revocation, as published in the **Federal Register** at 43 FR 49726 (specifically, 43 FR 49746) on October 24, 1978; Hydrogen, Certification and Testing (amendment), 29 CFR 1910.103(a)(1)(ii), as published in the **Federal Register** at 53 FR 12102 (specifically, 53 FR 12121) on April 12, 1988; Hydrogen (amended), 29 CFR 1910.103(b)(3)(iii)(e), as published in the **Federal Register** at 55 FR 31984 (specifically, 55 FR 32015), on August 6, 1990.

On its own initiative, The State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.104, Oxygen, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original standard was promulgated as OAR 437, Chapter 22–053, Oxygen, and received Federal Register approval at 40 FR 57801 on December 12, 1975. The State's standard was subsequently recodified as OAR 437 Division 144, with Federal Register approval at 52 FR 27076 on July 17, 1987. The State has repealed OAR 437 Division 144, Oxygen, in its entirety, and has incorporated 29 CFR 1910.104, Oxygen, by reference as OAR 437–02–1910.104. The State's readoption by reference of 29 CFR 1910.104 also incorporates Selected General and Special Industry Safety and Health Standards, Revocation, as published in the **Federal Register** at 43 FR 49726 (specifically, 43 FR 49746) on October 24, 1978.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.105, Nitrous Oxide, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original standard was promulgated as OAR 437, Chapter 22–054, Nitrous Oxide, and received Federal Register approval at 40 FR 57801 on December 12, 1975. The State's standard was subsequently recodified as OAR 437 Division 145, with Federal Register approval at 52 FR 17076 on July 17, 1987. The State has repealed OAR 437 Division 145 in its entirety, and has incorporated 29 CFR 1910.105, Nitrous Oxide, by reference as OAR 437–02–1910.105.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.106, Flammable and Combustible Liquids, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original standard was promulgated as OAR 437, Chapter 22–055, Combustible and Flammable Liquids, and received Federal Register approval at 40 FR 57801 on December 12, 1975. Subsequently, the State's standard was recodified as OAR 437 Division 123, with Federal Register approval at 51 FR 24671 on July 8, 1986. The State has repealed OAR 437 Division 123 in its entirety, and has incorporated 29 CFR

1910.106, Combustible and Flammable Liquids, by reference, as OAR 437–02–1910.106. The State's readoption by reference also incorporates the following Federal amendment to 29 CFR 1910.106: Corrections, published in the **Federal Register** at 40 FR 3982 on January 27, 1975; Correction, published in the **Federal Register** at 40 FR 23743 on June 2, 1975; Selected General and Special Industry Safety and Health Standards, Revocation, as published in the **Federal Register** at 43 FR 49726 (specifically, 40 FR 49746), on October 24, 1978; Amendment as published in the **Federal Register** at 47 FR 39164 on September 7, 1982; Amendment as published in the **Federal Register** at 51 FR 34560 on September 1986; Amendment as published in the **Federal Register** at 53 FR 12121 on April 12, 1958; Amendment as published in the **Federal Register** at 55 FR 32015 on August 6, 1990.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to States rules comparable to 29 CFR 1910.108, Dip Tanks Containing Flammable or Combustible Liquids, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original standard was promulgated as OAR 437, Chapter 22–057, Dip Tanks Containing Flammable or Combustible Liquids, and received Federal Register approval at 40 FR 57801 on December 12, 1975. Subsequently, the State's standard was recodified as OAR 437 Division 124, with Federal Register approval at 52 FR 17076 on July 17, 1987. The State has repealed OAR 437, Division 124, in its entirety, and has incorporated 29 CFR 1910.108, Dip Tanks Containing Flammable or Combustible Liquids, by reference as OAR 437–02–1910–108. The State's readoption by reference also incorporates: Revocation of Advisory and Repetitive Standards, as published in the **Federal Register** at 49 FR 5318 (specifically, 49 FR 5322) on February 10, 1984; Amendment of 29 CFR 1910.108(g), as published in the **Federal Register** at 53 FR 12121 on April 12, 1988.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.110, Storage and Handling of Liquified Petroleum Gases, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original standard was promulgated as OAR 437, Chapter 22–058, Storage and Handling of Liquified Petroleum Gases, and received Federal Register approval at 40 FR 57801 on December 12, 1975. Subsequently, the State's standard was recodified as OAR 437 Division 125, with Federal Register approval at 51 FR 24671 on July 8, 1986. The State has repealed OAR 437 Division 125 in its entirety, and has incorporated 29 CFR 1910.110, Storage and Handling of Liquified Petroleum Gases, by reference as OAR 437–02–1910.110. The State's readoption also incorporates the following Federal amendments to 29 CFR 1910.110: Selected General and Special Industry Safety and Health Standards, Revocation, as published in the **Federal Register** at 43 FR 49726 (specifically, 49 FR 49747) on October 24, 1978; Revocation of Advisory and Repetitive Standards as published in the **Federal Register** at 49 CFR 5318 (specifically, 49 FR 5322) on February 10, 1984; Amendment, as published in the **Federal Register** at 53 FR 12122 on April 12, 1988; Amendment of 29 CFR 1910.110(i)(2)(iii), as published in the **Federal Register** at 55 FR 25094 on June 20, 1990; Amendment of 29 CFR 1910.110, Table H–28, as published in the **Federal Register** at 55 FR 31984 on August 6, 1990.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 19 CFR 1910.111, Storage and Handling of Anhydrous Ammonia, as published in the **Federal Register** (39 FR 23502) on June 24, 1974. The State's original standard was promulgated as OAR 437, Chapter 22–059, Storage and Handling of Anhydrous Ammonia, and received Federal Register approval at 40 FR 57801 on December 12, 1975. Subsequently, the State's standard was subsequently recodified as OAR 437 Division 126, with Federal Register approval at 50 FR 31793 on August 6, 1985. The State has repealed OAR 437, Division 126, in its entirety and has incorporated 29 CFR 1910.111, Storage and Handing of Anhydrous Ammonia, by reference, as OAR 437–02–1910.111. The State's readoption also incorporates the following Federal amendments: Selected General and Special Industry Safety and Health Standards, Revocation, as published in the **Federal Register** at 43 FR 49726 (specifically, 43 FR 49748) on October 24, 1978; Revocation of Advisory and Repetitive Standards as published in the **Federal Register** at 49 FR 5318 (specifically, 49 FR 5322) on February 10, 1984; Amendment of 29 CFR 1910.111 as published in the **Federal Register** at 53 FR 12122 on April 12, 1988.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John a Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.114, Effective Dates, 29 CFR 1910.115, Sources of Standards, and 29 CFR 1910.116, Standards Organizations as published in the **Federal Register** (39 FR 23502) on June 24, 1974. During its developmental period, the State incorporated applicable parts of 29 CFR 1910.114, .115, and .116 into the various chapters that comprised the State's promulgation of its response to 29 CFR Part 1910. Subpart H, Hazardous Materials. These chapters originally promulgated were OAR 437, Chapter 22–050, 22–052, 22–053, 22–054, 22–055, 22–056, 22–057, 22–058, 22–059, and Chapter 13. The chapters were Federal Register approved at 40 FR 57801 on December 12, 1975. The recodification of the above chapters received Federal Register approval at 52 FR 27076 on July 17, 1987, and 51 FR 24671 on July 8, 1986. The State has repealed all of the above chapters and recodified divisions in their entirety, and has adopted 29 CFR 1910.114, .115, and .116 by reference as OAR 437–02–1910.114, Effective Dates; OAR 437–02–1910.115, Sources of Standards, and OAR 437–02–1910.116, Standards Organizations.

In response to federal standards amendment, the State has submitted by letter dated March 13, 1992, for John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, an amendment to State rules comparable to 29 CFR 1910.120 (a)(3) and (e)(9), Hazardous Waste Operations and Emergency Response (Amended), as published in the **Federal Register** (56 FR 15832) on April 18, 1991. The State's original standard, OAR 437–02–1910.120, Hazardous Waste and Emergency Response, received Federal Register approval (56 FR 19382) on April 26, 1991. The State has adopted the Federal amendment by reference as OAR 437–02–1910.120 (a)(3) and (e)(9).

On July 15, 1991, the Notice of Proposed Revision of Rules was mailed to those on the Workers' Compensation Department mailing list established pursuant to OAR 436–90–505 and to those on the Department's distribution mailing list as their interest appeared.

One request for public hearing was received and later withdrawn, however, several comments and inquiries were received with due consideration given to the concerns expressed. The State-initiated amendments were adopted on February 6, 1992, with an effective date of May 1, 1992, through Administrative Order 2–1992. The State's response to the Federal amendment, 29 CFR 1910.120, Hazardous Waste and Emergency Response, was adopted and became effective on February 6, 1992, through administrative Order 3–1992.

2. Decision

Having reviewed the State's submission, OSHA has determined that the State's standards are at least as effective as the comparable Federal standards, as required by section 18(c)(2) of the Act. OSHA has also determined that the State has adopted the Federal standards by reference and that the standards are identical. OSHA, therefore, approves these standards.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 1111 Third Avenue, suite 715, Seattle, Washington 98101–3212; Oregon Occupational Safety and Health Division, Department of Insurance and Finance, Salem, Oregon 97310; and the Office of State Programs, Occupational Safety and Health Administration, room N–3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard amendments are identical to the Federal standard which were promulgated in accordance with federal law including meeting requirements for public participation.

2. The standard amendments were adopted in accordance with the procedural requirements of State law and further public participation would be repetitious.

This decision is effective October 26, 1993.

Authority: (Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington, this 1st day of June 1993.

James W. Lake,

Regional Administrator.

[FR Doc. 93–26346 Filed 10–25–93; 8:45 am]

BILLING CODE 4510–26–M

Oregon State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of subpart D to part 1952 containing the decision.

The Oregon plan provides for adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required. The Oregon plan also provides for the adoption of Federal Standards as State standards by reference.

In response to Federal standard 29 CFR 1910.1030, the State has submitted by letters dated April 28, 1992, January 6, 1993, and April 5, 1993, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State rules comparable to 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens, as published in the **Federal Register** (56 FR 64175) on December 6, 1991, and subsequent corrections published in the **Federal Register** (57 FR 29206) on July 1, 1992. On March 26, 1992, the Notice of Proposed Rulemaking was mailed to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436–90–505, and to those on the Department's distribution mailing list as their interest appeared. Both actions failed to elicit a request for hearing. The State's first submission, OAR 437–01–1910.1030, submitted April 28, 1992, was adopted on April 24, 1992, with an effective date of July 1, 1992, under OR–OSHA Administrative Order 5–1992. The State adopted the Federal standard, 29 CFR 1910.1030, Occupational Exposure to Bloodborne Pathogens, by reference with the exception of 29 CFR 1910.1030(i), effective dates. On December 30, 1992, effective December 30, the State adopted the subsequent corrections to the Federal standard by reference, under OR–OSHA Administrative Order 15–1992. Regional Office review revealed discrepancies in Oregon's printed copy of the Federal standard adopted by reference, and the submission was returned to the State for correction. On April 5, 1993, the State submitted a corrected copy.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.96, Ionizing Radiation, as published in the **Federal Register** (39 FR 23502) on June 27, 1974. The State's original adoption of Ionizing Radiation was promulgated as OAR 437, Chapter 22–20, and received Federal Register approval at 40 FR 50583 on October 30, 1975. The State's standard was subsequently recodified as OAR 437, Division 138, with Federal Register approval at 52 FR 27026 on July 17, 1987. The State has repealed OAR 437, Division 138, in its entirety, and has incorporated 29 CFR 1920.96, Ionizing Radiation, by reference as OAR 437–02–1910.96. The State's readoption by reference also deleted General and Special Industry Safety and Health Standards, Revocation, as published in the **Federal Register** (43 FR 49746) on October 24, 1978. The State has also adopted two minor State-initiated rules, OAR 437–02–098(1), Additional Applicability, and OAR 437–02–098(2), Additional Definition. State-initiated rule OAR 437–02–098(1) gives notice that Oregon statute law, ORS 453.605 through ORS 453.745, Control of Radiation, enforced by the Department of Human Resources, Oregon Health Division, applies to all employees working with or near ionizing radiation sources. This rule was previously approved by OSHA as part of Division 138. OAR 437–02–098(2) gives notice that the term "Atomic Energy

Commission" used in 29 CFR 1910.96 means the "U.S. Nuclear Regulatory Commission". On July 15, 1991, the Notice of Proposed Revision of Rules was mailed to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436–90–505 and to those on the Department's distribution mailing list as their interest appeared. One request for public hearing was received and later withdrawn; however, several comments and inquiries were received with due consideration given to the concerns expressed. The State's amendment was adopted on February 6, 1992, with an effective date of May 1, 1992, through OR–OSHA Administrative Order 2–1992.

In response to Federal standard 29 CFR 1910.146, Permit-Required Confined Spaces for General Industry, the State has submitted by letter dated July 9, 1993, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State rules comparable to 29 CFR 1910.146, Permit-Required Confined Spaces for General Industry, as published in the Federal Register (58 FR 4549) on January 14, 1993 and its subsequent corrections as published in the Federal Register (58 FR 34844) on June 29, 1993. On March 2, 1993, the Notice of Proposed Rulemaking was mailed to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436–90–505 and to those on the Department's distribution mailing list as their interest appeared. Both actions failed to elicit a request for hearing. The State's standard was adopted on July 1, 1993, with an effective date of July 1, 1993 through OR–OSHA Administrative Order 8–1993.

On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the plan, a revision to State rules comparable to 29 CFR 1910.97, Nonionizing Radiation, as published in the Federal Register (39 FR 23502) on June 24, 1974. The State's original adoption of Nonionizing Radiation was promulgated as OAR 437, Chapter 22–021, and received Federal Register approval at 40 FR 50583 on October 30, 1975. The State's standard was subsequently recodified as OAR 437, Division 139, with Federal Register approval at 52 FR 27026 on July 17, 1987. The State has repealed OAR 437, Division 139, in its entirety, and has incorporated 29 CFR 1910.97, Nonionizing Radiation, by reference as OAR 437–02–1910.97. On its own initiative, the State has submitted by letter dated March 13, 1992, from John A. Pompei, Administrator, to James W. Lake, Regional Administrator, and incorporated as part of the Plan, an initial adoption by reference of 29 CFR 1910.98, Effective Dates; 29 CFR 1910.99, Sources of Standards; and 29 CFR 1910.100, Standards Organizations, as published in the Federal Register (39 FR 23502) on June 24, 1974. The State has incorporated the standard as OAR 437–02–1910.98, OAR 437–02–1910.99, and OAR 437–02–1910.100, respectively. The State's adoption of 29 CFR 1910.100 also incorporated the Federal amendment as published in the Federal Register (40 FR 18426) on April 28, 1975. During the early period of Oregon's program, the State elected not to adopt standards comparable to 29 CFR 1910.98, .99, and .100. With this adoption the State has chosen to do so. On July 15, 1991, the Notice of Proposed Revision of Rules was mailed to those on the Department of Insurance and Finance mailing list established pursuant to OAR 436–90–505 and to those on the Department's distribution mailing list as their interest appeared. One request for public hearing was received and later withdrawn; however, several comments and inquiries were received with due consideration given to the concerns expressed. The State's amendment was adopted on February 6, 1992, with an effective date of May 1, 1992, through OR–OSHA Administrative Order 2–1992.

2. Decision

Having reviewed the State's submission, OSHA has determined that the State's standards are at least as effective as the comparable Federal standards, as required by section 18(c)(2) of the Act. OSHA has also determined that the standards for Permit-Required Confined Spaces and for Nonionizing Radiation, as well as the standards for Effective Dates, Sources of Standards and Standards Organizations (29 CFR 1910.98, .99, and .100) were adopted by reference and are identical. OSHA therefore approves these standards. OSHA has also determined that the standards for Occupational Exposure to Bloodborne Pathogens and for Ionizing Radiation are substantially identical to the Federal standards. OSHA therefore approves these standards; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of Supplement for Inspection and Copying

A copy of the standards, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 1111 Third Avenue, suite 715, Seattle, Washington 98101–3212; Oregon Occupational Safety and Health Division, Department of Insurance and Finance, Salem, Oregon 97310; and the Office of State Programs, Occupational Safety and Health Administration, room N–3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standard and the amendment is substantially identical to the Federal standard which was promulgated in accordance with the Federal law including meeting requirements for public participation.

2. The standard and the amendment was adopted in accordance with the procedural requirements of State law which included opportunity for public comments and further public participation would be repetitious.

This decision is effective October 26, 1993.

Authority: Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667).

Signed at Seattle, Washington, this 26th day of August 1993.

James W. Lake,

Regional Administrator.

[FR Doc. 93–26347 Filed 10–25–93; 8:45 a.m.]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; System of Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of revised of records.

SUMMARY: The National Archives and Records Administration (NARA) is

proposing to alter the system of records NARA–11, Credentials, Passes, and Licenses, by adding an electronic database and a contractor's identification card. The specific changes to this notice are set forth in the Supplementary Information section.

DATES: Written comments on the proposed altered system NARA–11 should be received by November 26, 1993. All other changes to the systems will be effective on November 26, 1993. NARA filed an Altered System Report with the Congress and the Office of Management and Budget on October 15, 1993. The proposed altered system shall be effective without further notice on November 24, 1993, unless comments are received which would result in a contrary determination.

ADDRESSES: Comments on the proposed altered system should be addressed to David R. Kepley, Acting Director, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Laurence Patlen, Policy and Program Analysis Division (NAA), National Archives and Records Administration, Washington, DC 20408. Telephone (202) 501–5110.

SUPPLEMENTARY INFORMATION: The National Archives and Records Administration (NARA) gives notice of its proposal to alter the system of records NARA–11, Credentials, Passes, and Licenses. As required by the Privacy Act of 1974, and Office of Management and Budget (OMB) Circular A–130, an Altered System Report was submitted on October 15, 1993 to the Congress and OMB.

The system is to be amended by adding an electronic database which supports issuance and control of the National Archives Identification Card, and adding the Contractor's Identification Card. The addition of a computer environment necessitates NARA modifying the categories of records, storage, retrievability, safeguards, and retention and disposal sections of the NARA–11 notice. Safeguards are being established to counteract any increase in the potential for unauthorized access to the system. The Contractor's Identification Card is being added to the "categories of records" section to accurately reflect that contractors are among the categories of individuals covered by the system. No new routine use disclosures outside of NARA are proposed.

Minor administrative changes are being made to addresses and locations, categories of individuals covered, lists of detailed information in several categories of records, storage, retention and disposal, and record source categories. Optional Form 7, Property Pass, is deleted from the categories of records because the information is not maintained by name or personal identifier.

The amended system notice is set forth in its entirety below. NARA's general routine uses and addresses of locations applicable to all NARA systems appear in the **Federal Register** Privacy Act Issuances, 1991 Compilation, Vol. V.

Dated: October 20, 1993.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

NARA 11

SYSTEM NAME:

Credentials, Passes, and Licenses.

SYSTEM LOCATION:

This system of records is maintained by the Facilities and Materiel Management Division, at the National Archives Building, 7th and Pennsylvania Avenue NW., Washington, DC and the National Archives at College Park, 8601 Adelphi Road, College Park, Maryland, the Director of the Washington National Records Center 4205 Suitland Road, Suitland, Maryland, and by the Administrative Officers at other NARA facilities listed in the **Federal Register** Privacy Act Issuances, 1991 Compilation, Vol. V.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All NARA employees, contractors and volunteers whose assigned responsibilities require the issuance of credentials for identification and security purposes, or a license to operate a Federal government owned motor vehicle.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. NA Form 6006, Request for and Record of Credential or Pass (Name, social security number, position title, organizational unit, building and room number, date of birth, height, weight, color of hair and eyes, identification card number, date issued, expiration date, and signature or requesting official).

2. NA Form 6000, National Archives Identification Card (Photograph, name of employee, expiration date, signature of issuing official, identification card number, date of birth, height, weight, color of hair and eyes, building and room number, and signature of employee). This card will be issued to all NARA employees outside the Washington, DC, area.

3. Electronically generated National Archives Identification Card (Photograph, name, identification card number, expiration date, and signature) and an electronic database maintained at the National Archives at College Park, MD (Name, date of birth, color of hair and eyes, height, weight, social security number, type of identification card issued, date of issue and expiration, position title, building, office symbol, telephone number, command access card number and command access codes, and hard keys issued).

4. NA Form 6003, Contractor's Identification (Name, agency or firm, building and room number, expiration date, signatures of administrative official and protection official, date, and signature of employee).

5. NA Form 6009, Parking Control Record (Name, home address, office telephone number, agency, type of vehicle, tag number and applicant's signature).

6. NA Form 7001, Application for Motor Vehicle Operator's Identification Card (SF 46).

7. Standard Form 47, Physical Fitness Inquiry for Motor Vehicle Operators (Name, date of birth, title of position, home address, agency, medical inquiry, applicant's signature and date, and signature of designated official and date).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system are used primarily to facilitate the issuance and control of cards, parking permits, building passes, drivers licenses, and similar credentials. The routine use statements A, B, and F, described in **Federal Register** Privacy Act Issuances, 1991 Compilation, Vol. V, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper forms and computer disk.

RETRIEVABILITY:

Alphabetically by name of individual, except at the National Archives buildings in Washington, DC and College Park, MD, records may be retrieved by name, ID card number, or social security number accessed through the electronic database.

SAFEGUARDS:

During normal hours of operation, paper records are maintained in

lockable metal file cabinets, accessible only to authorized personnel. The electronic database is maintained by NARA Security Staff and operates on a non-networked computer that is accessible only to security staff employees via passwords on terminals located in attended offices. After normal work hours the facilities are staffed with security guards to patrol the building and insure all doors and entrances are locked. Entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Credential and pass records are destroyed 3 months after expiration or revocation. All field locations return revoked/expired credential records to the NARA Security Staff (NAFS). Electronic records are screened monthly for updating and screened semiannually for nonactive and expired credentials. The data screened semiannually is transferred and maintained on computer disk, and then deleted 3 years later. Motor vehicle records are destroyed 3 years after employee separation or rescission of certificate. Parking control records are destroyed when 3 years old. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The officials responsible for this system of records are the Director, Facilities and Materiel Management Division, The National Archives at College Park, 8601 Adelphi Road, College Park, Maryland 20740–6001 and, for contractor's building passes at the Washington National Records Center, the Director, Washington National Records Center, 4205 Suitland Road, Suitland, Maryland (Mailing address: Washington National Records Center (NCW), Washington, DC 20409). Since this is a geographically dispersed system, individuals may also gain access by contacting the Administrative Officers at locations listed in the Federal Register Privacy Act Issuances, 1991 Compilation, Vol. V.

NOTIFICATION PROCEDURE:

The addresses of the NARA offices to which inquiries should be addressed and addresses at which an individual may request whether a system contains records pertaining to himself or herself are shown in the Federal Register Privacy Act Issuances, 1991 Compilation, Vol. V. Individuals should provide name, social security number, period of employment, and position held to assist the office in locating the record.

RECORD ACCESS PROCEDURES:

Individuals can obtain information on the procedures for gaining access to or contesting records from the Director, Facilities and Materiel Management Division, the Director of the Washington National Records Center (for contractor's passes at that location), or the Administrative Officers at NARA facilities, as shown in the Federal Register Privacy Act Issuances, 1991 Compilation, Vol. V.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information is provided by the employee, contractor or volunteer being issued the credential, pass, or license, and by the authorized issuing official.

[FR Doc. 93–26293 Filed 10–25–93; 8:45 am]
BILLING CODE 7515–01–M

NATIONAL LABOR RELATIONS BOARD

Privacy Act of 1974; Publication of a New System of Records Notice

AGENCY: National Labor Relations Board.

ACTION: Notification of establishment of a system of records for Agency Disciplinary Case Files.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, the National Labor Relations Board (NLRB) publishes this notice of its intention to establish a previously unpublished system of records to be entitled "NLRB–20, Agency Disciplinary Case Files." A complete listing of the Agency's 16 notices of systems of records was last published in 53 FR 17262 on May 16, 1988. In addition, Privacy Act Systems of Records Notice NLRB–17 was published in 55 FR 29918 on July 23, 1990; Privacy Act Systems of Records Notice NLRB–18 was published in 57 FR 11523 on April 3, 1992; and Privacy Act Systems of Records Notice NLRB–19 was published in 58 FR 50957 on September 29, 1993.

All persons are advised that in the absence of submitted comments, views, or arguments considered by the NLRB as warranting modification of the notice as herewith to be published, it is the intention of the NLRB that the notice shall be effective upon expiration of the comment period without further action by this Agency.

DATES: Written comments, views, or arguments regarding the proposed new system of records must be submitted no later than December 6, 1993.

ADDRESSES: All persons who desire to submit written comments, views, or arguments for consideration by the NLRB shall file them with the Executive Secretary, National Labor Relations Board, 1099 14th Street, NW., Washington, DC 20570–0001.

Copies of all such communications will be available for examination by interested persons during normal business hours in the Office of the Executive Secretary, National Labor Relations Board, Room 11600, 1099 14th Street, NW., Washington, DC 20570–0001.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, National Labor Relations Board, Room 11600, 1099 14th Street, NW., Washington, DC 20570–0001.

SUPPLEMENTARY INFORMATION: The NLRB proposes to establish a new system of records pursuant to the Privacy Act entitled "NLRB–20, Agency Disciplinary Case Files." This system of records will consist of information and materials compiled by the NLRB in the course of conducting disciplinary investigations or proceedings involving allegations of misconduct in violation of the NLRB's rules by attorneys and other individuals, other than current NLRB employees, who appear and practice before the NLRB.

Pursuant to subsection (k)(2) of the Privacy Act, the NLRB proposes to exempt the new proposed system of records from subsections (c)(3), (d), (e)(1), (3)(4) (G), (H), and (I), and (f) of the Act. The NLRB's notice of proposed rulemaking setting forth this proposed exemption appears elsewhere in today's issue of the Federal Register.

A report of the proposal to establish this system of records was filed pursuant to 5 U.S.C. 552a(r) with Congress and the Office of Management and Budget.

NLRB–20

SYSTEM NAME:

Agency Disciplinary Case Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Executive Secretary; Office of the Solicitor; Board Members' Offices; Office of the General Counsel; Division of Operations Management, NLRB, 1099 14th Street, NW., Washington, DC 20570–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Attorneys and other individuals, other than current NLRB employees, who appear and practice before the NLRB.

CATEGORIES OF RECORDS IN THE SYSTEM:

All correspondence, internal staff memoranda, affidavits, statements, transcripts, exhibits, or other documents or records compiled by the NLRB in the course of conducting disciplinary investigations and proceedings involving allegations of misconduct in violation of the NLRB's rules by attorneys and other individuals, other than current NLRB employees, who appear and practice before the NLRB.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a; 29 U.S.C. 156; and 29 CFR 102.44, 102.66(d), 102.119, and 102.120.

PURPOSE:

Purpose of records is to document NLRB investigations and proceedings involving allegations of misconduct in violation of the NLRB's rules by attorneys and other individuals, other than current NLRB employees, who appear and practice before the NLRB.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records and information contained therein may be disclosed to:

1. Any person who, during the course of a disciplinary investigation or proceeding, is a source or assists in such investigation or proceeding, to the extent necessary to obtain relevant information or assistance.

2. A bar association or similar Federal, state, or local licensing authority, when considered appropriate by the NLRB.

3. Other agencies, offices, establishments, and authorities, whether Federal, state, or local, authorized or charged with the responsibility to investigate, litigate, prosecute, enforce, or implement a statute, rule, regulation, or order, where the record or information, by itself or in connection with other records or information, indicates a violation or potential violation of law, whether criminal, civil, administrative, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order pursuant thereto.

4. A Federal, state, or local governmental authority maintaining civil, criminal, or other relevant enforcement information, if necessary to obtain information relevant to an NLRB decision concerning the hiring or retention of an employee, the issuance of a security clearance, or the letting of a contract.

5. A Federal, state, or local government authority in response to its request in connection with the hiring or retention of an employee, issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decisions on that matter.

6. A court, magistrate, administrative tribunal, or other adjudicatory body in the course of presenting evidence or argument, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, where the NLRB determines that litigation is likely to affect the NLRB or any of its components, is a party to litigation or has interest in such litigation, and determines that such disclosure of the records is compatible with the purpose for which the records were collected.

7. The Department of Justice for use in litigation when either (a) the NLRB or any component thereof, (b) any employee of the NLRB in his or her official capacity, (c) any employee of the NLRB in his or her official capacity, where the Department of Justice has agreed to represent the employee, or (d) the United States where the NLRB determines that litigation is likely to affect the NLRB or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the NLRB to be relevant and necessary to the litigation, provided that in each case the Agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

8. Any person with whom the NLRB contracts to reproduce, by typing, photocopy or other means, any record within the system for use by the NLRB.

9. A Member of Congress or a congressional staff member in response to an inquiry from the congressional office made at the written request of the individual about whom the record is maintained. In such cases, the Member has no greater right of access to the record than does the individual.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on computer disks and diskettes, and on computer tapes.

RETRIEVABILITY:

Records are retrievable by case number and/or individual name.

SAFEGUARDS:

Access to and use of records is limited to those persons whose official duties require such access. Records are kept in limited access areas during duty hours and in locked offices and file cabinets during off-duty hours. Computer records can be accessed only through use of confidential procedures and passwords.

RETENTION AND DISPOSAL:

Files are disposed of according to applicable provisions of the General Records Schedules issued by the National Archives and Records Administration.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, NLRB, 1099 14th Street, NW., Washington, DC 20570, for files maintained by the Executive Secretary's Office, Solicitor's Office, and Board Members' Offices.

Associate General Counsel, Division of Operations Management, NLRB, 1099 14th Street, NW., Washington, DC 20570, for files maintained by the General Counsel's Office and the Division of Operations Management.

NOTIFICATION PROCEDURE:

The Agency Disciplinary Case Files system of records is exempt from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2); however, consideration will be given to individual requests for notification whether the system contains a record pertaining to the requesting individual, for access to records pertaining to such individual, or for amendment of a record pertaining to such individual. Requests should be made in writing addressed to the system manager(s) and should contain the individual's full name, occupation, address, and date of birth.

RECORD ACCESS PROCEDURE:

See "Notification Procedure" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" above.

RECORD SOURCE CATEGORIES:

Categories of record sources include the subject individual, records from the underlying administrative proceeding

where the alleged misconduct occurred, other participants in the underlying administrative proceeding, and various other sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE PRIVACY ACT:

Pursuant to 5 U.S.C. 552a(k)(2), the NLRB has exempted the system from the following provisions of the Privacy Act of 1974: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f). This exemption is codified in 29 CFR part 102.

Dated: Washington, DC, October 18, 1993.

By direction of the Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 93–26200 Filed 10–25–93; 8:45 am]

BILLING CODE 7545–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–304]

Commonwealth Edison Co., Zion Nuclear Power Station, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Section III.D.1.(a) of Appendix J to 10 CFR part 50 to Commonwealth Edison Company (the licensee), for the Zion Nuclear Power Station, Unit 2, located in Lake County, Illinois.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant an exemption from Section III.D.1.(a) of Appendix J to 10 CFR part 50, which requires a set of three Type A tests (Containment Integrated Leakage Rate Test or CILRT) to be performed, at approximately equal intervals during each 10-year service period and specifies that the third test of each set shall be conducted when the plant is shut down for the 10-year plant inservice inspections (ISI). The licensee's request is for a one-time exemption that will allow the third Type A test of the current 10-year service period to be performed during a refueling outage in September 1996, approximately 46 months after the last one, independent of the current 10-year service period and the 10-year plant ISI. Without the exemption, the licensee would be required to perform its third Type A test during a refueling outage that starts in January 1995, when the plant is shut down for the 10-year plant inservice inspections (ISI), which means the last two Type A tests of the second 10-year service period would be performed 26 months apart.

The exemption is in response to the licensee's application for exemption dated August 23, 1993.

The Need for the Proposed Action

The proposed exemption is needed because the requirements of 10 CFR part 50, Appendix J, and the licensee's current refueling outage schedule would require the third CILRT for the second 10-year service period to be performed when Unit 2 is shut down for the refueling outage that starts in January 1995, which is also the 10-year plant ISI. The first Type A test of the second 10-year service period was performed in October 1988. The second Type A test was not conducted until November 1992, 49 months later, due to the extended lengths of the Cycle II refueling outage and the Cycle 12 operating cycle. The Unit 2 shutdown of the 10-year plant ISI is the Cycle 13 refueling outage, scheduled to start in January 1995. Without this exemption, the licensee would be required to perform the third CILRT during the January 1995 refueling outage, 26 months after the second Type A test.

Environmental Impacts of the Proposed Action

The Commission's staff has determined that granting the proposed exemption would not significantly increase the probability or amount of expected primary containment leakage and that containment integrity would, thus, be maintained. Although the requirements in Section III.D.1.(a) that three Type A tests be performed in each 10-year service period and that the third test be conducted when the unit is shut down for the 10-year plant ISI would not be met, performing the third Type A test of the second 10-year service period approximately 46 months after the second one would meet the intent to ensure containment integrity by performing the tests at approximately equal intervals of about a third of a 10-year service period. Consequently, the probability of accidents would not be increased, nor would the post-accident radiological releases be greater than previously determined. Neither would the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission's staff concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves a change to surveillance and testing requirements. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission's staff concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental impacts associated with the proposed action, any alternatives would have either no or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce the environmental impacts attributed to the facility and would not meet the intent of the rule to perform CILRT at approximately equal intervals during each 10-year service period.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statement, dated December 1972, related to the operation of the Zion Nuclear Power Station, Units 1 and 2.

Agencies and Persons Consulted

The staff consulted with the State of Illinois regarding the environmental impact of the proposed action.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated August 23, 1993, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington DC and at the Waukegan Public Library, 128 North County Street, Waukegan, Illinois 60085.

Dated at Rockville, Maryland, this 18th day of October 1993.

For the Nuclear Regulatory Commission.

James E. Dyer,

Project Director, Project Directorate III–2, Division of Reactor Projects III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 93–26344 Filed 10–25–93; 8:45 am]

BILLING CODE 7590–01–M

Meeting With BWR Owners Group on IGSCC Inspector Training and Qualification Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of meeting.

SUMMARY: The staff of the Nuclear Regulatory Commission will meet with representatives of the BWR Owners Group (BWROG), the Performance Demonstration Initiative (PDI), and the Electric Power Research Institute (EPRI) to discuss technical issues related to the implementation of the performance demonstration requirements of Appendices VII and VIII of Section XI of the ASME code for intergranular stress corrosion cracking (IGSCC). The discussion will focus on those aspects related to the transition from the current NRC/EPRI/BWROG coordination plan, on training and qualification of inspectors looking for IGSCC, to the new ASME code requirements.

DATES: Thursday, October 21. 1993.

TIME: 1 p.m.–3 p.m.

ADDRESSES: 11555 Rockville Pike, room: 10B13, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Allen L. Hiser, Jr., Materials Engineering Branch, Office of Nuclear Regulatory Research, Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 492–3988.

SUPPLEMENTARY INFORMATION: In 1984, the NRC, the BWROG and EPRI developed a coordination plan for training and qualification activities of non-destructive examination (NDE) personnel employed in the performance of examinations of BWR piping for intergranular stress corrosion cracking (IGSCC). Recently the American Society of Mechanical Engineers (ASME) has adopted Appendix VIII, entitled "Performance Demonstration for Ultrasonic Examination Systems", to Section XI of the ASME Boiler and Pressure Vessel Code. At this meeting, technical issues related to the transition from the 1984 coordination plan to the requirements of Appendix VIII of Section XI of the ASME Code will be discussed.

Dated at Rockville, Maryland, this 15th day of October, 1993, for the Nuclear Regulatory Commission.

Lawrence C. Shao,

Director, Division of engineering, Office of Nuclear Regulatory Research.

[FR Doc. 93–26342 Filed 10–25–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 030–01586, License Nos. 13–00951–03, EA 93–215]

Ball Memorial Hospital, Muncie, IN; Confirmatory Order Modifying License

I

Ball Memorial Hospital (Ball or Licensee) is the holder of Byproduct Material License No. 13–00951–03 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR parts 30 and 35. The license authorizes the use of byproduct material for medical purposes pursuant to 10 CFR part 35 (e.g., as radiopharmaceuticals identified in 10 CFR 35.100, 35.200 and 35.300; as brachytherapy sources identified in 10 CFR 35.400; as sealed sources identified in 10 CFR 35.500; and as prepackaged in vitro kits identified in 10 CFR 31.11). The facility where licensed materials are authorized for use and storage is located at 2401 University Avenue, Muncie, Indiana. The license, originally issued on August 19, 1958, was last amended on July 20, 1993, and is due to expire on December 31, 1993.

II

On July 19, 1993, the NRC Region III office received information that the Licensee was investigating an allegation that it received on June 4, 1993. Allegedly, nuclear medicine technologists in its employ had increased the dosages of radiopharmaceuticals used in diagnostic studies in order to reduce the imaging time and had falsified required records of the dosages administered. On June 15, 1993, as related to NRC by Licensee officials, one technologist told Licensee officials that without approval from an authorized user, dosages were increased to minimize a patient's discomfort, to reduce the duration of a study of a critically ill patient, or to enhance the clarity of the image for a study performed on an obese patient, and the records of the administered dosages did not reflect the dosage increase.

The NRC commenced an inspection on July 21, 1993, and based on interviews of the nuclear medicine technologists, the NRC confirmed the information provided by the Licensee on July 19, 1993. The NRC learned that since at least 1988 nuclear medicine technologists have increased the dosages of radiopharmaceuticals by as much as 40 percent above the approved dosage ranges for imaging studies and false information about the administered dosage was entered in the records (i.e., dosages within the approved range were indicated in the records even though the actual administered dosages were higher). As a result of the NRC inspection, the NRC issued to the Licensee Confirmatory Action Letter No. RIII–93–012, dated July 26, 1993, in which the Licensee agreed to, among other things:

A. Immediately reaffirm to the nuclear medicine technologists that diagnostic dosages cannot exceed the prescribed dosage limits without authorized user approval.

B. Immediately take action to perform a two-person verification of patient dosages as described in the July 26, 1993 Confirmatory Action Letter.

C. Within 30 days, conduct the first of a series of quarterly audits of the nuclear medicine program to be conducted by an auditor independent of the hospital.

D. Within two weeks, increase the coverage by the Radiation Safety Officer (RSO) of the nuclear medicine department to at least two days per week.

E. Within two weeks, provide to the NRC Region III office a description of actions the licensee has taken, or plans to take, to assure Licensee management that its nuclear medicine program is being operated according to NRC requirements.

Although the NRC inspection and investigation activities are continuing, the following significant violations have been identified to date:

A. Apparently deliberate violation of 10 CFR 35.25(a)(2) in that the nuclear medicine technologists failed to follow the instructions of the supervising authorized users as contained in the Licensee's procedure, entitled "Approved Dose Ranges of Radiopharmaceutical Use." That procedure specifies the radioisotope, procedures and dosage ranges to be used. Specifically, the nuclear medicine technologists intentionally increase the dosage beyond the range prescribed by the procedure.

B. Apparently deliberate violation of License Condition No. 16 which requires the Licensee to implement the model safety rules published in NRC Regulatory Guide 10.8, Appendix I, Item 14, prohibiting the use of a dosage if it varies by more than 10 percent from the prescribed dosage. Specifically, nuclear medicine technologists increased dosages 10%–40% in order to decrease the scan time for the procedure being performed.

C. Apparently deliberate violation of 10 CFR 35.53(c) which requires that records of the measurement of radiopharmaceutical dosages contain certain information, including the prescribed dosage and the activity of the dosage at the time of measurement and violation of 10 CFR 30.9(a) which requires that records maintained by a licensee be complete and accurate in all material respects. More specifically, from approximately 1988 to June 15, 1993, the activity of some radiopharmaceutical dosages was beyond the approved dosage range and this deviation in the patient dosage was not reflected in patient dosage records.

The Licensee conducted an internal investigation and based on the results of its investigation, the Licensee initially suspended two nuclear medicine

technologists from all NRC-licensed activities. Subsequently, the Licensee terminated one of the two individuals and the other individual returned to duties that do not involve NRC-licensed activities.

III

To preclude recurrence of any of the violations described above and to improve its oversight of its licensed nuclear medicine activities, the Licensee committed to a number of corrective actions in its letter dated August 5 and August 13, 1993, responding to the NRC's July 26, 1993 Confirmatory Action Letter. The principal actions to which it agreed included, but were not limited to:

(A) Assigning a pharmacist or a radiologist to verify all radioisotope dosages prior to administration until such time that the unit dose system is fully operational;

(B) Implementing a unit dose system for all patients with the exception of add-on and on-call patient examinations when the radiopharmaceutical will be obtained from a generator. Dosages obtained from a generator will be verified by a pharmacist or a radiologist;

(C) Installing a printer for the dose calibrator;

(D) Obtaining the services of an Assistant Radiation Safety Officer (ARSO) to work in the Nuclear Medicine Section at least 16 hours per week, with the responsibilities of the ARSO described in Attachment V to the Licensee's letter dated August 5, 1993;

(E) Contracting for the services of a qualified individual to perform an independent audit of the Licensee's Nuclear Medicine Section, with the scope of such audit described in Attachment IV to the Licensee's letter dated August 5, 1993;

(F) Providing to the NRC a copy of the Licensee's internal investigation report;

(G) Notifying the NRC prior to permitting certain individuals to return to work in licensed activities; and

(H) Conducting monthly and quarterly audits of the Nuclear Medicine Section for at least one year, with the scope of those audits as outlined in Attachments I and II of the Licensee's letter dated August 13, 1993.

I find that the Licensee's commitments as set forth in its letters of August 5 and August 13, 1993, are acceptable and necessary and conclude that, with these commitments, the public health and safety is reasonably assured. In view of the foregoing, I have determined that public health and safety require that the commitments made by the Licensee in the letters dated August 5 and August 13, 1993, be confirmed by this Order. The Licensee has agreed to this action in telephone conversations held on October 8, 1993 between B. J. Holt, NRC Region III, and Mitchell C. Carson, Vice President of Operations, Ball Memorial Hospital, and on October 13, 1993 between Roy J. Caniano, NRC Region III, and Mitchell C. Carson, Vice President of Operations, Ball Memorial Hospital.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 30 and 35, it is hereby ordered, that license no. 13–00951–03 is modified as follows:

A. A unit dose system shall be implemented for the Nuclear Medicine Section and such unit dosages shall be obtained from an outside radiopharmacy with the exception of add-on and on-call patient examinations when the radiopharmaceutical may be obtained from a generator. All unit dose and generator orders for radiopharmaceuticals will be made by an authorized user named on the NRC license or the Assistant Director of Radiology or his designee, and the designee will not be a nuclear medicine technologist or an employee of the Nuclear Medicine Section.

B. For add-on and on-call patient examinations when the radiopharmaceutical is obtained from a generator, the Licensee will develop and implement a system for independent verification of the dosage. Such verification will be preformed by a person who is not a nuclear medicine technologist or associated with the Licensee's Nuclear Medicine Section, with the exception that an authorized user may perform the independent verification of the dosage assay.

C. The Licensee shall use the printer installed for the dose calibrator to automatically provide a record of each dosage measured and to maintain such records for NRC inspection for a period of at least five years.

D. The Licensee shall obtain the services of an Assistant Radiation Safety Officer (ARSO) who will work in the Licensee's Nuclear Medicine Section for at least 16 hours per week. The ARSO will perform assigned duties for a minimum of a 1 year period from the date of initial assignment. The duties of the ARSO shall be as described in Attachment V to the Licensee's letter dated August 5, 1993 and duties as described within Section IV. E of this Order.

E. Dosage records will be reviewed on a weekly basis to assure that all dosages administered were within the approved dosage ranges. This review will be performed by the RSO or ARSO. Any identified deviation from the approved dosage ranges that had not received prior approval of the physician authorized user must be immediately brought to the attention of the Vice President of Operations, Ball Memorial Hospital, and NRC Region III. A record of these reviews will be prepared and maintained for NRC inspection for a period of at least 5 years.

F. The Licensee shall obtain the services of a qualified Radiation Safety Officer, employed outside of the Licensee's organization, to perform an independent radiation safety and compliance audit of the Licensee's Nuclear Medicine Section. The scope of the audit shall be as described in Attachment IV to the Licensee's letter dated August 5, 1993. The audit which commenced on September 20, 1993 can serve to address this condition.

G. The Licensee shall inform the NRC Region III office when the Licensee's internal investigation has been completed and provide the complete report of that investigation to the NRC Region III office and, additionally, a version with all personal privacy-related information redacted, suitable for placement in the NRC Public Document Room.

H. The Licensee shall conduct monthly and quarterly radiation safety and compliance audits of the Nuclear Medicine Section. These audits will be performed for at least one year from the date of this Order. The scope of such audits shall be as outlined in Attachments I and II to the Licensee's letter dated August 13, 1993. A complete copy of each monthly and quarterly audit report shall be sent to the NRC Region III office within 10 working days of the completion of each audit.

The Regional Administrator, Region III, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, and to the Regional Administrator, Region III, U.S. Nuclear Regulatory Commission, 799 Roosevelt Road, Glen Ellyn, Illinois 60137, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be

whether this Confirmatory Order should be sustained.

In the absence of any request for a hearing, the provisions specified in Section IV above shall be effective and final 20 days from the date of this Order without further order or proceedings.

Dated at Rockville, Maryland this 20th day of October 1993.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

[FR Doc. 93–26343 Filed 10–25–93; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 72–10 (50–282/306)]

Northern States Power Co., Issuance of Materials License SNM–2506; Prairie Island Independent Spent Fuel Storage, Installation at the Prairie Island Nuclear Generating Plant Site

The U.S. Nuclear Regulatory Commission (the Commission) has issued a materials license under the provisions of title 10 of the Code of Federal Regulations, part 72 (10 CFR part 72), to Northern States Power Company (NSP or the licensee), authorizing receipt and storage of spent fuel in an independent spent fuel storage installation (ISFSI) located onsite at its Prairie Island Nuclear Generating Plant site, Goodhue County, Minnesota.

The function of the ISFSI is to provide interim storage for up to 1920 fuel assemblies from the Prairie Island Nuclear Generating Plant Units 1 and 2 in 48 casks. Forty fuel assemblies are to be loaded into each cask within the Prairie Island spent fuel pool enclosure of the Auxiliary Building at the plant, and subsequently transferred to the ISFSI. The cask that is to be used is Transnuclear, Inc.'s TN–40 dry storage cask. The license for an ISFSI under 10 CFR part 72 is issued for 20 years, but the licensee may seek to renew the license, if necessary, prior to its expiration.

The Commission's Office of Nuclear Material Safety and Safeguards (NMSS) has completed its environmental, safeguards, and safety reviews in support of the issuance of this license. The Commission authorized issuance of this license pursuant to § 2.764(c) of 10 CFR part 2.

Following receipt of the application filed August 31, 1990, a Notice of Proposed Action was published in the **Federal Register** on February 9, 1990 (55 FR 4742). The "Environmental Assessment (EA) Related to the Construction and Operation of the Prairie Island Independent Spent Fuel Storage Installation" (dated July 28, 1992), along with a Finding of No Significant Impact was issued and noticed in the **Federal Register** (57 FR 34319, dated August 4, 1992) in accordance with 10 CFR part 51. The scope of the environmental assessment included the construction and operation of an ISFSI on the Prairie Island site, including impacts specifically derived from the TN–40 cask to be used.

The staff has completed its safety review of the Prairie Island ISFSI site application and safety analysis report. The "Prairie Island Independent Spent Fuel Storage Installation Technical Specifications and Safety Analysis Report," as supplemented, included confirmation by the application that: (a) No technical specification changes are required, under the Prairie Island 10 CFR part 50 licenses to accommodate a 10 CFR part 72 lciense for onsite storage; (b) the joint operations of the reactors and the onsite ISFSI do not affect the safety margins of either one; and (c) onsite storage is an independent operation, as defined in 10 CFR part 72. The NRC staff's "Safety Evaluation Report for the Northern States Power Company's Safety Analysis Report for an Independent Spent Fuel Storage Installation" was completed in June 1993.

Materials License SNM–2506, the staff's Environmental Assessment, Safety Evaluation Report, and other documents related to this action are available for public inspection and for copying for a fee at the NRC Public Document Room, the Gelman Building, Lower Level, 2120 L Street, NW., Washington, DC. 20555, and at the Local Public Document Room at the Technology & Science Department, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, MN 55401.

Dated at Rockville, Maryland, this 19th day of October 1993.

For the Nuclear Regulatory Commission.

Charles J. Haughney,

Chief, Storage and Transport Systems Branch, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 93–26345 Filed 10–25–93; 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 and 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

Both inpatient and outpatient rates for FY 1994 were developed in accordance with OMB Circular No. A–25, "User Charges." These rates were developed using FY 1992 actual cost data projected for FY 1994 which includes base pay, allowances, permanent change of station costs, military retirement accrual, health care benefits, medical specialty pays and medical training. The FY 1993 pay raise was accelerated for one quarter of FY 1993. No 1994 pay raises were included in the FY 1994 rates. Regional locality pay authorized to date has been absorbed within the civilian pay rates. Also included were acceleration factors for civilian retirement costs (not funded by DoD), and an asset use charge. A program price growth acceleration factor was used for all other items.

(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.

(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 on the basis of the proportion 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 forth 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 yields 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 Federal 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, 1993 and thereafter	
	VA	HHS
Hospital care inpatient day:		
General medical care	827	1,292
Surgical care	1294	.....
Psychiatric care	357	.....
Intermediate care	343	.....
Neurology	764	.....
Rehabilitation medicine	587	.....
Blind Rehabilitation	674	.....
Alcohol and drug treatment	339	.....
Prescription	20	.....
Nursing home care	240	.....
Spinal cord injury care	779	.....
Outpatient medical and dental treatment:		
Outpatient visit	178	207
Dental outpatient visit	102	.....

For the Department of Defense, effective October 1, 1993 and thereafter:

Per inpatient day	Full reimbursement Rate
I. Inpatient and Outpatient Rates:	
A. Burn Center	2,946
B. Inpatient Other Than Burn Center [1,2]	
Medical Care Services	772
Surgical Care Services	1,067
Obstetrical and Gynecological Care	1,006
Pediatric Care	775
Orthopedic Care	963
Psychiatric Care and Substance Abuse	472
Medical Intensive Care and Coronary Care	1,680
Surgical Intensive Care	1,830
Neonatal Intensive Care	1,072
Organ and Bone Marrow Transplant	1,513
Same Day Surgery	420
II. Per Outpatient Visit [2]	
A. Medical Treatment Facilities	99
B. Primus/Navcare	[3] 61
III. Other Rates and Charges:	
A. Hyperbaric Services:	
1–60 minutes	175
61–120 minutes	337
121–180 minutes	498
181–240 minutes	660
(Note: Charges may be prorated based on usage).	

B. High Cost Medications Requested By External Providers [3]

Generic (trade) name	Strength	Total dispensed quantity [4]	Standard cost
Acyclovir (Zovirax)	800mg	100	286
Acyclovir oint	15g	6 Tubes	161
Aminoglutethamide (Cytadren)	250mg	360	376
Amiodarone (Cardarone)	200mg	180	218
Amlodipine (Norvasc)	2.5mg	270	248
Amlodipine (Norvasc)	.5mg	270	252
Astemizole (Hismanal)	50mg	90	109
Auranofin (Ridaura)	3mg	180	153
Betoxolol (Betoptic)	25%	3 bottles	114
Bromocriptine	2.5mg	270	454
Buspirone (Buspar)	5mg	270	121
Buspirone (Buspar)	10mg	270	208
Calcitonin (Calcimar)	200 IU	8 vials	179
Captopril (Capoten)	25mg	270	134
Captopril (Capoten)	50mg	270	221
Captopril (Capoten)	100mg	270	333
Carbenicillin	382mg	40	103
Caridopa/Levodopa CR (Sinemet CR)	.....	270	291
Caridopa/Levodopa (Sinemet 25/100)	25/100	360	184
Caridopa/Levodopa (Sinemet 25/250)	25/250	360	235
Chemstrip BG II	.....	360	271
Cholestyramine powder	.....	6 cans	151
Cholestyramine powder light	.....	6 cans	129
Cimetidine	400mg	180	146
Cimetidine	300mg	360	164
Cimetidine syrup	.....	3 bottles	150
Clemastine (Tavist)	2.68mg	270	183
Clomipramine (Anafranil)	50mg	360	292
Clomipramine (Anafranil)	25mg	360	210
Colestipol	5mg packets	360 pkt	274
Cromolyn inhaler	.....	4 bottles	183

Generic (trade) name	Strength	Total dispensed quantity[4]	Standard cost
Cromolyn soln (nebulizer)	.....	360 amp	204
Cyclophosphamide	25mg	360	360
Cyclophosphamide	50mg	360	681
Cyclosporine	100mg	60	257
Cyclosporine	100mg/ml sol.	3 bottles	639
Danazol (Danocrine)	200mg	180	320
Demeclocycline	150mg	60	145
Desmopressin nasal soln (DDAVP)	.....	20 ml	367
Desmopressin nasal spray	.....	20 ml	328
Diclofenac (Voltaren)	75mg	180	150
Diclofenac (Voltaren)	50mg	270	187
Didanosine	150mg	180	357
Didanosine (Videx)	25mg	360	124
Didanosine (Videx)	100mg	360	475
Diflucan	100mg	30	182
Diflucan	200mg	30	298
Diflunisal (Dolobid)	500mg	180	173
Diltiazem 60mg (Cardizem)	60mg	270	130
Diltiazem CD (Cardizem CD)	240mg	90	135
Diltiazem CD (Cardizem CD)	300mg	90	174
Diltiazem SR	120mg	180	144
Diltiazem SR	60mg	180	111
Diltiazem (Cardizem)	120mg	360	315
Divalproax (Depakote)	250mg	360	146
Elase ointment	.....	6 tubes	157
Enalapril	5mg	180	127
Enalapril	20mg	180	190
Enalapril	10mg	180	134
Epoetin Alfa 2000	.....	24	478
Epoetin Alfa 3000	.....	24	727
Epoetin Alfa 4000	.....	24	979
Estramustine (Emcyt)	150mg	150	361
Ethambutol	400mg	180	177
Ethosuximide	250mg	360	167
Etidronate Disodium	400mg	90	164
Etidronate Disodium (Didronel)	200mg	270	492
Etoposide (VePesid)	50mg	25	619
Exactech	.....	90 days	450
Famotidine (Pepcid)	20mg	180	152
Fentanyl patch	100mcg	10	245
Fentanyl patch	75mcg	10	203
Fluconazole (Diflucan)	200mg	30	298
Fluconazole (Diflucan)	100mg	30	182
Fluconazole (Diflucan)	50mg	30	116
Fluoxetine (Prozac)	20mg	60	102
Flurbiprofen (Ansaid)	100mg	90	150
Flutamide (Eulexin)	125mg	540	597
Gemfibrozil (Lopid)	600mg	180	160
Glipizide	10mg	180	177
Hemofil M	.....	30 days	6,816
Hydroxychloroquine	200mg	180	178
Hydroxyurea (Hydrea)	500mg	270	308
Interferon (Intron A)	3mu	12	287
Isotretinoin (Accutane)	10mg	60	133
Isotretinoin (Accutane)	20mg	60	158
Isotretinoin (Accutane)	40mg	60	182
Itraconazole (Sporonox)	10mg	30	127
Leucovorin	5mg	100	166
Leuprolide (Lupron)	7.5mg	1	387
Leuprolide (Lupron)	3.75mg	1	278
Lisinopril	10mg	180	112
Lisinopril (Prinivil)	5mg	180	112
Lomustine	40mg	20	182
Lomustine	100mg	20	400
Lovastatin (Mevacor)	20mg	180	265
Lovastatin (Mevacor)	40mg	180	492
Loxapine (Loxitane)	50mg	180	138
Lypressin spray (Diapid)	.....	4 bottles	116
Megestrol (Megace)	20mg	360	120
Megestrol (Megace)	40mg	360	228
Melphalan (Alkeran)	2mg	350	410

Generic (trade) name	Strength	Total dispensed quantity [4]	Standard cost
Mesalamine enema (Rowasa)	500 mg	90	158
Metaproterenol neb soln	0.6%	100	105
Methazolamide	50mg	270	166
Methotrexate	2.5mg	180	170
Methysergide Maleate	2mg	180	182
Mexiletine (Mexitil)	200mg	270	156
Mexiletine (Mexitil)	250mg	270	185
Mexiletine (Mexitil)	150mg	270	131
Misoprostol	200mcg	360	197
Naproxen	500mg	180	176
Naproxen	375mg	270	216
Naproxen	250mg	270	168
Nicotine Transdermal System	21mg	30	100
Nifedipine	60mg XL	90	151
Nifedipine	90mg XL	90	181
Nortriptyline HCL	25mg	90	107
Olsalazine (Dipentim)	250mg	360	149
Omperazole (Prilosec)	20mg	90	268
One Touch Test Strips		360	171
Pancrelipase MT16		540	313
Pancrelipase (Pancrease)		540	119
Penicillamine	250mg	360	260
Perphenazine	2mg	360	111
Pravastin Sodium (Pravachol)	10mg	90	125
Pravastin Sodium (Pravachol)	20mg	90	132
Probucol (Lorelco)	250mg	360	184
Procarbazine (Matulane)	50mg	360	204
Procyclidine (Kemadrin)	5mg	360	113
Pyrazinamide	500mg	360	430
Ranitidine	150mg	180	152
Rifampin with INH		180	493
Selegeline (Eldepryl)	5mg	180	416
Somatrem (Protropin)	5mg	4	770
Somatropin (Humatrope)		6	1,126
Sucalfate (Carafate)	1GM	360	183
Sulindac	150mg	360	112
Sulindac	200mg	360	139
Tamoxifen (Nolvadex)	10mg	180	207
Terfenadine (Seldane)		180	124
Ticlopidine (Ticlid)	250mg	180	219
Tocainide (Tonocard)	400mg	270	181
Tocainide (Tonocard)	600mg	270	231
Tracer BG Strips		360	252
Ursidiol (Actigall)	300mg	90	145
Verapamil SR 240 (Calan SR)		180	100
Zalcitabine (Hivid)	.75mg	270	542
Zidovudine (Retrovir)	100mg	450	598

C. High Cost Services Requested By External Providers [3]

	Cost of Service
Service Provided:	
X-Ray Ribs (all), per side	113
X-Ray Hips, Bilateral	114
Upper Gastrointestinal (G.I.) study	143
Hysterosalpingogram	126
Mammogram, Bilateral or with localization	129
Ultrasound, per study	116
Ultrasound—complete abdomen or with biopsy	198
Computerized Axial Tomography (CAT) scan head/brain without contrast	193
Computerized Axial Tomography (CAT) scan head/brain with contrast	218
Computerized Axial Tomography (CAT) scan head/brain with and without contrast, or post fossa and IAM/IACS	307
Computerized Axial Tomography (CAT) scan chest	339
Computerized Axial Tomography (CAT) scan abdomen, per study	169
Computerized Axial Tomography (CAT) scan extremity without contrast	197
Computerized Axial Tomography (CAT) scan extremity with contrast	226
Computerized Axial Tomography (CAT) scan with and without contrast	393
Magnetic Resonance Imaging (MRI) without contrast	279
Magnetic Resonance Imaging (MRI) with contrast brain	481
Magnetic Resonance Imaging (MRI) spine (all) chest and abdomen without contrast	229

	Cost of Service
Magnetic Resonance Imaging (MRI) spine (all) with contrast	507
Magnetic Resonance Imaging (MRI) extremities without contrast	360
Magnetic Resonance Imaging (MRI) extremities with and without contrast	279

D. Elective Cosmetic Surgery Procedures And Rates

Cosmetic surgery procedure reimbursement	International classification diseases (ICD-9)	Common procedure terminology (cpt) [5]	Charge FY 94	Full
Mammaplasty	85.50	19325	Surgical Care Service or Same Day Surgery	1,067
	85.32	19324		420
	85.31	19318		
Mastopexy	85.60	19316	.....do	1,067
				420
Facial Rytidectomy	86.82	15824	.....do	1,067
	86.22			420
Blepharoplasty	08.70	15820	.....do	1,067
	08.44	15821		420
		15822		
		15823		
Mentoplasty (Augumentation Reduction.	76.68	21208	.....do	1,067
	76.67	21209		420
Abdominoplasty	86.83	15831	.....do	1,067
				420
Lipectomy, suction per region [7]	86.83	15876	.....do	1,067
		15877		420
		15878		
		15879		
Rhinoplasty	21.87	30400	.....do	1,067
	21.86	30410		420
Scar revisions beyond CHAMPUS.	86.84	1578__	.....do	1,067
				420
Mandibular or Maxillary Repositioning.	76.41	21194	.....do	1,067
				420
Minor Skin Lesions [8]	86.30	1578__	.....do	1,067
				420
Dermabrasion	86.25	15780	.....do	1,067
				420
Hair Restoration	86.64	15775	.....do	1,067
				420
Removing Tatoos	86.25	15780	.....do	1,067
				420
Chemical Peel	86.24	15790	.....do	1,067
				420
Arm/Thigh Dermolipectomy	86.83	1583__	.....do	1,067
				420
Brow Lift	86.3	15839	.....do	1,067
				420

E. Immunizations

Notes on Reimbursable Rates

[1] Daily percentages are applied to both inpatient and outpatient services provided when billing third party payers (such as insurance companies). Pursuant to the provisions of 10 U.S.C. 1095, the inpatient daily percentages are 55 percent hospital, 5 percent physician, 40 percent ancillary. The outpatient daily percentages are 57 percent hospital, 10 percent physicians and 33 percent ancillary.

[2] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed. Payment is due 60 days from the date of the bill.

[3] Charges for PRIMUS/NAVCARE and high cost medications/services requested by external providers (Physicians, Dentists, etc.) are only relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for high cost services in those instances in which dependents who have medical insurance, seen by providers external to a Military Medical Treatment Facility (MTF), obtain the prescribed service or medication from an MTF. Eligible beneficiaries (dependents with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. The standard cost of high cost medications includes the cost of the drugs and dispensing services.

[4] All quantities shown are tablets unless otherwise stated. The third party charge is only for the strengths and the dosage cited. Charges will vary if the strengths and the dosage are changed. The method of computing standard costs to be charged for high costs mediations, over ⊗100.00, and those mediations costing less than ⊗100.00 is the same, i.e., actual cost to the pharmacy, plus a 30 percent dispensing costs. The medications in this schedule shown are the most common high cost medications dispensed.

[5] The attending physician is to complete the common procedure terminology code to indicate the appropriate procedure followed during cosmetic surgery.

[6] Cosmetic surgery rates will be charged dependents of active duty members, retirees, and their dependents and survivors. The patient shall be charged the rate as specified in the FY 1994 reimbursable rates for an episode of care. The charges for elective

cosmetic surgery are at the full reimbursement rate, entitled Inpatient and Outpatient Rates. The patient will be responsible for both the cost of the implant(s) and prescribed rates.

Note: The implants and procedures used for the augmentation mammaplasty are in compliance with Federal Drug Administration guidelines.

[7] Each regional lipectomy will carry a separate charge. Regions include head and neck, abdomen, flanks, and hips.

[8] These procedures are inclusive in the minor skin lesions. However, CHAMPUS separates them as noted here. All charges are for the entire treatment regardless of the number of visits required.

For the period beginning October 1, 1993, the rates prescribed herein superseded those established by the Director of the Office of Management and Budget on October 27, 1992 (57 CFR 48642).

Dated: October 19, 1993.

Leon E. Panetta,

Director, Office of Management and Budget.

[FR Doc. 93–26322 Filed 10–25–93; 8:45 am]

BILLING CODE 3110–01–P

Revision of OMB Circular No. A–119, Notice of Implementation

AGENCY: Office of Management and Budget.

ACTION: The Office of Management and Budget (OMB) is issuing a revised version of OMB Circular No. A–119, "Federal Participation in the Development and Use of Voluntary Standards." The Circular has been revised to foster greater agency use of voluntary standards, particularly in light of recently stated national objectives, and to increase the effectiveness of the Circular.

SUMMARY: OMB Circular No. A–119 provides policies on Federal use of private standards, and agency participation in voluntary standards bodies and standards-developing groups. Participation in such groups should occur when it is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget resources.

DATES: The revised Circular is effective immediately upon issuance.

FOR FURTHER INFORMATION CONTACT: Chris Jordan, Policy Analyst, Office of Federal Procurement Policy, 725 17th Street, NW., Washington, DC 20503. Telephone (202) 395–6803. To obtain a copy of the Circular, please contact the Executive Office of the President's Publications Office at (202) 395–7332.

SUPPLEMENTARY INFORMATION:

Comments Received

Comments were received from 43 private sector organizations, from 12 Federal Government entities, and from 34 private individuals in response to the request for comment published in the Federal Register on March 20, 1992. The following is an analysis of the comments received and the changes made to the Circular.

An initial recommendation was made by the Interagency Committee on Standards Policy. They requested that the guidance letter from the Department of Justice that was attached to the 1982 version of the Circular also be attached to the revised Circular. OMB requested from the Department of Justice a new guidance letter, or a letter reaffirming the 1982 letter. Justice has provided OMB with a letter of reaffirmation. That letter and the 1982 guidance letter follow the text of the Circular.

Definitions

Many commenters requested the deletion of the term "conformity assessment procedures" as part of the definition of a "standard." Consequently, many of these commenters felt that all reference to conformity assessment procedures be deleted from the document. Some of these comments suggested that the issue of conformity assessment be covered in a separate OMB circular while others believed that the issue was simply not a government issue. At this time, OMB believes A–119 is not the proper vehicle to address the complex issue of conformity assessment and therefore all references to conformity assessment procedures have been deleted.

Several commenters recommended that the definitions currently in use in Circular A–119 may be ambiguous, and therefore should be altered to reflect the definitions being used in the GATT Standards Code. Although OMB understands the rationale for this recommendation, it is our belief that the current definitions in the Circular are not being misinterpreted and have served their purpose well. Therefore, we believe that changing these definitions at this time could confuse matters and would, therefore, be inappropriate.

Other commenters suggested definitions should be added to the Circular for the terms "environmentally sound" and "energy efficient". OMB believes that these terms are adequately described in Executive Order 12780, and therefore should not be redefined in an OMB Circular.

Policy Guidelines

One comment was received from the Environmental Protection Agency recommending that in the opening paragraph a clause be added stating that when properly conducted standards could "promote the concepts of pollution prevention and the use of recycled content materials." That has been added to the Circular.

Numerous comments were received regarding section 7.a. on Reliance on Voluntary Standards. Many commenters were concerned about the terminology used in paragraph 7.a.(2) governing voluntary standards "that are internationally recognized or accepted." That language has been changed to reflect the comments received from the Office of the United States Trade Representative (USTR).

Several comments were received on subsections 7.a.(4) and 7.b.(4) giving preference to voluntary standards reflecting the metric system. Many comments received recommended that metric units always be listed first with English units in parenthesis or that metric units be the only units listed. Other commenters were concerned that OMB advocating a "hard" conversion to metric could lead to economic hardships in some industry sectors or have an adverse affect on safety considerations. OMB believes that the Circular, as it is currently written, adequately reflects the intention of Executive Order 12770, to promote the use of the metric system of measurements in all aspects of government business, where economically feasible. As is stated at the beginning of paragraph 7, standards activities, when not properly conducted, can have an adverse affect on health and safety, trade and commerce, and can suppress free and fair competition. It is not intended that the promotion of standards using the metric system supersede the concerns expressed earlier in the Circular regarding possible

economic hardships or health and safety considerations.

Sixteen commenters, including 6 Federal agencies and the Interagency Committee on Standards Policy, addressed issues related to agency employee participation in standards developing bodies. A key issue with all the commenters focused on ethics, and under what circumstances an agency employee can participate. To clarify that matter, OMB asked for an opinion from the Office of Government Ethics (OGE). That opinion specifically states that "from an ethics point of view, the Circular does not raise major concerns." However, OMB reminds federal employees participating in standards developing activities that they, as the Circular states, should refrain from decisionmaking involvement in the internal day-to-day management of such bodies.

Responsibilities

Another revision to the Circular was the paragraph added as section 8.a.(4) concerning responsibilities of the Secretary of Commerce. This proposed section read: "The Secretary will pursue, with other nations and international organizations, the mutual recognition of standards, including conformance assessment procedures." OMB received many comments from industry organizations and standards developers recommending that this section be deleted. Their concern was primarily that the issue of conformance assessment was too complex for the scope of this Circular. In addition, the USTR stated its opposition to the inclusion of this paragraph on the basis that delegation of this authority to the Secretary of Commerce would be inappropriate because the Trade Agreements Act states that representation of the United States before international standards developing bodies shall be carried out by the organization member—the private individual who holds membership in the international standards organization. Therefore, the proposed section 8.a(4) has been deleted from the Circular.

Several comments were received recommending changes to the provision concerning the development of agency-wide directories of participation in standards developing bodies. A few government agencies, including the Interagency Committee on Standards Policy, recommended that a common format be used in development of these directories. Other comments were received from the private sector requesting that a provision be added to ensure that these directories are made available to the public. OMB agrees with both of these comments, and has added a new paragraph 8.a.(4) which states "(The Secretary will) establish procedures by which agencies will develop the harmonized directories described in paragraph 8.b.(2)d., and establish procedures to make these directories available to the public."

Under section 8.b. concerning the responsibilities of the heads of agencies, there was a proposal in subparagraph 2. that the head of agency shall designate a senior level official "with agency-wide responsibility" to implement the Circular. At the suggestion of the Interagency Council on Standards Policy, the language has been modified to state that the Standards Executive must be a senior level official "who will be responsible for agency-wide implementation of this Circular." The original language was proposed to ensure that the issue of voluntary standards was given proper attention throughout each agency; however OMB agrees that the proposed language may have been too restrictive for some agencies.

Also under section 8.b., language was proposed in subparagraph b. that would "ensure" that two or more agencies participating in a given voluntary standards body, coordinate their views on matters of great importance. Several commenters noted that this could be in violation of some procedural rules of certain standards developing bodies, and could increase the likelihood of block voting. As recommended by the Interagency Committee on Standards Policy, the following clause has been added to the end of that section: "* * * and, where not feasible, a mutual recognition of differences." OMB intends, by making this change to the document, that, on matters of paramount importance, agency representatives should meet and discuss their respective positions. If the different missions of the agencies involved make a compromise not possible, then the participants should advocate their respective agency's position to the standards developing group. OMB simply wants to ensure that the agency participants make a good faith effort to coordinate their views on these important issues.

Reporting Requirements

Twenty commenters recommended changes to the reporting requirements. The Interagency Committee on Standards Policy recommended that instead of the proposed annual reporting requirement, a biennial requirement would be sufficient. OMB believes that the annual requirement should not prove to be overly burdensome, given the important nature of this policy. OMB believes that following the development of agency directories, the process by which the individual agency reports will be produced should not be excessively time consuming.

Several commenters addressed the subject of what specific data should be included in the report. Most of these comments suggested that the proposed data request was too broad, and possibly, not accessible by the agencies. In the past, OMB has not been specific on this subject; however OMB believes that in order to allow the agency to develop trend data, and more adequately assess agency compliance with the Circular, specific data must be requested. Therefore, the data request has been changed to more adequately reflect current agency participation in standards developing bodies and the extent to which this participation has led to the adoption of voluntary standards. In addition, OMB will request identification of all voluntary standards adopted by each agency for the purpose of promoting environmentally safe and energy efficient materials, products, systems, services or practices.

Dated October 20, 1993.

Allan V. Burman,

Administrator, Office of Federal Procurement Policy.

[Circular No. A–119, Revised]

To the Heads of Executive Departments and Establishments.

Subject: Federal Participation in the Development and Use of Voluntary Standards.

1. *Purpose.* This Circular establishes policy to be followed by executive agencies in working with voluntary standards bodies. It also establishes policy to be followed by executive branch agencies in adopting and using voluntary standards.

2. *Rescissions.* This Circular supersedes OMB Circular No. A–119, dated October 26, 1982, which is rescinded.

3. *Background.* Government functions often involve products or services that must meet reliable standards. Many such standards, appropriate or adaptable for the Government's purposes, are available from private voluntary standards bodies. Government participation in the standards-related activities of these voluntary bodies provides incentives and opportunities to establish standards that serve national needs, and the adoption of voluntary standards, whenever practicable and

appropriate, eliminates the costs to the Government of developing its own standards. Adoption of voluntary standards also furthers the policy of reliance upon the private sector to supply Government needs for goods and services, as enunciated in OMB Circular No. A–76, "Performance of Commercial Activities."

4. *Applicability.* This Circular applies to all Executive agency participation in voluntary standards activities, domestic and international, but not to activities carried out pursuant to treaties and international standardization agreements.

5. *Definitions.* As used in this Circular:

a. *Executive agency* (hereinafter referred to as "agency") means any executive department, independent commission, board, bureau, office, agency, Government-owned or controlled corporation or other establishment of the Federal Government, including regulatory commission or board. It does not include the legislative or judicial branches of the Federal Government.

b. *Standard* means a prescribed set of rules, conditions, or requirements concerned with the definition of terms; classification of components; delineation or procedures, specification of dimensions, materials, performance, design, or operations; measurement of quality and quantity in describing materials, products, systems, services, or practices; or descriptions of fit and measurement of size.

c. *Voluntary Standards* are established generally by private sector bodies, both domestic and international, and are available for use by any person or organization, private or governmental. The term includes what are commonly referred to as "industry standards" as well as "consensus standards", but does not include professional standards of personal conduct, institutional codes of ethics, private standards of individual firms, or standards mandated by law, such as those contained in the United States Pharmacopeia and the National Formulary, as referenced in 21 U.S.C. 351.

d. *Government Standards* include individual agency standards and specifications as well as Federal and Military standards and specifications.

e. *Voluntary standards bodies* are private sector domestic or international organizations—such as nonprofit organizations, industry associations, professional and technical societies, institutes, or groups, and recognized test laboratories—that plan, develop, establish, or coordinate voluntary standards.

f. *Standards-developing groups* are committees, boards, or any other principal subdivisions of voluntary standards bodies, established by such bodies for the purpose of developing, revising, or reviewing standards, and which are bound by the procedures of those bodies.

g. *Adoption* means the use of the latest edition of a voluntary standard in whole, in part, or by reference for procurement purposes and the inclusion of the latest edition of a voluntary standard in whole, in part, or by reference in regulation(s).

h. *Secretary* means the Secretary of Commerce or that Secretary's designee.

6. *Policy.* It is the policy of the Federal Government in its procurement and regulatory activities to:

a. Rely on voluntary standards, both domestic and international, whenever feasible and consistent with the law and regulation pursuant to law;

b. Participate in voluntary standards bodies when such participation is in the public interest and is compatible with agencies' missions, authorities, priorities, and budget resources; and

c. Coordinate agency participation in voluntary standards bodies so that (1) the most effective use is made of agency resources and representatives; and (2) the views expressed by such representatives are in the public interest and, as a minimum, do not conflict with the interests and established views of the agencies.

7. *Policy Guidelines.* In implementing the policy established by this Circular, agencies should recognize the positive contribution of standards development and related activities. When properly conducted, standards development can increase productivity and efficiency in Government and industry, expand opportunities for international trade, conserve resources, improve health and safety, and promote the concepts of pollution prevention and the use of recycled content materials. It also must be recognized, however, that these activities, if improperly conducted, can suppress free and fair competition, impede innovation and technical progress, exclude safer and less expensive products, or otherwise adversely affect trade, commerce, health, or safety. Full account in carrying out this policy shall be taken of the impact on the economy, applicable Federal laws, policies, and national objectives, including, for example, laws and regulations relating to antitrust, national security, small business, product safety, environment, metrication, technological development, and conflicts of interest. It should also be noted, however, that the provisions of this Circular are intended for internal management purposes only and are not intended to (1) create delay in the administrative process, (2) provide new grounds for judicial review, or (3) create legal rights enforceable against agencies or their officers. The following policy guidelines are provided to assist and govern implementation of the policy enunciated in paragraph 6.

a. *Reliance on Voluntary Standards.*

(1) Voluntary standards that will serve agencies' purposes and are consistent with applicable laws and regulations should be adopted and used by Federal agencies in the interests of greater economy and efficiency, unless they are specifically prohibited by law from doing so.

(2) International standards should be considered in procurement and regulatory applications in the interests of promoting trade and implementing the provisions of the Agreement on Technical Barriers to Trade and the Agreement on Government Procurement (commonly referred to as the "Standards Code" and the "Procurement Code", respectively.)

(3) Voluntary standards should be given preference over non-mandatory Government standards unless use of such voluntary standards would adversely affect performance or cost, reduce competition, or have other significant disadvantages.

(4) In adopting and using voluntary standards, preference should be given to those based on performance criteria when such criteria may reasonably be used in lieu of design, material, or construction criteria. Preference should also be given, in light of stated national goals and objectives, to the adoption and use of voluntary standards that (i) reflect the metric system of measurement, and (ii) foster materials, products, systems, services, or practices that are environmentally sound and energy efficient.

(5) Voluntary standards adopted by Federal agencies should be referenced, along with their dates of issuance and sources of availability, in appropriate publications, regulatory orders, and related in-house documents. Such adoption should take into account the requirements of copyright and other similar restrictions.

(6) Agencies should not be inhibited, if within their statutory authorities, from developing and using Government standards in the event that voluntary standards bodies cannot or do not develop a needed, acceptable standard in a timely fashion. Nor should the policy contained in this Circular be

construed to commit any agency to the use of a voluntary standard which, after due consideration, is, in its opinion, inadequate, does not meet statutory criteria, or is otherwise inappropriate.

b. *Participation in Voluntary Standards Bodies*

(1) Participation by knowledgeable agency employees in the standards activities of voluntary standards bodies and standards-developing groups, both domestic and international, should be actively encouraged and promoted by agency officials when consistent with the provisions of paragraph 6b.

(2) Agency employees who, at Government expense, participate in standards activities of voluntary standards bodies and standards-developing groups should do so in their governmental capacities as specifically authorized agency representatives.

(3) Agency participation in voluntary standards bodies and standards-developing groups does not, of itself, connote agency agreement with, or endorsement of, decisions reached by such bodies and groups or of standards approved and published by voluntary standards bodies.

(4) Participation by agency representatives should be aimed at contributing to the development of voluntary standards that (a) will eliminate the necessity for development or maintenance of separate Government standards, and (b) will further such national goals and objectives as increased use of (i) the metric system of measurement, and (ii) environmentally sound and energy efficient materials, products, systems, services, or practices.

(5) Agency representatives serving as members of standards-developing groups should participate actively and on a basis of equality with private sector representatives. In doing so, agency representatives should not seek to dominate such groups. Active participation is intended to include full involvement in discussions and technical debates, registering of opinions and, if selected, serving as chairpersons or in other official capacities. Agency representatives may vote, in accordance with the procedures of the voluntary standards body, at each stage of standards development, unless specifically prohibited from doing so by law or their agencies.

(6) The number of individual agency participants in a given voluntary standards activity should be kept to the minimum required for effective presentation of the various program, technical, or other concerns of Federal agencies.

(7) The providing of Agency support to a voluntary standards activity should be limited to that which is clearly in furtherance of an agency's mission and responsibility. Normally, the total amount of Federal support should be no greater than that of all private sector participants in that activity except when it is in the direct and predominant interest of the Government to develop a standard or revision thereto and its development appears unlikely in the absence of such support. The form of agency support, subject to legal and budgetary authority, may include:

(a) Direct financial support; e.g., grants, sustaining memberships, and contracts;

(b) Administrative support; e.g., travel costs, hosting of meetings, and secretarial functions;

(c) Technical support; e.g., cooperative testing for standards evaluation and participation of agency personnel in the activities of standards-developing groups; and

(d) Joint planning with voluntary standards bodies to facilitate a coordinated effort in identifying and developing needed standards.

(8) Participation by agency representatives in the policymaking process of voluntary standards bodies, in accordance with the procedures of those bodies, is encouraged—particularly in matters such as establishing priorities, developing procedures for preparing, reviewing, and approving standards, and creating standards-developing groups. In order to maintain the private, nongovernmental nature of such bodies, however, agency representatives should refrain from decisionmaking involvement in the internal day-to-day management of such bodies (e.g., selection of salaried officers and employees, establishment of staff salaries and administrative policies).

(9) This Circular does not provide guidance concerning the internal operating procedures that may be applicable to voluntary standards bodies because of their relationships to agencies under this Circular. Agencies should, however, carefully consider what laws or rules may apply in a particular instance because of these relationships. For example, these relationships may involve the Federal Advisory committee Act, as amended (5 U.S.C. App. I), or a provision of an authorizing statute for a particular agency. Agencies are best able to determine what laws and policies should govern particular relationships and to assess the extent to which competition may be enhanced and cost-effectiveness increased. Questions relating to anti-trust implications of such relationships should be addressed to the Attorney General.

8. Responsibilities.

a. The Secretary will:

(1) Coordinate and foster executive branch implementation of the policy in paragraph 6 of this Circular, and may provide administrative guidance to assist agencies in implementing paragraph 8.b.(2)(d) of this Circular;

(2) Establish an interagency consultative mechanism to advise the Secretary and agency heads in implementing the policy contained herein. That mechanism shall provide for participation by all affected agencies and ensure that their views are considered;

(3) Report to the Office of Management and Budget concerning implementation of this Circular; and

(4) Establish procedures by which agencies will develop the directories described in paragraph 8b(2)(d), and establish procedures to make these directories available to the public.

b. The heads of agencies concerned with standards will:

(1) Implement the policy in paragraph 6 of this Circular in accordance with the policy guidelines in paragraph 7 within 120 days of issuance;

(2) Within 120 days of issuance, shall designate a senior level official as the Standards Executive who will be responsible for agency-wide implementation of this Circular. The Standards Executive's responsibilities will include, but not be limited to:

(a) Establishing procedures to ensure that agency representatives participating in voluntary standards bodies and standards-developing groups will, to the extent possible, ascertain the views of the agency on matters of paramount interest and will, as a minimum, express views that are not inconsistent or in conflict with established agency views;

(b) Ensuring. when two or more agencies participate in a given voluntary standards body or standards-developing group, that they coordinate their views on matters of paramount importance so as to present, whenever feasible, a single, unified position and, where not feasible, a mutual recognition of differences;

(c) Cooperating with the Secretary in carrying out his responsibilities under this Circular;

(d) Consulting with the Secretary, as necessary, in the development and issuance of internal agency procedures and guidance implementing this Circular, including the development and harmonized implementation of an agency-wide directory identifying agency employees participating in standards developing groups; and

(e) Submitting, in response to the request of the Secretary, reports on the

status of agency interaction with voluntary standards bodies.

(3) Review their existing standards within five years of issuance of this Circular, and at least once every five years thereafter, and replace those for which an adequate and appropriate voluntary standard can be substituted.

9. *Reporting Requirements.* One year from the date of issuance of this Circular, and every year thereafter, the Secretary will submit to the Office of Management and Budget a brief, summary report on the status of agency interaction with voluntary standards bodies. As a minimum, the report will include the following information:

a. The nature and extent of agency participation in the development and utilization of voluntary standards, including:

(1) the number of agency employees participating in at least one standards developing group;

(2) the number of voluntary standards the agency has adopted since the last report which result from agency participation in a standards developing group;

(3) the number of standards the agency has replaced as a result of the requirements set forth in paragraph 8b.(3).

b. Identification of any voluntary standards that have been adopted for the purpose of promoting environmentally sound and energy efficient materials, products, systems, services or practices.

c. An evaluation of the effectiveness of the policy promulgated in this Circular and recommendations for change.

10. *Policy Review.* The policy contained in this Circular shall be reviewed for effectiveness by the Office of Management and Budget three years from the date of issuance.

11. *Inquiries.* For information concerning this Circular, contact the Office of Management and Budget, Office of Federal Procurement Policy, telephone 202/395–6803.

Leon E. Panetta,

Director.

U.S. Department of Justice, Antitrust Division

July 27, 1993.

Mr. Allan V. Burman,

Administrator, Office of Federal Procurement Policy, Executive Office of the President, Office of Management and Budget, Washington, DC 20503.

Dear Mr. Burman: I am writing in regard to your memorandum of June 25, 1993, soliciting comments concerning OMB's proposed changes to OMB Circular A–119, "Federal Participation in the Development and Use of Voluntary Standards." This Circular encourages Federal participation in the development of voluntary standards and the use of such standards in procurement, regulatory and other applications.

At the time that Circular A–119 was last revised, the Department of Justice, in a June 22, 1982 letter from Acting Assistant Attorney General for Antitrust Ronald G. Carr, advised OMB concerning the competitive benefits and potential problems that can result from industry development of voluntary standards. I have reviewed that letter, a copy of which is enclosed, in light of OMB's current revision of Circular A–119 and I have determined that it continues accurately to state the Department's views concerning Federal participation in voluntary standards-setting organizations.

From the standpoint of competition policy, Federal employees who participate in the development of industry standards should be aware that the potential for anticompetitive harm resulting from industry standards setting can be reduced to the extent that such proceedings are open and transparent and provide an opportunity for notice and comment to any person potentially affected by the promulgation of the proposed standards. The adoption of performance rather than design standards also helps considerably to reduce competitive concerns. Thus, it is appropriate that Federal personnel who participate in voluntary standards-developing bodies advocate these principles whenever possible. At the same time, Federal personnel should understand that their participation in the standards-setting process generally does not confer antitrust immunity on industry participants, and Federal personnel should make clear that their presence does not imply Federal approval of any particular standards-setting process or of any resulting standards.

Sincerely,

Anne K. Bingaman,

Assistant Attorney General.

Enclosure.

U.S. Department of Justice, Antitrust Division

June 22, 1982.

Mr. Donald E. Sowle

Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, DC 20503.

Dear Mr. Sowle: I am writing to express the views of the Department of Justice on competition policy issues raised by the Revised OMB Circular No. A–119, "Federal Participation in the Development and Use of Voluntary Standards" published for comment in the Federal Register on April 20, 1982 (47 Fed. Reg. 16, 919).

In our comments on previous drafts of the Circular, dated December 26, 1976 and June 13, 1978, we have supported a policy of federal adoption of privately developed standards when appropriate. Through participation in, and support for, private standards making activities, agencies may benefit greatly from private expertise and will avoid the wasteful duplication of cost and effort involved in developing their own in-house standards. The Department of Justice is not opposed to the policy announced in Revised OMB Circular A–119, which would eliminate the rigid "due process" precondition to federal participation in private standards activities. Such a precondition is overly restrictive, since as a practical matter federal agencies will often be required to adopt the standards developed regardless of federal participation in their development. Thus, in our view, the better solution is to participate in standards setting bodies and work within them to assure that appropriate procedures are adopted.

The Department believes that federal participants should encourage the adoption of procedures to foster access to standard setting activities and transparency in such activities. Such procedures facilitate the development of standards acceptable to the entire affected industry as well as to consumers. In particular, notice and opportunity for comment help assure that standards will be based on adequate information as to their utility and consequences. Moreover, it is especially important that performance criteria be given a prominent, perhaps predominant, place in any standards activity. Federal agency representatives, therefore, should advocate, as strongly as possible, procedures designed to assure that a broad range of information is solicited, and that performance criteria are central elements of the resulting standards.

In addition to the practical advantages of open standards proceedings, such safeguards would mitigate the substantial anticompetitive potential inherent in private standards groups. The importance of assuring adequate consideration of competition in the work of private standards bodies was noted recently by the Supreme Court in *American Society of Mechanical Engineers, Inc. v. Hydrolevel Corp.* The case involved a product standard which had been adopted in 46 states and all but one of the Canadian provinces. The Court observed that organizations creating such standards could be "rife with opportunities for anticompetitive activity." Federal agencies ought to strongly encourage these private groups to ensure consideration of all relevant viewpoints and interests including those of consumers, and potential or existing industry participants.

This country's international obligations and policy, as expressed in the Standards Code negotiated during the Tokyo Round of the Multilateral Trade Negotiations, *see* the Agreement on Technical Barriers to Trade, codified at 19 U.S.C.A. 2531 *et seq.* (1980), provide another important reason for federal agency participants to encourage the adoption of open procedures for private standards groups. This Code, approved by Congress as well as by our leading trading partners, seeks to prevent the creation of product standards which discriminate against import competition. It requires central governmental bodies to provide notice and opportunity to comment in their own standards making activities, and encourages governments to take reasonable measures to ensure that non-governmental bodies provide similar protection. Where the federal government is in fact involved in the private group, the obligations of the Standards Code would appear even stronger.

Open procedures, specifically adequate notice and opportunity to comment, would further the objectives of the Standards Code, and would substantially reduce the possibility that discriminatory, anticompetitive standards will be developed.

The Circular would encourage use of voluntary standards for regulatory and other purposes. Although we applaud this expansion of this scope of the Circular, we believe that broadened federal use of privately developed standards should be accompanied with broad federal awareness of the practical and competitive advantages of industry-wide access to private standards bodes. Such access is an asset to federal participation in private standards activities, but it is also of great importance when federal agencies, without participation in the process, merely adopt standards for procurement or regulatory use.

As we indicated in our previous comments, private activity is not, by virtue of governmental participation or approval, shielded from the antitrust laws. Federal agency participation in a standards body, however, may imply federal approval of the process and of the resulting standard, and perhaps lead private participants to become lax in their own antitrust scrutiny. To dispel any false impressions, federal agency representatives should inform private participants that federal participation does not remove antitrust concerns, as well as advocate that appropriate procedures be employed in the standards proceedings.

Sincerely yours,

Ronald G. Carr,

Acting Assistant Attorney General Antitrust Division.

[FR Doc. 93–26321 Filed 10–25–93; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33071; International Series Release No. 597; File No. SR–Amex–93–26]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval to Proposed Rule Change, Including Amendment No. 1 to the Proposed Rule Change, by the American Stock Exchange, Inc., Relating to the Listing of Options on International Funds

October 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 27, 1993, the American Stock Exchange ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Rule 915 to provide standards for the listing and trading of options on the securities issued by registered closed-end management investment companies that invest in securities of issuers located in particular foreign countries ("international funds").[2] The proposal authorizes the Amex to list and trade options on the securities issued by international funds where the underlying securities meet or exceed the Exchange's established uniform options listing standards and (1) the Exchange has a market information sharing agreement ("market information agreement") with the primary home exchange on which each of the foreign securities comprising the fund's portfolio trade, (2) the fund is classified as a diversified fund, as that term is defined by section 5(b) of the Investment Company Act,[3] and the fund's portfolio is comprised of securities from five or more countries, or (3) the listing of a particular international fund option is specifically authorized by the Commission.

The text of the proposal is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Amex proposes to adopt uniform criteria for listing and trading options on international funds. The proposed criteria permit the Exchange to list options on international funds where the underlying securities meet or exceed the Exchange's established uniform options listing standards and (1) the Exchange has a market information agreement with the primary home exchange on which each of the foreign securities comprising the fund's portfolio trade, (2) the fund is classified as a diversified fund, as that term is defined by section 5(b) of the Investment Company Act,[4] and the fund's portfolio is comprised of securities from five or more countries,[5] or (3) the listing of a particular international fund option is specifically authorized by the Commission.

First, to be eligible for listing and continued trading the proposal requires that either the Amex have market information agreements in place with the foreign exchanges that serve as the primary markets for the foreign securities which comprise the portfolios of the underlying international funds, or the fund is classified as a diversified fund and invests in the securities from five or more countries. The proposal defines a market information agreement as an agreement that would permit the Amex to obtain trading information relating to the securities held by the

[1] The proposal was amended on October 12, 1993 to provide that the Amex may list options on an international fund that invests in the securities from five or more countries without the existence of a market surveillance agreement only if the fund is classified as a diversified fund, as that term is defined by section 5(b) of the Investment Company Act of 1940 ("Investment Company Act") ("Amendment No. 1"). See Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Richard L. Zack, Branch Chief, Division of Market Regulation ("Division"), Commission, dated October 8, 1993.

[2] To avoid confusion, this order refers to all registered closed-end management investment companies that invest in securities of issuers located in a particular foreign country, in a particular geographic region, or throughout the world as "international funds." In actuality, however, the foregoing are separated into three types of funds, respectively: country funds; regional funds; and global funds.

[3] 15 U.S.C. 80a–5(b) (1988).

[4] 15 U.S.C. 80a–5(b) (1988).

[5] The Amex has represented that it will look to the actual investment practices of an international fund to determine whether the fund invests in securities from five or more countries. The Amex will evaluate the actual number of countries that are represented by the fund's investments and the concentration of such investments in each country represented. See *infra* note 18, and accompanying text. The Amex also will review the fund's investment practices every six months to determine whether the fund continues to invest in five or more countries. If the Amex finds that a fund no longer qualifies for listing without the existence of a market information agreement, the Amex has represented that it will consult with the Commission to determine the appropriate course of action. Letter from Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, to Richard L. Zack, Branch Chief, Division, Commission, *supra* note 1, and telephone conversation between Claire P. McGrath, Managing Director and Special Counsel, Derivative Securities, Amex, and Richard L. Zack, Branch Chief, Division, Commission, on October 12, 1993.

fund, including the identity of the exchange member executing a trade.[6]

Second, the initial listing standards would require that the securities underlying Exchange-listed international fund options (*i.e.*, the securities issued by the international fund) have a "float" of 7,000,000 shares outstanding, 2,000 shareholders, trading volume of at least 2,400,000 over the prior twelve month period, and a minimum price of $7½ for a majority of the business days during the preceding six month period.[7] Moreover, options on international fund securities must meet or exceed the maintenance criteria for continued listing under the Amex rules. Those criteria require that the securities underlying Exchange-listed international fund options maintain a "float" of 6,300,000 shares, 1,600 shareholders, trading volume of at least 1,800,000 over the prior twelve month period, and a minimum price of $5 on a majority of the business days during the preceding six month period.[8]

In addition, the Exchange listing standards require that the security underlying an international fund option be registered and listed on a national securities exchange or traded through the facilities of a national securities association and be reported as a national market system security. The issuers of the international fund securities also must be in compliance with any other applicable requirements of the Act.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act.[10]

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).[11] Specifically, the Commission finds that allowing the listing and trading of options on international funds, among other things, gives investors a better means to hedge their positions in international fund securities, as well as enhanced market timing opportunities.[12] Further, the Commission believes that the pricing of the shares underlying the international fund options may become more efficient and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on international funds likely engender the same benefits to investors and the marketplace that exist with respect to options on common stock.[13]

The Commission also believes that it is appropriate to permit the Amex to list and trade options on the securities issued by international funds given that these options meet specific requirements related to the protection of investors. First, the proposal requires that the underlying international fund securities meet the Amex's uniform options listing standards in all respects. As described above, this would include the initial and maintenance criteria. These criteria ensure, among other things, that the underlying international fund securities will maintain adequate price and float to prevent susceptibility to manipulation. Second, the proposal requires that, prior to listing options on securities issued by an international fund that is non-diversified or invests in the securities from less than five countries, the Amex have in place market information agreements with the foreign exchanges which serve as the primary home exchanges for the securities that comprise the fund's portfolio. The proposal defines a market information agreement as a surveillance sharing agreement that provides for the exchange of information regarding market trading activity, including the identity of the exchange member executing a trade.[14]

As a general matter, the Commission believes that the existence of a surveillance sharing agreement that effectively permits the sharing of information between an exchange proposing to list an equity option, such as international fund options, and the exchange trading the stock underlying the equity option is necessary to detect and deter market manipulation and other trading abuses. In particular, the Commission notes that surveillance sharing agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the context of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.

In the case of international fund options, the Commission believes that market information agreements, which are surveillance sharing agreements that permit the exchange of information on market trading activity, are sufficient to detect and deter any possible market manipulation. In contrast to other foreign products, international funds are comprised of a portfolio of securities chosen by portfolio managers. Although the composition of the fund is published on a semi-annual basis, the

[6] Although a market information agreement provides for the exchange of information regarding the identity of exchange members executing trades, it does not require the exchange of information regarding the identity of the ultimate customer.

[7] Amex Rule 915.

[8] Amex Rule 916.

[9] 15 U.S.C. 78f (1988).

[10] 15 U.S.C. 78s(b)(2) (1988).

[11] 15 U.S.C. 78f(b)(5) (1988).

[12] For example, if an investor wants to invest in international fund shares but does not have sufficient cash available until a future date, he can purchase international fund options now for less money and exercise the options to purchase the international fund shares at a later date.

[13] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such new product is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[14] The Commission notes that it reviews surveillance sharing agreements and may require the parties to the agreement to provide additional representations confirming that there are no rules of the foreign exchange or laws of the foreign jurisdiction that would prevent or deter the foreign exchange from providing a U.S. exchange with the appropriate market surveillance information.

securities that make up the portfolio can be changed at any time at the discretion of the portfolio managers, as long as their investment decisions are consistent with the stated investment objectives and policies of the fund.

For this reason, the Commission believes that it generally would be difficult for someone to use options on international funds to attempt a manipulation of the market. The Commission believes that the only people who could potentially attempt such a manipulation would be people who have access to "inside" information about the composition of a fund and the trading activities of the fund's portfolio managers.[15]

The Investment Advisers Act of 1940 ("Advisers Act"),[16] and the rules promulgated thereunder, contain provisions designed to detect and deter certain advisory employees and affiliates from trading in any securities based on "inside" information about the investment decisions of a fund. Rule 204–2(a)(12) under the Advisers Act[17] requires an investment adviser to make and keep accurate records of every transaction in a security in which the investment adviser or any advisory representative has a beneficial interest. Accordingly, the Commission believes that the Advisers Act gives it the authority to review the trading activities of anyone who is likely to have access to the information necessary to use options on international funds to attempt a manipulation of the market. The Commission believes, therefore, that it is sufficient for the U.S. exchanges seeking to list international fund options to have access to information about the trading activity occurring in the foreign market in which the securities comprising the underlying international funds's portfolio trade. If there is a suspicion that a market manipulation may have been attempted, the Commission believes that current legal requirements applicable to registered investment companies and investment advisers should give the Commission access to the information necessary to investigate that suspicion.

In reviewing the current proposal, the Commission believes that requiring market information agreements to be in place between the Amex and primary home markets for the foreign securities that comprise the portfolio of an international fund, that is non-diversified or invests in securities from less than five countries, provides an adequate mechanism to provide for the exchange of the surveillance sharing information necessary to detect and deter possible market manipulations. Further, the Commission believes that if the international fund is classified as a diversified fund, under the Investment Company Act, and a review of its actual investment practices show that the fund invests in securities from five or more countries, the portfolio of that fund is diverse enough to significantly reduce the likelihood that the price of the securities issued by the fund could be manipulated. The Commission, thus, believes that it is appropriate to permit the Amex to list and trade options on such a fund's securities without obtaining market information agreements with the primary home markets for the foreign securities that comprise the fund's portfolio.[18]

Thus, for the reasons set forth above, the Commission finds that it 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)[19] to approve the proposed rule change.

The Commission finds good cause for approving the proposed rule change, including Amendment No. 1 to the proposed rule change, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Amex proposal to list and trade international fund options is substantially similar to a proposal by the Chicago Board Options Exchange, Inc. ("CBOE") to provide uniform standards for listing international fund options.[20] The CBOE proposal was subject to a full notice and comment period. Further, proposals by the Amex and CBOE to list and trade options on certain specific international funds also were subject to a full notice and comment period.[21]

Although the Commission did not receive any comment letters in response to publishing the proposal to provide uniform listing standards, the Commission did receive letters generally opposed to the listing of international fund options in response to the proposal to list options on certain specific international funds.[22] As described more fully in the order approving the proposal to adopt uniform standards for the listing of international fund options, the

[15] The susceptibility of options on a particular international fund to manipulation could be increased if the fund's investment decisions were predictable, such as if the portfolio consisted of long-term or illiquid investments, or the composition of the portfolio was readily available to the public on a regular basis. In these cases, options on that international fund would present similar risks for market manipulation as would cash-settled index options. Although not raised by the current proposal, the Commission believes it to be appropriate that an exchange proposing to list an option on such a foreign product have a comprehensive surveillance sharing agreement in place with the foreign exchange on which the underlying foreign securities trade, which provides for the exchange of market trading activity, clearing activity, and the identity of the ultimate purchaser or seller of the securities traded.

[16] 15 U.S.C. 80b–1 *et seq.* (1988).

[17] 17 CFR 275.204–2(a)(12) (1993).

[18] The Commission believes that not requiring a market information agreement, under these circumstances, is consistent with the Commission's determination that cash-settled options and warrants may be listed on foreign indices where no more than 20% of the value of the index was comprised of securities from a particular country not covered by a surveillance sharing agreement ("uncovered securities") and no more than 30% of the value of the index was comprised of uncovered securities from two such countries. See e.g., Securities Exchange Act Release No. 30463 (March 14, 1992), 57 FR 9284 (March 17, 1992) (Approval of Amex proposal to trade Eurotop 100 options and warrants). The Exchange will consider the actual investment practices of an international fund to determine whether it can be classified as an international fund that invests in five or more countries. *See supra* note 5. The Commission, however, encourages the Amex to obtain all relevant surveillance sharing agreements because it continues to believe that surveillance sharing agreements are useful in deterring and detecting any potential manipulations or other improper or illegal trading involving international fund options.

[19] 15 U.S.C. 78f(b)(5)(1988).

[20] Securities Exchange Act Release No. 31969 (March 9, 1993), 58 FR 14228 (March 16, 1993). The general requirement that there be a surveillance sharing agreement in place between the exchange seeking to list an international fund option and the primary home exchanges on which the foreign securities comprising the underlying international fund's portfolio trade was included in the published proposal. The current proposal includes additional provisions clarifying the type of information that should be provided under the agreement and specifying the circumstances in which a surveillance sharing agreement is needed to list an international fund option. The Commission believes that these modifications to the surveillance sharing requirements strengthen the proposal by tailoring the regulatory requirements to address the specific issues raised by international fund options.

[21] The Commission published for comment proposals to list and trade options on securities issued by certain specific international funds (i.e., the Growth Fund of Spain, Inc.), Securities Exchange Act Release Nos. 31411 (November 5, 1992), 57 FR 53943 (November 13, 1992) (File No. SR–CBOE–92–21), and 31469 (November 16, 1992), 57 FR 55604 (November 25, 1992) (File No. SR–Amex–92–40).

[22] The Commission received comment letters from Kemper Financial Services, Inc. ("Kemper") and Alliance Capital Management Corporation ("Alliance") opposing the listing of international fund options. Further, the CBOE sent a letter to the Commission responding to the issues raised in those letters. Because these letters are relevant to the listing of options on international funds, in general, the Commission is addressing the issues raised in those letters in the current approval order. See letters from Robert J. Engling, Executive Vice President and General Counsel, Kemper, to Jonathan G. Katz, Secretary, Commission, dated December 3, 1992; from David H. Dievler, Senior Vice President, Alliance, and Edmund P. Bergan, Jr., Vice President and Assistant General Counsel, Alliance, to Jonathan G. Katz, Secretary, Commission, dated December 3, 1992; and from Alger B. Chapman, Chairman and Chief Executive Officer, CBOE, to Jonathan G. Katz, Secretary, Commission, dated January 7, 1993.

Commission found that the commenters' assertions that the listing and trading of international fund options will increase fraudulent trading activity, increase speculative trading and the price volatility of the underlying shares, increase the risks of investing in the underlying shares, or decrease the liquidity of the underlying shares to be without merit.[23]

The Commission further notes that approving the current proposal, including Amendment No. 1, on an accelerated basis will permit the Amex list international fund options on a competitive basis with the CBOE. The Commission believes that encouraging competition between the exchanges benefits investors by enhancing the quality of the products and services offered to investors. Accordingly, since the Commission finds that the current proposal involves the exact same issues as the above-noted proposals, the Commission believes it is consistent with section 19(b)(2) and 6(b)(5) of the Act[24] to approve the Amex's proposal to provide standards for listing international fund options on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change, including 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 26, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[25] that the proposed rule change (SR-Amex-93-36) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

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[23] For a discussion of the issues raised by the comment letters and the CBOE's response to those letters, see Securities Exchange Act Release No. 33068 (order approving the CBOE proposal to adopt uniform listing standards for international fund options). See also Securities Exchange Act Release No. 33069 (order approving CBOE and Amex proposals to trade options on the Growth Fund of Spain, Inc.). In general, the Commission notes that the arguments that the listing of options increases speculative activity and price volatility of the underlying shares, or that it decreases liquidity in the underlying shares are the same arguments that were advanced in opposition to the listing of options on common stock. The Commission carefully has considered these arguments and found that they are not supported by the available evidence. To the contrary, the Commission believes that, similar to options on common stock, options on international funds will benefit investors by giving them a better means to hedge their positions in the underlying international fund shares, and by helping market makers in the underlying shares to provide deeper and more liquid markets. The Commission also notes that it reviews the surveillance sharing arrangements between U.S. exchanges seeking to list international fund options and the foreign exchanges listing the foreign securities comprising the underlying fund's portfolio to ensure that those arrangements provide the surveillance information necessary to adequately detect and deter potential market manipulations.

[24] 15 U.S.C. 78s(b)(2) and 78f(b)(5) (1988).

[25] 15 U.S.C. 78s(b)(2) (1988).

[26] 17 CFR 200.30-3(a)(12) (1993).

[Release No. 34-33069; International Series Release No. 595; File Nos. SR-CBOE-92-21; Amex 92-40]

Self-Regulatory Organizations; Order Granting Partial Approval of Proposed Rule Changes by the Chicago Board Options Exchange, Inc., and the American Stock Exchange, Inc., Relating to the Listing of Options on a Specific International Fund

October 19, 1993.

I. Introduction

The Chicago Board Options Exchange, Inc. ("CBOE") and the American Stock Exchange, Inc. ("Amex") (collectively referred to as the "Exchanges"), filed with the Securities and Exchange Commission ("Commission"), on September 11, 1992, and October 23, 1992, respectively, pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] proposed rule changes to list and trade options on securities issued by the Growth Fund of Spain, Inc. ("Growth Fund of Spain"), which is a closed-end investment company that invests in the securities from a specific country (i.e., Spain) (generically referred to as an "international fund").[3]

The proposed rule changes were published for comment in Securities Exchange Act Release Nos. 31411 (November 5, 1992), 57 FR 53943 (November 13, 1992) (File No. SR-CBOE-92-21) and 31469 (November 16, 1992), 57 FR 55604 (November 25, 1992) (File No. SR-Amex-92-40).[4] In response to publishing the CBOE proposal, the Commission received comment letters from Kemper Financial Services, Inc. ("Kemper") and Alliance Capital Management Corporation ("Alliance") opposing the proposed rule change. The CBOE sent a letter to the Commission responding to the issues raised in those letters.[5]

II. Description of Proposal

The Exchanges currently are proposing to list and trade options on the securities issued by the Growth Fund of Spain, which is a closed-end investment company that invests in securities from Spain. These securities trade primarily on the Madrid Stock Exchange, Inc. ("Madrid Stock Exchange").

Both the CBOE and the Amex have in place a surveillance sharing agreement with the Madrid Stock Exchange. Further, the Commission has on file representations from the Madrid Stock Exchange that there are no exchange

[1] 15 U.S.C. 78s(b) (1988).

[2] 17 CFR 240.19b-4 (1993).

[3] To avoid confusion, this order refers to all registered closed-end management investment companies that invest in securities of issuers located in a particular foreign country, in a particular geographic region, or throughout the world as "international funds." In actuality, however, the foregoing are separated into three types of funds, respectively: Country funds; regional funds; and global funds. The Growth Fund of Spain would be classified as a country fund.

[4] The Exchanges also have requested approval to list options on securities issued by Brazil Funds, Inc. ("Brazil Fund"), which is a closed-end investment company that invests in the securities from Brazil. The Commission is continuing to review the adequacy of the surveillance sharing arrangements between U.S. and Brazilian exchanges and is not, at this time, approving these proposals to list options on Brazil Fund.

[5] Because these comment letters object to the listing of options on international funds, in general, the Commission believes that the objections raised by these letters apply to both the CBOE and the Amex proposals to list options on the Growth Fund of Spain. See letters from Robert J. Engling, Executive Vice President and General Counsel, Kemper, to Jonathan G. Katz, Secretary, Commission, dated December 3, 1992 ("Kemper Letter"); from David H. Dievler, Senior Vice President, Alliance, and Edmund P. Bergan, Jr., Vice President and Assistant General Counsel, Alliance, to Jonathan G. Katz, Secretary, Commission, dated December 3, 1992 ("Alliance Letter"); and from Alger B. Chapman, Chairman and Chief Executive Officer, CBOE, to Jonathan G. Katz, Secretary, Commission, dated January 7, 1993 ("CBOE Response Letter").

rules or Spanish laws that would prevent the exchange from providing a U.S. exchange with market surveillance information.[6]

III. Comments Received on the Proposal

In response to publishing notice of the CBOE proposal, the Commission received comment letters from Kemper and Alliance in opposition to the proposal. The CBOE sent a letter to the Commission responding to the issues raised in those letters.[7] The commenters objected to proposals to list options on international funds because they believe that the listing and trading of these options, in general, will increase fraudulent trading activity, increase speculative trading and price volatility of a fund's shares, increase the risks of investing in a fund's shares, and decrease the liquidity of a fund's shares.

A. Increase of Fraudulent Trading Activity

Alliance argues that it is not clear whether the U.S. options exchanges seeking to list international fund options will have sufficient access to surveillance information to detect and deter any possible fraudulent trading activity. Alliance believes that the foreign securities markets, in which international funds invest, are less liquid than the U.S. securities markets. Alliance further believes that a single international fund's investments in a particular foreign securities market can represent a high enough percentage of a foreign market's total capitalization to raise concerns that the proposed options could increase that market's susceptibility to manipulation.[8]

Because of these facts, Alliance believes that the trading of international fund options could facilitate intermarket frontrunning. In addition, Alliance believes that a person in possession of material inside information regarding a company that represents a significant portion of the international fund's portfolio could use options to engage in fraudulent market activity. Alliance also believes that a person with advance knowledge of an international fund's intention to issue new securities could profit from an anticipated rise in the net asset value and market price of the international fund's shares through the use of listed options. Because Alliance believes that the listing of international fund options could increase the likelihood of abusive trading practices, Alliance further believes that the Commission should amend Rule 17j–1 under the Investment Company Act of 1940 ("Investment Company Act")[9] to provide for liability or reporting obligations arising out of transactions in options on an investment company's shares.[10]

Finally, Alliance believes that there should be some assurance given that the surveillance sharing agreements between the U.S. exchanges listing an international fund option and the foreign exchanges on which the securities comprising the underlying international fund's portfolio trade are adequate.[11]

B. Increase in Speculative Trading and Price Volatility

Alliance represents that under normal circumstances trading volume in an international fund's stock tends to be relatively low. Based on this fact, Alliance believes that trading options on international funds will increase the price volatility of their underlying shares by encouraging short-term traders to buy and sell such shares for speculation.[12] Kemper also believes that trading options on international funds will encourage speculative trading in an underlying international fund's shares.[13]

C. Decrease in Liquidity

Kemper believes that the listing and trading of options on an international fund will reduce the demand for the underlying international fund shares, thus reducing liquidity in the market for such shares.[14]

D. Increase Risk of Investing in Fund Shares

Alliance believes that listing and trading options on international funds will increase the market risks involved in an investment in the shares of those funds. Although Alliance concedes that current law would not require the disclosure of these supposed risks, it believes that the law could evolve to the point that such a disclosure would be required in the future.[15]

IV. CBOE Response to Commentators

The CBOE sent a letter to the Commission responding to these comments. The CBOE disagrees that the surveillance sharing arrangements between itself and the foreign exchange on which the securities comprising the underlying international fund's portfolio trades, are inadequate to detect and deter any possible abuse that might occur. The CBOE does not believe there is any basis for the assertion that foreign markets are dominated by an international fund's trading and, thus, disagrees that the listing and trading of options on international funds will increase the likelihood of fraudulent trading activity.[16] The CBOE also states that since an international fund's shares do not trade at net asset value, the relationship between the price of a single foreign security and the price of a fund's shares should be too attenuated to insure any profit from fraudulent trading activities. In addition, the CBOE states that it has obtained carefully negotiated surveillance agreements with the primary foreign market on which the securities that comprise the Growth Fund of Spain's portfolio primarily trade (i.e. the Madrid Stock Exchange).[17]

The CBOE does not believe that the listing and trading of options on international funds will increase speculative trading or price volatility of a fund's shares. The CBOE states that any claims that the introduction of options trading increases the volatility of the underlying security have been refuted by many studies.[18] The CBOE disagrees that the trading of options on international funds increases the risk of investing in the underlying shares. The CBOE further believes that because countless market factors may affect volatility in a stock, it would be impracticable for an international fund to disclose the listing of options on its shares as a specific market risk.[19]

The CBOE also rejects the assertion that Rule 17j–1 under the Investment Company Act[20] needs to be amended to require the reporting of transactions in options on the securities of an investment company. The CBOE states that the reporting requirements of Rule 17j–1(c)(1) apply to any transaction by an "access person" in any security. The CBOE further states that, under paragraph (e)(5) of Rule 17j–1, an option on fund shares is defined as a security.

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[6] See letter from Jaime Aguilar Fernandez-Hontoria, Manager, Legal Department, Madrid Stock Exchange, to William J. Barclay, Vice President, CBOE, dated April 12, 1993.

[7] See *supra* note 5.

[8] Alliance Letter, *supra* note 5, at 2.

[9] 17 CFR 270.17j–1 (1993).

[10] *Id.* at 3.

[11] *Id.* at 4.

[12] *Id.* at 5.

[13] Kemper Letter, *supra* note 5, at 2.

[14] *Id.*

[15] Alliance Letter, *supra* note 5, at 6.

[16] CBOE Response Letter, *supra* note 5, at 2.

[17] *Id.* at 3.

[18] *Id.* at 4. The letter cites the following study in support of this assertion: A Study of the Effects on the Economy of Trading in Futures and Options, submitted to the Committee on Agriculture and the Committee on Energy and Commerce of the House of Representatives and to the Committee on Banking, Housing and Urban Affairs of the Senate by the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, and the Commission, dated December 1984.

[19] *Id.* at 5.

[20] 17 CFR 270.17j–1 (1993).

Further, the CBOE states that the trading in fund shares or the options on such shares by a fund insider would be subject, under section 30(f) of the Investment Company Act,[21] to the same requirements and liabilities as those imposed by section 16 of the Act[22] on corporate insiders.[23]

Finally, the CBOE disagrees that the listing of options on international funds will decrease liquidity in the underlying international fund shares. The CBOE states that studies done on this subject have concluded that options trading tends to increase liquidity of the underlying security.[24]

V. Discussion

The Commission finds that the portions of the proposed rule changes related to the listing of options on the securities issued by the Growth Fund of Spain 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(b)(5).[25] Specifically, the Commission finds that the listing and trading of options on the Growth Fund of Spain, among other things, gives investors a better means to hedge their positions in the shares of this international fund, as well as enhanced market timing opportunities.[26] Further, the Commission believes that the pricing of the shares underlying the international fund options may become more efficient and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on the Growth Fund of Spain likely engender the same benefits to investors and the market place that exist with respect to options on common stock.[27]

The Commission also believes that it is appropriate to permit the Exchanges to list and trade options on the securities issued by the Growth Fund of Spain given that these options meet specific requirements related to the protection of investors. First, the Exchanges have represented that shares underlying these options meet the Exchanges' uniform options listing standards in all respects. The Exchanges' listing criteria ensure, among other things, that the underlying international fund shares have adequate price and float to prevent the options on international funds from being readily susceptible to manipulation. Second, both the CBOE and the Amex have in place market information agreements with the Madrid Stock Exchange, which is the foreign exchange on which the securities that comprise the international fund's portfolio primarily trade. A market information agreement is a surveillance sharing agreement that provides for the exchange of information regarding market trading activity, including the identity of the exchange member executing a trade.

As a general matter, the Commission believes that the existence of a surveillance sharing agreement that effectively permits the sharing of information between an exchange proposing to list an equity option, such as international fund options, and the exchange trading the stock underlying the equity options is necessary to detect and deter market manipulation and other trading abuses. In particular, the Commission notes that surveillance sharing agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the context of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.

In the case of international fund options, the Commission believes that market information agreements, which are surveillance sharing agreements that permit the exchange of information on market trading activity, are sufficient to detect and deter any possible market manipulation. In contrast to other foreign products, international funds are comprised of a portfolio of securities chosen by portfolio managers. Although the composition of the fund is published on a semi-annual basis, the securities that make up the portfolio can be changed at any time at the discretion of the portfolio managers, as long as their investment decisions are consistent with the stated investment objectives and policies of the fund.

For this reason, the Commission believes that it generally would be difficult for someone to use options on international funds to attempt a manipulation of the market. The Commission believes that the only people who could attempt such a manipulation would be people who have access to "inside" information about the composition of a fund and the trading activities of the fund's portfolio managers.[28]

The Investment Advisers Act of 1940 ("Advisers Act"),[29] and the rules promulgated thereunder, contain provisions designed to detect and deter certain advisory employees and affiliates from trading in any securities based on "inside" information about the investment decisions of a fund. Rule 204–2(a)(12) under the Advisers Act[30] requires an investment adviser to make and keep accurate records of every transaction in a security in which the investment adviser or any advisory representative has a beneficial interest. Accordingly, the Commission believes that the Advisers Act gives it the authority to review the trading activities of anyone who is likely to have access to the information necessary to use options on international funds to attempt a manipulation of the market. The Commission believes, therefore, that it is sufficient for the U.S. exchanges seeking to list international fund options to have access to information about the trading activity occurring in the foreign market in which the securities comprising the underlying international fund's portfolio trade. If there is a suspicion that a market manipulation may have been attempted, the Commission believes that current legal requirements applicable to registered investment companies and investment advisers should give the

[21] 15 U.S.C. 80a–29(f) (1988).

[22] 15 U.S.C. 78p (1988).

[23] *Id.* at 4.

[24] *Id.* at 6. See A Study of the Effects on the Economy of Trading in Futures and Options, supra note 18.

[25] 15 U.S.C. 78f(b)(5) (1988).

[26] For example, if an investor wants to invest in international fund shares but does not have sufficient cash available until a future date, he can purchase international fund options now for less money and exercise the options to purchase the international fund shares at a later date.

[27] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such new product is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[28] The susceptibility of options on a particular international fund to manipulation could be increased if the fund's investment decisions were predictable, such as if the portfolio consisted of long-term or illiquid investments, or the composition of the portfolio was readily available to the public on a regular basis. In these cases, options on that international fund would present similar risks for market manipulation as would cash-settled index options. Although not raised by the current proposal, the Commission believes it to be appropriate that an exchange proposing to list an option on such a foreign product have a comprehensive surveillance sharing agreement in place with the foreign exchange on which the underlying foreign securities trade, which provides for the exchange of market trading activity, clearing activity, and the identity of the ultimate purchaser or seller of the securities traded.

[29] 15 U.S.C. 80b–1 *et. seq.* (1988).

[30] 17 CFR 275.204–2(a)(12) (1993).

Commission access to the information necessary to investigate that suspicion.

In reviewing the current proposal, the Commission notes that the CBOE and the Amex have entered into surveillance sharing agreements with the Madrid Stock Exchange and that the Commission has on file a letter from this exchange representing that there are no rules of the exchange or laws of Spain that would prevent the Exchanges from receiving the relevant market information under the surveillance sharing agreement.[31] Accordingly, the Commission believes that there is in place an adequate mechanism to provide for the exchange of the surveillance sharing information necessary to detect and deter any possible market manipulations.

The Commission does not agree with the commenters' assertions that the listing and trading of international fund options will increase fraudulent trading activity, increase speculative trading and the price volatility of the underlying shares, increase the risks of investing in the underlying shares, or decrease the liquidity of the underlying shares. First, as explained in detail above, the Commission has reviewed the surveillance sharing arrangements between the Exchanges and the Madrid Stock Exchange. The Commission has found those arrangements to provide the surveillance information necessary to adequately detect and deter any potential market manipulations.

Second, the Commission disagrees with the assertion that the current regulatory framework is insufficient to adequately monitor the trading activities of fund "insiders." As explained in detail above, the Advisers Act provides a regulatory framework by which a fund insider is required to report every transaction in a security in which he has a beneficial interest. Further, as noted by the CBOE, the requirements of section 30(f) of the Investment Company Act and Rule 17j–1 under that Act[32] also apply to the trading of international fund securities and options by fund insiders.

Third, the Commission notes that the arguments that the listing of options increases speculative activity and price volatility of the underlying shares, or that it decreases liquidity in the underlying shares are the same arguments that were advanced in opposition to the listing of options on common stock. The Commission carefully has considered these arguments and found that they are not supported by the available evidence.[33] To the contrary, the Commission believes that, similar to options on common stock, options on international funds will benefit investors by giving them a better means to hedge their positions in the underlying international fund shares, and by helping market makers in the underlying shares to provide deeper and more liquid markets.

Thus, for the reasons set forth above, the Commission finds that it 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) to approve the above-noted portions of the proposed rule changes.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[34] that the portions of the proposed rule changes (SR–CBOE–92–21; SR–Amex–92–40) related to the listing of options on securities issued by the Growth Fund of Spain are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[35]

Margaret H. McFarland,

Deputy Secretary.

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[Release No. 34–33080; File No. SR–NYSE–93–26]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Amendments to Rule 113(a)—Specialists' Public Customers—and Rule 98—Restrictions on Approved Person Associated With Specialist's Member Organization

October 20, 1993.

I. Introduction

On May 24, 1993, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NYSE Rules 113(a) and 98. The proposed amendment to Rule 113(a) would prohibit approved persons associated with specialist organizations ("approved persons") from accepting orders in specialty stocks from certain persons. The proposed amendment to Rule 98 would grant an exemption for approved persons from the provisions of Rule 113(a) so long as all conditions specified in the Rule 98 Guidelines are satisfied.

The proposed rule change was published for comment in Securities Exchange Act Release No. 32750 (August 16, 1993), 58 FR 44715 (August 24, 1993). No comments were received on the proposal.

II. Description of the Proposal

NYSE Rule 113(a) prohibits specialists, their associated member organizations and affiliates from accepting orders for the purchase or sale of specialty stocks from certain entities. These entities include (i) the specialists' listed companies; (ii) officers, directors and 10% stockholders of the listed company; (iii) pension and profit sharing funds; and (iv) institutions such as banks, trust companies, insurance companies and investment companies.

The Exchange proposes to amend Rule 113(a) to prohibit approved persons from accepting orders in specialty stocks from certain parties. The term approved person refers to one who is not a member or an allied member of the Exchange or an employee of a member organization, who has become an approved person as provided in the rules of the Exchange and who is either: (i) A person who controls a member or member organization, or (ii) a person engaged in a securities or kindred business who is controlled by or under common control with a member or member organization.[3] The Exchange is proposing to expand the Rule 113(a) limitation to prohibit approved persons from accepting orders in specialty stocks from the entities noted in (i)–(iv) above.

The Exchange also proposes to establish an exception to the Rule 113(a) prohibition for approved persons that have established procedures to separate effectively their business operations from those of their associated specialist organizations. NYSE Rule 98 currently exempts approved persons from certain NYSE restrictions provided that the approved person and the associated specialist unit establish, and the Exchange approves, a functional separation in accordance with the Rule 98 "Guidelines for Approved Persons Associated with a Specialist's Member Organization" promulgated by the

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[31] See letter from the Madrid Stock Exchange, *supra* note 6.

[32] 15 U.S.C. 80a–29(f) (1988) and 17 CFR 270.17j–1 (1993).

[33] See e.g. A Study of the Effects on the Economy of Trading in Futures and Options, *supra* note 18.

[34] 15 U.S.C. 78s(b)(2) (1988).

[35] 17 CFR 200.30–3(a)(12) (1933).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1991).

[3] Article I, Section 3(g) of the NYSE Constitution.

Exchange.[4] Once such a separation is established and approved, each specialist within a member organization that is associated with an approved person is exempt from NYSE Rules 104, and 104.13 as they relate to the approved person; and the approved person is exempt from restrictions on trading options on specialty securities in NYSE Rule 105; the prohibition against "popularizing" specialty securities in NYSE Rule 113.20, provided that the disclosures specified by that rule are made; and the provisions of NYSE Rule 460, except as specified therein.[5]

In order to allow a sufficient adjustment period for specialist organizations which might be affected by the change to Rule 113(a), and which currently do not have Rule 98 exemptions, the Exchange proposes to implement the proposed rule change six months after Commission approval.

The Exchange believes that restricting approved persons' ability to accept certain orders will further minimize potential conflicts of interest. In this regard, the Exchange notes that Rule 113(b) currently requires approved persons to identify orders given to the specialist for accounts in which they are interested. This identification insures that orders for approved persons do not receive preferential treatment over public customer orders. Similarly, Rule 113.20 prohibits approved persons from popularizing specialty stocks unless they have obtained a Rule 98 exemption and make specified disclosures. The Exchange believes that its amendments to Rule 113(a) and Rule 98 are consistent with the objectives of section 6(b)(5) of the Act in that they are designed to minimize approved persons' potential conflicts of interest.

III. Discussion

The Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission believes the proposal is consistent with the section 6(b)(5)[6] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.[7]

The Commission believes that the NYSE's proposed amendments to Rule 113(a) to expand the class of persons restricted from accepting certain orders in specialty stocks to include approved persons should further minimize potential conflicts of interest between an approved person and a specialist and curtail misuse of privileged information. Moreover, giving approved persons the opportunity to avail themselves of the NYSE Rule 98 exemption is an appropriate corollary so as not to place insurmountable restrictions on full-service member organizations. Accordingly the Commission believes that the combination of the two proposed amendments will further the goals of section 6(b)(5) of the Act by further restricting the potential for communication and use for trading purposes of material non-public information.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NYSE–93–26) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

[FR Doc. 93–26326 Filed 10–25–93; 8:45 am]

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[Release No. 34–33070; International Series Release No. 596; File No. SR–PSE–93–24]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval to Proposed Rule Change, Including Amendment No. 1 to the Proposed Rule Change, by the Pacific Stock Exchange, Inc., Relating to the Listing of Options on International Funds

October 19, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 12, 1993, the Pacific Stock Exchange, Inc., ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.[1]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PSE proposes to amend Rule 3.6 to provide standards for the listing and trading of options on the securities issued by registered closed-end management investment companies that invest in securities of issuers located in particular foreign countries ("international funds").[2] The proposal authorizes the PSE to list and trade options on the securities issued by international funds where the underlying securities meet or exceed the Exchange's established uniform options listing standards and (1) the Exchange has a market information sharing agreement ("market information agreement") with the primary home exchange on which each of the foreign securities comprising the fund's portfolio trade, (2) the fund is classified as a diversified fund, as that term is defined by section 5(b) of the Investment Company Act,[3] and the fund's portfolio is comprised of securities from five or more countries, or (3) the listing of a particular international fund option is specifically authorized by the Commission.

The text of the proposal is available at the Office of the Secretary, PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at

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[4] A functional separation establishes procedures for review of trading, substantive supervision of inter-firm communications and procedures concerning the access to, and handling of, sensitive position information with respect to specialty stocks. Securities Exchange Act Release No. 32750 (August 16, 1993), 58 FR 44715 (August 24, 1993).

[5] See NYSE Rule 98; Securities Exchange Act Release No. 23768 (November 3, 1986), 51 FR 41183 (November 13, 1993) (File Nos. SR–Amex–85–1 and SR–NYSE–85–25).

[6] 15 U.S.C 78f(b)(5) (1988).

[7] 15 U.S.C 78f(b)(5) (1988).

[8] 15 U.S.C. 78s(b)(2)(1988).

[9] 17 CFR 200.30–3(a)(12) (1991).

[1] The proposal was amended on October 19, 1993 to provide that the PSE may list options on an international fund that invests in the securities from five or more countries without the existence of a market surveillance agreement only if the fund is classified as a diversified fund, as that term is defined by Section 5(b) of the Investment Company Act of 1940 ("Investment Company Act") ("Amendment No. 1"). See Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Monica C. Michelizzi, Staff Attorney, Division of Market Regulation ("Division"), Commission, dated October 19, 1993.

[2] To avoid confusion, this order refers to all registered closed-end management investment companies that invest in securities of issuers located in a particular foreign country, in a particular geographic region, or throughout the world as "international funds." In actuality, however, the foregoing are separated into three types of funds, respectively: country funds; regional funds; and global funds.

[3] 15 U.S.C. 80a–5(b) (1988).

the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The PSE proposes to adopt uniform criteria for listing and trading options on international funds. The proposed criteria permit the Exchange to list options on international funds where the underlying securities meet or exceed the Exchange's established uniform options listing standards and (1) the Exchange has a market information agreement with the primary home exchange on which each of the foreign securities comprising the fund's portfolio trade, (2) the fund is classified as a diversified fund, as that term is defined by section 5(b) of the Investment Company Act,[4] and the fund's portfolio is comprised of securities from five or more countries,[5] or (3) the listing of a particular international fund option is specifically authorized by the Commission.

First, to be eligible for listing and continued trading the proposal requires that either the PSE have market information agreements in place with the foreign exchanges that serve as the primary markets for the foreign securities which comprise the portfolios of the underlying international funds, or the fund is classified as a diversified fund and invests in the securities from five or more countries. The proposal defines a market information agreement as an agreement that would permit the PSE to obtain trading information relating to the securities held by the fund, including the identity of the exchange member executing a trade.[6]

Second, the initial listing standards would require that the securities underlying Exchange-listed international fund options (i.e., the securities issued by the international fund) have a "float" of 7,000,000 shares outstanding, 2,000 shareholders, trading volume of at least 2,400,000 over the prior twelve month period, and a minimum price of $7½ for a majority of the business days during the preceding six month period.[7] Moreover, options on international fund securities must meet or exceed the maintenance criteria for continued listing under the PSE rules. Those criteria require that the securities underlying Exchange-listed international fund options maintain a "float" of 6,300,000 shares, 1,600 shareholders, trading volume of at least 1,800,000 over the prior twelve month period, and a minimum price of $5 on a majority of the business days during the preceding six month period.[8]

In addition, the Exchange listing standards require that the security underlying an international fund option be registered and listed on a national securities exchange or traded through the facilities of a national securities association and be reported as a national market system security. The issuers of the international fund securities also must be in compliance with any other applicable requirements of the Act.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of change, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The PSE believes that the proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act.[10]

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).[11] Specifically, the Commission finds that allowing the listing and trading of options on international funds, among other things, gives investors a better means to hedge their positions in international funds securities, as well as enhanced market timing opportunities.[12] Further, the Commission believes that the pricing of the shares underlying the international fund options may become more efficient and market makers in these shares, by virtue of enhanced hedging opportunities, may be able to provide deeper and more liquid markets. In sum, the Commission believes that options on international funds likely engender the same benefits to investors and the market place that exist with respect to options on common stock.[13]

The Commission also believes that it is appropriate to permit the PSE to list and trade options on the securities issued by international funds given that these options meet specific requirements related to the protection of investors. First, the proposal requires that the underlying international fund securities meet the PSE's uniform options listing standards in all respects. As described above, this would include the initial and maintenance criteria. These criteria ensure, among other things, that the underlying international fund securities will maintain adequate price and float to prevent susceptibility to manipulation. Second, the proposal

[4] 15 U.S.C. 80a–5(b) (1988).

[5] The PSE has represented that it will look to the actual investment practices of an international fund to determine whether the fund invests in securities from five or more countries. The PSE will evaluate the actual number of countries that are represented by the fund's investments and the concentration of such investments in each country represented. See *infra* note 18, and accompanying text. The PSE also will review the fund's investment practices every six months to determine whether the fund continues to invest in five or more countries. If the PSE finds that a fund no longer qualifies for listing without the existence of a market information agreement, the PSE has represented that it will consult with the Commission to determine the appropriate course of action. Letter from Michael D. Pierson, Senior Attorney, Market Regulation, PSE, to Monica C. Michelizzi, Staff Attorney, Division, Commission, *supra* note 1.

[6] Although a market information agreement provides for the exchange of information regarding the identity of exchange members executing trades, it does not require the exchange of information regarding the identity of the ultimate customer.

[7] PSE Rule 3.6.

[8] PSE Rule 3.7.

[9] 15 U.S.C. 78f (1988).

[10] 15 U.S.C. 78s(b) (2) (1988).

[11] 15 U.S.C. 78f(b) (5) (1988).

[12] For example, if an investor wants to invest in international fund shares but does not have sufficient cash available until a future date, he can purchase international fund options now for less money and exercise the options to purchase the international fund shares at a later date.

[13] Pursuant to section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such new product is in the public interest. Such a finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

requires that, prior to listing options on securities issued by an international fund that is non-diversified or invests in the securities from less than five countries, the PSE have in place market information agreements with the foreign exchanges which serve as the primary home exchanges for the securities that comprise the fund's portfolio. The proposal defines a market information agreement as a surveillance sharing agreement that provides for the exchange of information regarding market trading activity, including the identity of the exchange member executing a trade.[14]

As a general matter, the Commission believes that the existence of a surveillance sharing agreement that effectively permits the sharing of information between an exchange proposing to list an equity option, such as international fund options, and the exchange trading the stock underlying the equity option is necessary to detect and deter market manipulation and other trading abuses. In particular, the Commission notes that surveillance sharing agreements provide an important deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. These agreements are especially important in the context of derivative products based on foreign securities because they facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.

In the case of international fund options, the Commission believes that market information agreements, which are surveillance sharing agreements that permit the exchange of information on market trading activity, are sufficient to detect and deter any possible market manipulation. In contrast to other foreign products, international funds are comprised of a portfolio of securities chosen by portfolio managers. Although the composition of the fund is published on a semi-annual basis, the securities that make up the portfolio can be changed at any time at the discretion of the portfolio managers, as long as their investment decisions are consistent with the stated investment objectives and policies of the fund.

For this reason, the Commission believes that it generally would be difficult for someone to use options on international funds to attempt a manipulation of the market. The Commission believes that the only people who could potentially attempt such a manipulation would be people who have access to "inside" information about the composition of a fund and the trading activities of the fund's portfolio managers.[15]

The Investment Advisers Act of 1940 ("Advisers Act"),[16] and the rules promulgated thereunder, contain provisions designed to detect and deter certain advisory employees and affiliates from trading in any securities based on "inside" information about the investment decisions of a fund. Rule 204–2(a)(12) under the Advisers Act[17] requires an investment adviser to make and keep accurate records of every transaction in a security in which the investment adviser or any advisory representative has a beneficial interest. Accordingly, the Commission believes that the Advisers Act gives it the authority to review to trading activities of anyone who is likely to have access to the information necessary to use options on international funds to attempt a manipulation of the market. The Commission believes, therefore, that it is sufficient for the U.S. exchanges seeking to list international fund options to have access to information about the trading activity occurring in the foreign market in which the securities comprising the underlying international fund's portfolio trade. If there is a suspicion that a market manipulation may have been attempted, the Commission believes that current legal requirements applicable to registered investment companies and investment advisers should give the Commission access to the information necessary to investigate that suspicion.

In reviewing the current proposal, the Commission believes that requiring market information agreements to be in place between the PSE and primary home markets for the foreign securities that comprise the portfolio of an international fund, that is non-diversified or invests in securities from less than five countries, provides an adequate mechanism to provide for the exchange of the surveillance sharing information necessary to detect and deter possible market manipulations. Further, the Commission believes that if the international fund is classified as a diversified fund, under the Investment Company Act, and a review of its actual investment practices shown that the fund invests in securities from five or more countries, the portfolio of that fund is diverse enough to significantly reduce the likelihood that the price of the securities issued by the fund could be manipulated. The Commission, thus, believes that it is appropriate to permit the PSE to list and trade options on such a fund's securities without obtaining market information agreements with the primary home markets for the foreign securities that comprise the fund's portfolio.[18]

Thus, for the reasons set forth above, the Commission finds that it 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)[19] to approve the proposed rule change.

The Commission finds good cause for approving the proposed rule change, including Amendment No. 1 to the proposed rule change, prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The PSE proposal to list and trade international fund options is substantially similar to a proposal by the Chicago Board Options Exchange, Inc. ("CBOE") to provide

[14] The Commission notes that it reviews surveillance sharing agreements and may require the parties to the agreement to provide additional representations confirming that there are no rules of the foreign exchange or laws of the foreign jurisdiction that would prevent or deter the foreign exchange from providing a U.S. exchange with the appropriate market surveillance information.

[15] The susceptibility of options on a particular international fund to manipulation could be increased if the fund's investment decisions were predictable, such as if the portfolio consisted of long-term or illiquid investments, or the composition of the portfolio was readily available to the public on a regular basis. In these cases, options on that international fund would present similar risks for market manipulation as would cash-settled index options. Although not raised by the current proposal, the Commission believes it to be appropriate that an exchange proposing to list an option on such a foreign product have a comprehensive surveillance sharing agreement in place with the foreign exchange on which the underlying foreign securities trade, which provides for the exchange of market trading activity, clearing activity, and the identity of the ultimate purchaser or seller of the securities traded.

[16] 15 U.S.C. 80b–1 *et. seq.* (1988).

[17] 17 CFR 275.204–2(a)(12) (1993).

[18] The Commission believes that not requiring a market information agreement, under these circumstances, is consistent with the Commission's determination that cash-settled options and warrants may be listed on foreign indices where no more than 20% of the value of the index was comprised of securities from a particular country not covered by a surveillance sharing agreement ("uncovered securities") and no more than 30% of the value of the index was comprised of uncovered securities from two such countries. See e.g., Securities Exchange Act Release No. 30463 (March 14, 1992), 57 FR 9284 (March 17, 1992) (Approval of American Stock Exchange, Inc., ("Amex") proposal to trade Eurotop 100 options and warrants). The Exchange will consider the actual investment practices of an international fund to determine whether it can be classified as an international fund that invests in five or more countries. See *supra* note 5. The Commission, however, encourages the PSE to obtain all relevant surveillance sharing agreements because it continues to believe that surveillance sharing agreements are useful in deterring and detecting any potential manipulations or other improper or illegal trading involving international fund options.

[19] 15 U.S.C. 78f(b)(5) (1988).

uniform standards for listing international fund options.[20] The CBOE proposal was subject to a full notice and comment period. Further, proposals by the Amex and CBOE to list and trade options on certain specific international funds also were subject to a full notice and comment period.[21]

Although the Commission did not receive any comment letters in response to publishing the proposal to provide uniform listing standards, the Commission did receive letters generally opposed to the listing of international fund options in response to the proposal to list options on certain specific international funds.[22] As described more fully in the order approving the proposal to adopt uniform standards for the listing of international fund options, the Commission found that the commenters' assertions that the listing and trading of international fund options will increase fraudulent trading activity, increase speculative trading and the price volatility of the underlying shares, increase the risks of investing in the underlying shares, or decrease the liquidity of the underlying shares to be without merit.[23]

The Commission further notes that approving the current proposal, including Amendment No. 1, on an accelerated basis will permit the PSE to compete on an equal basis with the CBOE and the Amex for orders in international fund options. The Commission believes that encouraging competition between the exchanges benefits investors by enhancing the quality of the products and services offered to investors. Accordingly, since the Commission finds that the current proposal involves the exact same issues as the above-noted proposals, the Commission believes it is consistent with sections 19(b)(2) and 6(b)(5) of the Act[24] to approve the PSE's proposal to provide standards for listing international fund options on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change, including 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. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 9, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[25] that the proposed rule change (SR–PSE–93–24) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Margaret H. McFarland,

Deputy Secretary.

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[20] Securities Exchange Act Release No. 31969 (March 9, 1993), 58 FR 14228 (March 16, 1993). The general requirement that there be a surveillance sharing agreement in place between the exchange seeking to list an international fund option and the primary home exchanges on which the foreign securities comprising the underlying international fund's portfolio trade was included in the published proposal. The current proposal includes additional provisions clarifying the type of information that should be provided under the agreement and specifying the circumstances in which a surveillance sharing agreement is needed to list an international fund option. The Commission believes that these modifications to the surveillance sharing requirements strengthen the proposal by tailoring the regulatory requirements to address the specific issues raised by international fund options.

[21] The Commission published for comment proposals to list and trade options on securities issued by certain specific international funds (i.e., the Growth Fund of Spain, Inc.). Securities Exchange Act Release Nos. 31411 (November 5, 1992), 57 FR 53943 (November 13, 1992) (File No. SR–CBOE–92–21), and 31469 (November 16, 1992), 57 FR 55604 (November 25, 1992) (File No. SR–Amex–92–40).

[22] The Commission received comment letters from Kemper Financial Services, Inc. ("Kemper") and Alliance Capital Management Corporation ("Alliance") opposing the listing of international fund options. Further, the CBOE sent a letter to the Commission responding to the issues raised in those letters. Because these letters are relevant to the listing of options on international funds, in general, the Commission is addressing the issues raised in those letters in the current approval order. See letters from Robert J. Engling, Executive Vice President and General Counsel, Kemper to Jonathan G. Katz, Secretary, Commission, dated December 3, 1992; from David H. Dievler, Senior Vice President, Alliance, and Edmund P. Bergan, Jr., Vice President and Assistant General Counsel, Alliance, to Jonathan G. Katz, Secretary, Commission, dated December 3, 1992; and from Alger B. Chapman, Chairman and Chief Executive Officer, CBOE, to Jonathan G. Katz, Secretary, Commission, dated January 7, 1993.

[23] For a discussion of the issues raised by the comment letters and the CBOE's response to those letters, see Securities Exchange Act Release No. 33068 (order approving the CBOE proposal to adopt uniform listing standards for international fund options). See also Securities Exchange Act Release No. 33069 (order approving CBOE and Amex proposals to trade options on the Growth Fund of Spain, Inc.). In general, the Commission notes that the arguments that the listing of options increases speculative activity and price volatility of the underlying shares, or that it decreases liquidity in the underlying shares are the same arguments that were advanced in opposition to the listing of options on common stock. The Commission carefully has considered these arguments and found that they are not supported by the available evidence. To the contrary, the Commission believes that, similar to options on common stock, options on international funds will benefit investors by giving them a better means to hedge their positions in the underlying international fund shares, and by helping market makers in the underlying shares to provide deeper and more liquid markets. The Commission also notes that it reviews the surveillance sharing arrangements between U.S. exchanges seeking to list international fund options and the foreign exchanges listing the foreign securities comprising the underlying fund's portfolio to ensure that those arrangements provide the surveillance information necessary to adequately detect and deter potential market manipulations.

[24] 15 U.S.C. 78s(b)(2) and 78f(b)(5) (1988).

[25] 15 U.S.C. 78s(b)(2) (1988).

[26] 17 CFR 200.30–3(a)(12) (1993).

[Release No. 34–33067; International Series No. 593; File No. SR–Phlx–92–23]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 to a Proposed Rule Change Relating to Limitations on the Dissemination of Bids and Offers for Foreign Currency Options

I. Introduction

On September 4, 1992, the Philadelphia Stock Exchange, Inc. ("Phlx") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish criteria under which bids and offers in the Exchange's foreign currency options ("FCO") series will be eligible for off-floor transmission to securities-data vendors.

Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on November 13, 1992.[3] The Exchange subsequently filed one amendment to

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1991).

[3] See Securities Exchange Act Release No. 31410 (November 5, 1992), 57 FR 53952.

the proposal.[4] One comment letter was received on the proposal.[5]

II. Description of the Proposal

The Phlx has proposed amending Phlx Rule 1012—Series of Options Opened for Trading and to adopt OFPA F–18—FCO Expiration Months and Strike Prices, establishing criteria for the Exchange to determine for each FCO series whether its bid-ask quote is at any time during the trading day eligible for off-floor dissemination to securities-data vendors. The Phlx has stated that the purpose for establishing such criteria is to provide public customer investors with more timely and accurate FCO quote displays in series of known or probable public investor interest by eliminating quote change disseminations in series with no known public investor interest or of improbable public investor interest. The Phlx has also stated that over 5,000 FCO strike prices are currently listed on the Exchange from which over 140,000 quote updates emanate each day. Each quote change must currently be processed through the Option Price Reporting Authority ("OPRA") for dissemination to securities-data vendors. According to the Phlx, in volatile trading periods, where quote changes in thousands of such series occur near simultaneously, delays in their dissemination are sometimes experienced.

Rule 1012 currently sets forth the conditions under which new option series may be added for trading on the Exchange. The present proposal would add to Rule 1012 a provision to allow the Exchange to classify each FCO series open for trading on the Exchange, for purposes of the classification under the Phlx's Selective Quoting Facility,[6] as either an "update" series or a "non-update" series. The rule defines the update series category to be comprised at the minimum of (i) the four strike prices above and below the underlying price for the three nearest mid-month and three nearest month-end expirations of the American-style FCO and (ii) any other American-style or European-style series which at the time maintains open interest.

Proposed OFPA F–18 provides additional detail regarding the process by which the classification of series defined above can under certain circumstances include additional series. Proposed OFPA F–18 requires that the list of update series be set at the commencement of each trading day and be continuously disseminated to OPRA and outside vendors throughout the trade day. Proposed OFPA F–18 contemplates that update series will change on a daily basis and intra-day basis at the initiative of the Exchange or in response to requests from either the specialist or from a FCO floor official.

According to the Phlx, in defining non-update series as listed series which are not update series, the proposed rule change and OFPA F–18 will remove from public dissemination quotes for the majority of FCO series normally available for trading on the Exchange. In order to distinguish for the public the appropriate status of a non-update series, the Exchange will disseminate a set of zeros (e.g., 000–000) which will be reflected by the vendors as the disseminated bid/ask quotes for each series in the non-update category. For further assurance as to informing the public of the status of a non-update series, every non-update series shall carry the "I" identifier, which is the OPRA code letter that signals to investors that the series is an "inactive series."[7]

III. Commission Findings and Conclusions

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).[8] Specifically, the Commission believes that the Phlx rule change proposal will result in more timely and accurate FCO quote displays in series of known or probable interest to the public customer investor. Moreover, the Commission believes that the adoption of the proposed rule change will significantly increase the efficiency of the Exchange's option data transmission lines and increase the speed of the dissemination of FCO quote changes to public investors in the series of most interest, thereby helping the Phlx maintain fair and orderly options markets.[9]

Finally, the Commission believes that the above outlined benefits of the rule proposal can be obtained without harming investors. Particularly, based upon representations from the Phlx, the Commission is satisfied that the rule change proposal will not create an advantage to foreign currency option participants on the trading floor with respect to trading of options series not disseminated to the public.[10] Public customers are protected by the feature of the Selective Quoting Facility which requires a quotation to be disseminated after an options series is activated but before a trade can be entered. Accordingly, a participant who is physically on the trading floor will learn of the specialist's market for a given options series when the series is activated and a quote is published, nearly identical in time and manner to a potential customer watching a vendor screen off-floor.[11]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Amendment No. 1 will further advance the purpose behind the proposal which is to eliminate quote change disseminations in series with no known public investor interest or of improbable public investor interest. By delisting those out-of-the-money FCO series which are inactive, even fewer quote changes will be processed through OPRA and thus, the potential for delays in dissemination of quotes for active FCO series will be further minimized. Therefore, the Commission believes it is consistent with sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 1 to the proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No.

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[4] On October 13, 1993, the Exchange filed Amendment No. 1 to the proposal to delist those out-of-the-money FCO series which during the preceding day qualified as "inactive." The Exchange will delist those series consecutively until reaching a series which is "active." Operationally, the Exchange will conduct this review at 12:00 p.m. each trading day and where one or more delistings are required, a memorandum will be distributed to allow members and vendors to make necessary changes for the delisting to become effective on the following trading day. See Letter from Gerald O'Connell, Vice President, Market Surveillance, Phlx, to Richard Zack, Branch Chief, Office of Options, Division of Market Regulation, Commission, dated October 13, 1993 ("Amendment No. 1").

[5] See Letter from Michael Schwartz, Chairman, Committee on Options Proposals, the Brandon Becker, Director, Division of Market Regulation, Commission, dated October 5, 1993.

[6] The Exchange's Selective Quoting Facility is a feature of the Exchange's Auto-Quote system, which categorizes strike prices as update (active) and non-update (inactive) and determines whether a quotation will be disseminated through OPRA to vendor systems based on that classification.

[7] The Exchange shall also delist the out-of-the money FCO options series which during the preceding trading day qualified as "inactive." See Amendment No. 1, *supra* note 4.

[8] 15 U.S.C. 78f(b)(5)(1988).

[9] The one comment letter received by the Commission strongly supported the proposal for this reason. See *supra* note 5.

[10] See letter from Gerald D. O'Connell, Vice President, Market Surveillance, Philadelphia Stock Exchange to Richard Zack, Branch Chief, Office of Options, Division of Market Regulation, SEC dated September 28, 1993.

[11] See *supra* note 6.

1. 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. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–92–23 and should be submitted by November 9, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (File No. SR–Phlx–92–23) and Amendment No. 1 to the proposed rule change, are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–26227 Filed 10–25–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–19803; File No. 812–8218]

Mutual of America Life Insurance Co., et al.; Application for Order

October 19, 1993.

AGENCY: Securities and Exchange Commission (the "Commission" or the "SEC").

ACTION: Notice of Application for an amended order of exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Mutual of America Life Insurance Company ("Mutual of America") and Mutual of America Separate Account No. 2 (the "Separate Account") (collectively, the "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940 Act for exemptions from sections 26(a)(2) and 27(c)92) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an amended order permitting the deduction of an expense risk charge from the assets of the Separate Account.

[12] 15 U.S.C. 78s(b)(2) (1988).

[13] 17 CFR 200.30–3(a)(12) (1992).

FILING DATE: The application was filed on December 15, 1992 and amended on February 22, 1993 and October 8, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 12, 1993, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, c/o Mutual of America Life Insurance Company, 666 Fifth Avenue, New York, New York 10103.

FOR FURTHER INFORMATION CONTACT: Thomas E. Bisset, Senior Attorney, at (202) 272–2058 or Wendell M. Faria, Deputy Chief, at (202) 272–2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch.

Applicant's Representations

1. Mutual of America is a mutual life insurance company organized under the laws of the State of New York. It currently is authorized to transact business in 50 states and the District of Columbia. As of December 31, 1992, Mutual of America on a consolidated basis had total assets of approximately $6.50 billion. Mutual of America is registered as a broker-dealer and as an investment adviser. Mutual of America is the principal underwriter for the Separate Account.

2. The Separate Account was established pursuant to a resolution adopted by the Board of Directors of Mutual America on September 22, 1983 and is registered as a unit investment trust under the 1940 Act. The assets of the Separate Account that relate to the Contracts are not chargeable with liabilities arising out of any other business Mutual of America may conduct.

3. The Separate Account has twelve divisions, each of which invests in a corresponding portfolio of the Mutual of America Investment Corporation (the "Investment Corporation") and the Scudder Managed Capital Growth, Managed Bond and Managed International Portfolios, the TCI Growth Fund and the Calvert Socially Responsible Series. The Investment Corporation is an open-end diversified management investment company, organized under Maryland law. The Investment Corporation currently consists of seven portfolios: The Money Market Fund, the Stock Fund, the Equity Index Fund, the Bond Fund, the Short-Term Bond Fund, the Mid-Term Bond Fund and the Composite Fund. The assets of each portfolio are held separately from others and each portfolio has its own investment objectives and policies which are described in the registration statement of the Investment Corporation.

4. Mutual of America acts as the distributor of the certain group and individual variable annuity contracts (the "Contracts") which are funded, in whole or in part, through the Separate Account. Pursuant to underwriting and administration arrangements, Mutual of America performs all distribution and sales functions and bears all distribution and sales expenses relative to the Contracts. Pursuant to the financing plan, Mutual of America may deduct a daily distribution expense charge from the assets of the Separate Account of an annual rate of .35% of such net assets.

5. The Contracts are designed to be used in connection with annuity purchase plans adopted pursuant to section 403(b) of the Internal Revenue Code (the "Code"), qualified retirement plans under sections 401(a) and 403(a) of the Code, qualified retirement arrangements under sections 219 and 408 of the Code, Simplified Employee Pension Plans and eligible deferred compensation plans and contracts under section 457 of the Code.

6. Mutual of America makes a deduction daily from the value of the net assets in each division of the Separate Account at an annual rate of .65% (except that in the case of the division of the Separate Account which invests in the TCI Growth Fund, at an annual rate of .45%) to reimburse Mutual of America for the expenses it incurs in administering the Contracts, including establishing and maintaining records, processing transfer requests, providing reports and paying benefits. An additional deduction for administrative expenses of $2.00 per month also is made from each Participant's account for each of the investment alternatives in which the Participant is invested. Mutual of America will deduct the administrative charges in reliance upon and in

compliance with Rule 26a–1 under the 1940 Act.

7. Although no sales load is assessed at the time of purchase of a Contract or on withdrawals from or total surrender of the Contract at any time during its term, Mutual of America makes a deduction daily from the net assets in each division of the Separate Account for expenses associated with the distribution of the Contracts at an annual rate of .35%. This charge is based upon Mutual of America's current estimates of the distribution costs attributable to the Contracts over their lifetime, and is not designed or expected to generate a profit. If the charge is insufficient to cover the actual distribution costs, Mutual of America will bear the loss. Conversely, if the charge proves more than sufficient, the excess will be profit to Mutual of America.

8. For assuming certain mortality risks under the Contracts, Mutual of America makes a deduction each day at an annual rate of .35% of the value of the net assets of each division of the Separate Account. The mortality risk assumed by Mutual of America is that annuitants may live for a longer period of time than estimated. Mutual of America assumes this mortality risk by virtue of guaranteed annuity rates incorporated into the Contract which cannot be changed adversely to the annuitant. This assures each annuitant that his longevity will not have an adverse effect on the amount of annuity payments. The mortality risk charge cannot be increased. If the charge is insufficient to cover the actual cost of the mortality risk undertaking, Mutual of America will bear the loss. Conversely, if the charge proves more than sufficient, the excess will be profit to Mutual of America.

9. Applicants filed an application on February 28, 1986 and an amendment thereto on April 28, 1986 (together, referred to as the "Original Application") for an order of the Commission pursuant to section 6(c) of the 1940 Act exempting the Applicants from the provisions of sections 26(a)(2) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the mortality risk charge and the distribution expense charge assessed under the Contracts.

10. A notice of filing the Original Application was issued on May 14, 1986. (Investment Company Act Release No. 15097). The notice gave interested persons an opportunity to request a hearing and stated that an order disposing of the matter would be issued as of course unless a hearing should be ordered. The matter was considered by the Commission and it was found, with respect to the requested relief from sections 26(a)(2) and 27(c)(2) of the 1940 Act, that the exemptions were appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Accordingly, the Commission issued an order (the "Order") on June 10, 1986 (Investment Company Act Release No. 15140), pursuant to section 6(c) of the 1940 Act, granting the requested exemptions from sections 26(a)(2) and 27(c)(2) of the 1940 Act.

11. The annuity payment tables of Mutual of America reflect assumptions regarding the level of expenses Mutual of America will be required to bear during the annuitization period of the Contracts. Since Mutual of America commits to make annuity payments in accordance with such annuity payment tables, with such commitment taking effect at the time of issuance of the Contract in the case of individual Contracts and at the time an individual becomes a participant under a group Contract, Mutual of America guarantees that the level of such expenses will not increase during the annuitization period. An individual becomes a participant under a group Contract when the individual becomes eligible to be a participant under the terms of the plan of the employer under which the group Contract is provided.

The expense risk assumed by Mutual of America is that actual expenses involved in administering the Contracts during the annuitization period of the Contracts may exceed the amounts assumed by Mutual of America in its annuity payment tables. These costs include the following: The expense of preparation of annuity checks or deposits of the benefit in the annuitant's account and related computer activity; issuance of tax information annually to the annuitant and, upon death of the annuitant, to the estate of the annuitant; maintenance of the computer file to record changes in address, changes in beneficiary and other changes; changes to the file, upon the death of an annuitant, to institute payments to a joint annuitant or beneficiary, if applicable; confirmation of the continued survival of the annuitant and eligibility to receive payments; and determination of benefit payments in force and related liabilities on a quarterly basis for financial statements.

For assuming such expense risks under the Contracts with respect to expenses it expects to incur during the annuitization period of the Contracts, Mutual of America will make a daily deduction at an annual rate of 0.15% of the net assets of each division of the Separate Account. If the charge is insufficient to cover the actual cost of the expense risk undertaken, Mutual of America will bear the loss. Conversely, if the charge proves more than sufficient, the excess will be profit to Mutual of America and will be available for any proper corporate purpose.

Applicants' Legal Analysis

1. Section 6(c) of the 1940 Act authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions from the provisions of the 1940 Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Section 26(a)(2)(C) of the 1940 Act provides that no payment to the depositor of, or principal underwriter for, a registered unit investment trust shall be allowed the trustee or custodian as an expense except compensation, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative duties normally performed by the trustee or custodian. Section 27(c)(2) of the 1940 Act prohibits a registered investment company or a depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads on such certificates are deposited with the trustee and custodian having the qualifications prescribed in section 26(a)(1) of the 1940 Act, and are held by such trustee or custodian under an agreement substantially containing provisions required by sections 26(a)(2)(C) and 26(a)(3) of the 1940 Act.

3. Applicants request an amended Order from the Commission pursuant to section 6(c) of the 1940 Act, granting exemptions from sections 26(a)(2) and 27(c)(2) of the 1940 Act to the extent necessary to permit Mutual of America to deduct the expense risk charge from the net assets of the Separate Account.

4. Applicants represent that the .15% expense risk charge is within the range of industry practice with respect to comparable annuity products. This representation is based on Mutual of America's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge guarantees and

guaranteed annuity purchase rates. Mutual of America will maintain at its administrative offices and make available to the Commission the documents used to support its analysis.

5. Applicants represent that the Separate Account will in the future invest only in an underlying mutual fund which undertakes, in the event that it should adopt any plan under Rule 12b–1 to finance distribution expenses, to have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of section 2(a)(19) of the 1940 Act.

6. Applicants represent that Mutual of America has concluded that there is a reasonable likelihood that the distribution financing arrangement will benefit the Separate Account and contract owners. Mutual of America undertakes to maintain and make available to the Commission upon request a memorandum setting forth the basis for this conclusion.

Conclusion

Applicants assert that for the reasons set forth above, the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–26228 Filed 10–25–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before November 26, 1993. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency clearance officer: Cleo Verbillis, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Reporting and Recordkeeping, Requirements on Small Business Lending Companies, 13CFR 120–302–1 (d), (e), (f), (h), (i), (k) through (q), 120.303–2 through 6 and 120.304

Form No.: N/A

Frequency: On Occasion

Description of Respondents: Small Business Lending Companies

Annual Responses: 16

Annual Burden: 960

Title: Reporting and Recordkeeping, Requirements for Lenders, 120.104–1(e), 120–200–2, and 122.8–4(h)

Form No.: N/A

Frequency: On Occasion

Description of Respondents: Small Business Lenders

Annual Responses: 2410

Annual Burden: 2410

Dated: October 21, 1993.

Cleo Verbillis,

Chief, Administrative Information Branch.

[FR Doc. 93–26330 Filed 10–25–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2669; Amendment #9]

Declaration of Disaster Loan Area; Kansas

The above-numbered Declaration is hereby amended, effective October 12, 1993, to include Barton, Graham, and Thomas Counties in the State of Kansas as a disaster area as a result of damages caused by flooding and severe storms.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Cheyenne, Decatur, Logan, Norton, Rawlins, Sheridan, Sherman, and Wallace, Kansas, may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein are covered under a separate declaration for the same occurrence.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 15, 1993, and for economic injury the deadline is April 25, 1994.

The economic injury number for Kansas is 793500.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 20, 1993.

Alfred E. Judd,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–26332 Filed 10–25–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2663; Amendment #8]

Declaration of Disaster Loan Area; Missouri

The above-numbered Declaration is hereby amended in accordance with a Notice from the Federal Emergency Management Agency dated October 14, 1993 to include Douglas, Howell and Vernon Counties in the State of Missouri as a disaster area as a result of damages caused by severe storms and flooding beginning on June 10, 1993 and continuing.

In addition, applications for economic injury loans from small businesses located in contiguous Oregon County, Missouri, and Fulton County, Arkansas, may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary counties and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 15, 1993 and for economic injury the deadline is April 11, 1994.

The economic injury number for Missouri is 793300 and for Arkansas the number is 793700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 20, 1993.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 93–26331 Filed 10–25–93; 8:45 am]

BILLING CODE 8025–01–M

[License # 02/02–0511]

Bridger Capital Corp.; License Surrender

Notice is hereby given that Bridger Capital Corporation ("Bridger"), 645 Madison Avenue, suite 1010, New York, New York, 10022, has surrendered its license to operate as a small business

investment company under the Small Business Investment Act of 1958, as amended ("the Act"). Bridger was licensed by the Small Business Administration on April 5, 1988.

Under the Authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on September 27, 1993, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 20, 1993.

Wayne S. Foren,

Associate Administrator for Investment.

[FR Doc. 93–26329 Filed 10–25–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1889]

United States Organization for the International Telegraph and Telephone Consultative Committee (CCITT); U.S. National Committee Meeting

The Department of State announces that the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) U.S. National Committee will meet on November 10, 1993 from 9:30 a.m. to 5 p.m. in room 1205, at the Department of State, 2201 C Street, NW., Washington, DC 20520.

The proposed agenda for this meeting will include initial preparations for the April 1994 meeting in Geneva of International Telecommunications Union Telecommunication Standardization Advisory Group (TSAG) and a joint meeting with the Radiocommunications Advisory Group (RAG); a debrief of the October TSAG meeting; a debrief of the TSAG Electronic Data Handling (EDH) Working Party meeting (October 11) and reports of the USNC Working Group for Working Methods and TMN.

Members of the general public may attend these meetings and join in the discussion, subject to the instructions of the Chair. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meetings. Persons who plan to attend should advise the Office of Gary Fereno, Department of State, (202) 647–0201, FAX (202) 647–7407. The above includes government and non-government attendees. Public visitors will be asked to provide their date of birth and Social Security number at the time they register their intention to attend and must carry a valid photo ID with them to the meeting in order to be admitted. All attendees must use the C Street entrance.

Please bring 50 copies of documents to be considered at these meetings. If the document has been mailed to the membership, bring only 10 copies.

Dated: October 12, 1993.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman U.S. CCITT National Committee.

[FR Doc. 93–26292 Filed 10–25–93; 8:45 am]

BILLING CODE 4710–45–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee Meeting on Rotorcraft Issues

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the FAA's Aviation Rulemaking Advisory Committee on rotorcraft issues.

DATES: The meeting will be held on November 17, 1993, at 9 a.m. Arrange for oral presentations by November 3, 1993.

ADDRESSES: The meeting will be held at the Offices of the Helicopter Association International (HAI), 1619 Duke St., Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Herber, Office of Rulemaking, Aircraft & Airport Rules Division, AIR–200, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3498.

SUPPLEMENTARY INFORMATION: The referenced meeting is announced pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II). The agenda will include:

- Report from the External Load Working Group.
- Review of the JAR/FAR 27 and 29 Harmonization rulemaking package and vote on forwarding it to the FAA.
- Discussion of future activities and plans.

Attendance is open to the interested public but will be limited to the space available. The public must make arrangements by November 4, 1993, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 16 copies to the Assistant Executive Director or by bringing the copies to him at the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as a listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading "FOR FURTHER INFORMATION CONTACT."

Issued in Fort Worth, Texas, on October 20, 1993.

Eric D. Bries,

Assistant Executive Director for Rotorcraft Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 93–26302 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

Petition for a Waiver of Compliance

In accordance with 49 CFR 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of Federal railroad safety regulations. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket No. RSEQ–93–3 or RSEQ–93–4) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before December 3, 1993 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business

hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The waiver petitions are as follows:

Excursion Trains, Inc. dba Texas Limited (Waiver Petition Docket No. RSEQ–93–3)

The Texas Limited seeks a waiver of compliance from a specific provision of 49 CFR part 240, Qualification Standards for Locomotive Engineers. Texas Limited specifically asked for a waiver of compliance with 49 CFR 240.303 which requires a railroad to perform unannounced testing once each year on all certified locomotive engineers. Texas Limited is an excursion railroad which operates between Houston, Texas and Galveston, Texas on the Union Pacific and Southern Pacific Railroads.

Dow Chemical La Porte Site (Waiver Petition Docket No. RSEQ–93–4)

The Dow Chemical La Porte Site Company seeks a permanent waiver of compliance from the provisions of 49 CFR Part 240, Qualification Standards for Locomotive Engineers. Dow Chemical La Porte Site Company operates a plant railroad within the confines of Dow Chemical Company at La Porte, Texas.

The Lake Shore Railway Association, Inc. (Waiver Petition Docket No. RSEQ–93–5)

The Lake Shore Railway Association, Inc. seeks a temporary waiver of compliance from a specific provision of 49 CFR Part 240, Qualification Standards for Locomotive Engineers. The Lake Shore Railway Association, Inc. specifically asked for a waiver of compliance with 49 CFR 240.101 which requires a railroad to have in effect a written program for certifying the qualifications of locomotive engineers. The Lake Shore Railway Association, Inc. is a tourist railroad which operates over eight miles of the former Lorain and West Virginia Railway.

Issued in Washington, DC on October 19, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93–26216 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–06–P

Petition for Waivers of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of the Federal safety laws and regulations. The petition is described below, including the regulatory provisions involved, the nature of the relief being requested and the petitioner's arguments in favor of relief.

The Eastern Alabama Railway

FRA Docket Number RSRM–92–1

The Eastern Alabama Railway (EARY) seeks a waiver of compliance from 49 CFR part 221—Rear End Marking Device—Passenger, Commuter and Freight Trains. The EARY is requesting a waiver of compliance to operate a train without a rear end marking device. The EARY operates 26.9 miles of freight railroad between Sylacauga, Alabama, and Talladega, Alabama. The EARY interchanges with the CSX Transportation (CSXT) at Talladega, Alabama, where CSXT trains access EARY trackage via EARY's wye off the CSXT main line. The CSXT trains proceed south on EARY track 2.2 miles to the siding at Bemiston to drop off and pick up freight cars.

CSXT and EARY trains operate under Operating Rule 93 (Yard Limit Rule) on this track.

Interested parties are invited to participate in these proceedings by submitting written reviews, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number—RSRM–92–1, and must be submitted in triplicate to the Docket Clerk, Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before December 3, 1993 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC on October 19, 1993.

Grady C. Cothen, Jr.,

Associate Administrator for Safety.

[FR Doc. 93–26215 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–06–P

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of 49 CFR Part 236

Pursuant to 49 CFR part 235 and 49 U.S.C. app. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

Block Signal Application (BS–AP)–No. 3258

Applicant: Chicago and North Western Transportation Company, Mr. D.E. Waller, Vice President—Engineering and Materials, One North Western Center, Chicago, Illinois 60606

The Chicago and North Western Transportation Company (CNW) seeks approval of the proposed modification of the signal systems on various subdivisions across the entire CNW system. The proposed modification is associated with the installation of modern solid state coded track circuitry that could, but not necessarily involve the relocation and or removal of some of the existing signals in conjunction with the respacing of signal blocks. CNW states that the proposed modification would not reduce the total mileage of signal protected territory. CNW proposes that relocation or removal of any signal would be subject to written permission from the local FRA Signal and Train Control Specialist.

The reason given for the proposed changes is the installation of solid-state coded track circuitry to maximize efficiency and safety of train operations, the replacement of aging pole line, the elimination of paperwork, and to speed up the administrative process.

BS–AP–No. 3259

Applicant: Union Pacific Railroad Company, Mr. P.M. Abaray, Chief Engineer—Signals & Construction, 1416 Dodge Street, room 1000, Omaha, Nebraska 68179

The Union Pacific Railroad Company seeks approval of the proposed discontinuance and removal of the interlocked signal 3 system on the Harvey, Louisiana Draw Bridge, milepost 4.3, on the Louisiana Division, Alexandria Subdivision, including the installation of four stop signs.

The reason given for the proposed changes is that traffic does not warrant the interlocking on the bridge.

BS–AP–No. 3260

Applicant: Union Pacific Railroad Company, Mr. P.M. Abaray, Chief

Engineer—Signals & Construction, 1416 Dodge Street, room 1000, Omaha, Nebraska 68179

The Union Pacific Railroad Company seeks approval of the proposed modification of the traffic control system, on the single main track, near Cochrane, Kansas, Kansas City Division, Fall City Subdivision, consisting of the following:

1. Conversion of the power-operated switches at CPZ306, milepost 305.7 and CPZ307, milepost 306.9, to hand operation;

2. Discontinuance and removal of controlled signals 3055L, 3055R, 3056L, 3056R, 3067L, 3067R, 3068L, and 3068R;

3. Installation of automatic signals 3056, 3057, 3068, and 3069; and

4. Installation of leaving signals at each end of the siding.

The reason given for the proposed changes is that the signal appliances were extensively damaged in the 1993 flood and the siding is rarely used and does not warrant re-installing the power-operated switches.

BS–AP–No. 3261

Applicant: Union Pacific Railroad Company, Mr. P.M. Abaray, Chief Engineer—Signals & Construction, 1416 Dodge Street, room 1000, Omaha, Nebraska 68179

The Union Pacific Railroad Company seeks approval of the proposed modification of the traffic control system, on the single main track, near Leavenworth, Kansas, Kansas City Division, Fall City Subdivision, consisting of the following:

1. Conversion of the power-operated switches at CPZ310, milepost 309.6 and CPZ311, milepost 310.5, to hand operation;

2. Discontinuance and removal of controlled signals 3095L, 3095R, 3096L, 3096R, 3103L, 3103R, 3104L, and 3104R;

3. Installation of automatic signals 3098 and 3099; and

4. Installation of leaving signals at each end of the siding.

The reason given for the proposed changes is that the signal appliances were extensively damaged in the 1993 flood and the siding is rarely used and does not warrant re-installing the power-operated switches.

BS–AP–No. 3262

Applicant: Southern Pacific Transportation Company, Mr. J.A. Turner, Engineer—Signals, Southern Pacific Building, One Market Plaza, San Francisco, California 94105

The Southern Pacific Transportation Company seeks approval of the proposed reduction of the manual interlocking limits at Tower 121, milepost 208, near San Antonio, Texas, Gulf Coast Region, Glidden District; consisting of the following:

1. Conversion of power-operated switches 33, 31, and 3–4 crossover to hand operation;

2. Discontinuance and removal of controlled signals 32RA, 32RB, 32RC, 32RD, 32L, 2, 5, and 11;

3. Elimination of the spring switch on Switch 35; and

4. Operation of the trackage by Rule 93, Yard Limit Rule.

The reason given for the proposed changes is that the traffic on the route is such that the signal system is no longer required and the changes will reduce costs and improve train operations.

BS–AP–No. 3263

Applicant: Grand Trunk Western Railroad Company, Mr. K.J. Bagby, Engineer, Communications and Signals, 1333 Brewery Park Boulevard, Detroit, Michigan 48207–2699

The Grand Trunk Western Railroad Company seeks approval of the proposed discontinuance and removal of "GR" Control Point, milepost 331.91, near Port Huron, Michigan, on the Flint Subdivision; consisting of the conversion of the power-operated switch to hand operation equipped with an electric lock and the discontinuance and removal of controlled signals 12E, 12W, and 10W.

The reason given for the proposed changes is that the expansion of adjacent Tappan Interlocking and the realignment of No. 1 yard switch into the North Main Track will result that "GR" switch only be used infrequently as an escape track.

BS–AP–No. 3264

Applicants: Atchison, Topeka and Santa Fe Railway Company, Mr. W.S. Seery, Director Signal Systems, System Communications and Signal Building, 4515 Kansas Avenue, Kansas City, Kansas 66106

Central Kansas Railway, Mr. Stephen Selby, President, 1825 West Harry, Wichita, Kansas 67213

The Atchison, Topeka and Santa Fe Railway Company (ATSF) and Central Kansas Railway jointly seek approval of the proposed discontinuance and removal of absolute signal 3163 and the inoperative approach signal, near Kinsley, Kansas, milepost 302.4, on ATSF's Eastern Region, La Junta Subdivision.

The reason given for the proposed changes is that the signals are no longer required due to changes in railroad operating procedures.

BS–AP–No. 3265

Applicant: Burlington Northern Railroad Company, Mr. William. G. Peterson, Director Control System Engineering, 9401 Indian Creek Parkway, P.O. Box 29136, Overland Park, Kansas 66201–9136

The Burlington Northern Railroad Company seeks approval of the proposed discontinuance and removal of the mud slide detector fence between Belton, Montana, milepost 1201.1 and Coram, Montana, milepost 1201.3, on the single main track, Montana Division, Hi Line Subdivision, approximately 1600 feet.

The reason given for the proposed changes is that the hillside has been regraded and a retaining wall installed, and there have been no detections from the fence in over 17 years.

BS–AP–No. 3266

Applicants: Burlington Northern Railroad Company, Mr. W.G. Peterson, Director Control Systems Engineering, 373 Inverness Drive South, Englewood, Colorado 80112–5831

Farmrail Corporation, Mr. R.S. Shaw, Chief Operating Officer, P. O. Box 1750, Clinton, Oklahoma 73601

The Burlington Northern Railroad Company (BN) and Farmrail Corporation (FMRC) jointly seek approval of the proposed discontinuance and removal of the automatic interlocking, near Altus, Oklahoma, milepost 688.1, where a single main track of the BN crosses at grade a single main track of the FMRC, on BN's Tulsa Division, Chickasha Subdivision; consisting of the discontinuance and removal of the four automatic approach-cleared signals and the four inoperative approach signals. The proposed changes include the installation of two manually-operated gates normally lined across the FMRC track.

The reason given for the proposed changes is that traffic density no longer requires the need for an interlocking at the location.

BS–AP–No. 3267

Applicants: Southern Pacific Transportation Company, Mr. J. A. Turner, Engineer—Signals, Southern Pacific Building, One Market Plaza, San Francisco, California 94105

Atchison, Topeka and Santa Fe Railway Company, Mr. W.S. Seery, Director Signal Systems, System Communications and Signal Building, 4515 Kansas Avenue, Kansas City, Kansas 66106

The Southern Pacific Transportation Company (SP) and Atchison, Topeka and Santa Fe Railway Company jointly seek approval of the proposed reduction to the limits of the traffic control system, from milepost 120.5 to milepost 121.53, on the two main tracks, near Pueblo, Colorado, on SP's Rocky Mountain Region, Subdivision 3; consisting of the following:

1. Conversion of three power-operated switches to hand operation;
2. Discontinuance and removal of signals 1205E, 1206E, 1207E, 1207ER, 1207W, 1207F, 1208W, 1208E, 1208F;
3. Discontinuance and removal of three electric locks from the electrically locked hand-operated switches; and
4. Operation of the trackage by Rule 93, Yard Limit Rule.

The reason given for the proposed changes is to expedite train movements through the area and improve safety of operation by consolidating control of the area.

BS–AP–No. 3268

Applicant: Kansas City Southern Railway Company, Mr. M.W. Hahn,Vice President-Transportation, 4601 Blanchard Road, Shreveport, Louisiana 71107

The Kansas City Southern Railway Company seeks approval of the proposed modification of the traffic control system and automatic interlocking, on the single main track, near Gulfton, Missouri, milepost 147.17, on the Second Subdivision; consisting of the following:

1. Discontinuance and removal of absolute signals 1472 and 1473;
2. Relocation of absolute signals 1471 and 1474; and
3. Installation of automatic block signals 1456 and 1485.

The reason given for the proposed changes is to improve train operation and avoid unnecessary blocking of highway traffic at McFerran and Karen Streets.

BS–AP–No. 3269

Applicant: Paducah and Louisville Railway, Inc., Mr. Ron Richardson, Signal Supervisor, 1500 Kentucky Avenue, Paducah, Kentucky 42003–2893

The Paducah and Louisville Railway, Inc. seeks approval of the proposed modification of the signal system between Central City Yard, Kentucky, milepost 124.5 and Richland, Kentucky, milepost 153.3, consisting of the relocation and removal of signals associated with the installation of electronic coded track circuits and pole line elimination.

The reason given for the proposed changes is the retirement of various sidings and storage tracks and pole line elimination.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, SW., Washington, DC 20590 within 45 calendar days of the date of issuance of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on October 19, 1993.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 93–26217 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

[Docket No. 93–74; Notice 1]

Receipt of Petition for Determination That Nonconforming 1993 Jaguar XJ6 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1993 Jaguar XJ6 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1993 Jaguar XJ6 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is November 26, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.].

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register**, of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) has petitioned NHTSA to determine whether 1993 Jaguar XJ6 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1993 Jaguar XJ6 manufactured for importation into and sale in the United States and certified by its manufacturer, Jaguar Cars Ltd., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it has carefully compared the non-U.S.-

certified version of the XJ6 to its U.S.-certified counterpart, and found the two vehicles to be substantially similar with respect to most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S.-certified version of the 1993 model XJ6, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S.-certified 1993 model XJ6 is identical to its U.S.-certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * **., 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*; 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps Reflective Devices and Associated Equipment*: (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rearview mirror, which is convex, but lacks the required warning statement.

Standard No. 114 *Theft Protection:* installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch in the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer. The petitioner states that the non-U.S. certified 1993 model XJ6 is equipped with a passive restraint system consisting of a driver side air bag and knee bolster, which have part numbers identical to those found on the U.S.-certified version of the vehicle.

Standard No. 214 *Side Door Strength:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S.-certified 1993 model XJ6 must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above 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. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 19, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–26264 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–76; Notice 1]

Receipt of Petition for Determination That Nonconforming 1992 Mercedes-Benz 300SI Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1992 Mercedes-Benz 300SL passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1992 Mercedes-Benz 300SL that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is November 26, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4:00 pm]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. § 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1992, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the

model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Champagne Imports Inc. of Lansdale, Pennsylvania (Registered Importer No. R–90–009) has petitioned NHTSA to determine whether 1992 Mercedes-Benz 300SL (Model ID 129.006) passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1992 Mercedes-Benz 300SL that Daimler Benz A.G. manufactured for importation into and sale in the United States, and certified as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it carefully compared the non-U.S.-certified 300SL to its U.S.-certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S.-certified 300SL, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S.-certified 1992 model 300SL is identical to the U.S.-certified 1992 model 300SL with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence* * * *., 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 107 *Reflecting Surfaces,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 211 *Wheel Nuts, Wheel Discs and Hubcaps,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* and 302 *Flammability of Interior Materials.*

Petitioner also contends that the non-U.S.-certified 1992 model 300SL is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the seat belt symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rearview mirror, which is convex, but lacks the required warning statement.

Standard No. 114 *Theft Protection:* installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is turned off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of either a U.S.-model seat belt in the driver's position or a belt webbing-actuated microswitch in the driver's seat belt retractor to activate the seat belt warning system; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) installation of a knee bolster to augment the passive restraint system. The petitioner claims that the remaining components of the passive restraint system on the non-U.S.-certified 1992 model 300SL, consisting of a driver side air bag and sensor, have identical part numbers to those found on the U.S.-certified 1992 model 300SL.

Standard No. 214 *Side Door Strength:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S.-certified 1992 model 300SL must be reinforced to comply with the Bumper Standard found in 49 CFR Part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above 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. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3)(A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 19, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–26265 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–75; Notice 1]

Receipt of Petition for Determination That Nonconforming 1993 BMW 850i Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1993 BMW 850i passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1993 BMW 850i that was not originally manufactured to comply with all applicable Federal motor vehicle safety

standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is November 26, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 a.m. to 4 p.m.]

FOR FURTHER INFORMATION CONTACT: Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the **Federal Register.**

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer R–90–009) has petitioned NHTSA to determine whether 1993 BMW 850i passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1993 BMW 850i that was manufactured for importation into and sale in the the United States and certified by its manufacturer, Bayerische Motoren-Werke A.G., as conforming to all applicable Federal motor vehicle safety standards.

The petitioner states that it has carefully compared the non-U.S.-certified 1993 BMW 850i to its U.S.-certified counterpart, and found the two vehicles to be substantially similar with respect to most applicable Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S.-certified 1993 BMW 850i, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S.-certified counterpart, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the non-U.S.-certified 1993 BMW 850i is identical to its U.S.-certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *., 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials.*

Petitioner also contends that the vehicle is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers, (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rearview mirror, which is convex, but lacks the required warning statement.

Standard No. 114 *Theft Protection:* installation of a buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power-Operated Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S.-model seat belt in the driver's position, or a belt webbing-actuated microswitch in the driver's seat belt retractor; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer; (c) installation of a knee bolster to augment the passive restraint system. The petitioner states that the remaining components of the passive restraint system on the non-U.S. certified 1933 BMW 850i, consisting of a driver side air bag, control unit, and sensor, have part numbers identical to those found on the U.S.-certified version of the vehicle.

Standard No. 214 *Side Door Strength:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S.-certified 1993 model 850i must be reinforced to comply with the Bumper Standard found in 49 CFR part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above 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. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3) (A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 19, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–26263 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–59–M

[Docket No. 93–71; Notice 1]

Receipt of Petition for Determination That Nonconforming 1986 Bentley Turbo Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for determination that nonconforming 1986 Bentley Turbo passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a determination that a 1986 Bentley Turbo that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because: (1) It is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily modified to conform to the standards.

DATES: The closing date for comments on the petition is November 26, 1993.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT:

Ted Bayler, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act), 15 U.S.C. 1397(c)(3)(A)(i), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States on and after January 31, 1990, unless NHTSA has determined that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114 of the Act, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility determinations may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA determines, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

G&K Automotive Conversion, Inc. of Santa Ana, California (Registered Importer No. R–90–007) has petitioned NHTSA to determine whether 1986 Bentley Turbo passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1986 Rolls Royce Silver Spirit. Champagne has submitted information indicating the Rolls Royce Motors, Inc,, the company that manufactured the 1986 Rolls Royce Silver Spirit, certified that vehicle as conforming to all applicable Federal motor vehicle safety standards and offered it for sale in the United States.

The petitioner contends that it carefully compared the 1986 Bentley Turbo to the 1986 Rolls Royce Silver Spirit, and found the two vehicles to be substantially similar with respect to compliance with most applicable Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the 1986 Bentley Turbo, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as the 1986 Rolls Royce Silver Spirit that was offered for sale in the United States, or is capable of being readily modified to conform to those standards.

Specifically, the petitioner claims that the 1986 Bentley Turbo is identical to the certified 1986 Rolls Royce Silver Spirit with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence * * *.*, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the 1986 Bentley Turbo complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the 1986 Bentley Turbo is capable of being readily modified to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies which incorporate sealed beam headlamps and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirrors:* replacement of the passenger side rear view mirror, which is convex but lacks the required warning statement.

Standard No. 114 *Theft Protection:* installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number:* installation of a

VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) installation of a seat belt-actuated microswitch in the driver's seat belt to activate the seat belt warning system; (b) installation of an ignition switch-actuated seat belt warning lamp and buzzer.

Standard No. 214 *Side Door Strength:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above 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. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 15 U.S.C. 1397(c)(3) (A)(i)(I) and (C)(ii); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 19, 1993.

William A. Boehly,

Associate Administrator for Enforcement.

[FR Doc. 93–26266 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–59–M

Federal Highway Administration

Intelligent Vehicle-Highway Society of America; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The Intelligent Vehicle-Highway Society of America (IVHS AMERICA) will hold a meeting of its Board of Directors on December 8, 1993. The session is expected to focus on: (1) Report of the "New Rules" Partnership Task Force; (2) Report of the Management Review Task Force; (3) Report of the Board's Role in IVHS AMERICA; (4) Report of the International Liaison Committee; (5) Report on Program Planning; (6) Report on the Fourth Annual Meeting; and (7) Report on the Privacy Task Group.

IVHS AMERICA provides a forum for national discussion and recommendations on IVHS activities including programs, research needs, strategic planning, standards, international liaison, and priorities. The charter for the utilization of IVHS AMERICA establishes this organization as an advisory committee under the Federal Advisory Committee Act (FACA), 5 U.S.C. app. 2, when it provides advice or recommendations to DOT officials on IVHS policies and programs. (56 FR 9400, March 6, 1991).

DATES: The Board of Directors of IVHS AMERICA will meet on December 8, 1993, from 8 a.m. to 4 p.m. e.t.

ADDRESSES: The Peabody Hotel, 9801 International Drive, Orlando, Florida 32819, (407) 345-4449.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Euler, FHWA, HTV-10, Washington, DC 20590, (202) 366-2201, office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for legal Federal holidays; or Ms. Bonnie Jessup, IVHS AMERICA, 1776 Massachusetts Avenue, NW., Washington, DC 20036, (202) 857-1202.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: October 19, 1993.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 93–26238 Filed 10–25–93; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1993 Rev., Supp. No. 5]

Surety Companies Acceptable on Federal Bonds Credit General Insurance Company

A Certificate of Authority as an acceptable surety on Federal Bonds is hereby issued to the following company under sections 9304 to 9308, title 31, of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1993 Revision, on page 35791 to reflect this addition:

Credit General Insurance Company. Business Address: 709 Brookpark Road, Cleveland, Ohio, 44109. Phone: (216) 778–6920. Underwriting Limitation [b]: $1,087,000. Surety Licenses [c]: AK, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, PA, SC, SD, TN, UT, VA, WA, WV, WI. Incorporated IN: Ohio.

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR part 223). A list of qualified companies is published annually as of July 1 in Treasury Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Funds Management Division, Financial Management Service, Department of the Treasury, Washington, DC 20227, telephone (202) 874–6850.

Dated: October 8, 1993.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 93–26269 Filed 10–25–93; 8:45 am]

BILLING CODE 4810–35–M

Office of Thrift Supervision

First South Savings Bank, F.S.B., Columbia, SC; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5 (d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First South Savings Bank, F.S.B., Columbia, South Carolina ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 24, 1993.

Dated: October 20, 1993.

By the Office of Thrift Supervision.

Kimberly White,

Corporate Technician.

[FR Doc. 93–26225 Filed 10–25–93; 8:45 am]

BILLING CODE 6720–01–M

Standard Federal Savings and Loan Association, Columbia, SC; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Standard Federal

Savings and Loan Association, Columbia, South Carolina ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on September 24, 1993.

Dated: October 20, 1993.

By the Office of Thrift Supervision.

Kimberly White,

Corporate Technician.

[FR Doc. 93–26226 Filed 10–25–93; 8:45 am]

BILLING CODE 6720–01–M

[AC–49; OTS NO. 0394]

State Federal Savings and Loan Association of Des Moines, Des Moines, Iowa; Approval of Conversion Application

Notice is hereby given that on October 18, 1993, the Deputy Assistant Diretor, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of State Federal Savings and Loan Association of Des Moines, Des Moines, Iowa, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, suite 600, Irving, Texas 75039.

Dated: October 20, 1993.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 93–26224 Filed 10–25–93; 8:45 am]

BILLING CODE 6720–01–M

[AC–53; OTS No. 03180]

Kentucky Enterprises Bank, F.S.B., Newport, Kentucky; Approval of Conversion Application

Notice is hereby given that on October 15, 1993, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Kentucky Enterprise Bank, F.S.B., Newport, Kentucky, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Drive, Suite 800, Chicago, Illinois 60601–4360.

Dated: October 20, 1993.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 93–26220 Filed 10–25–93; 8:45 am]

BILLING CODE 6720–01–M

[AC–50; OTS No. 3356]

Grinnell Federal Savings Bank, Grinnell, Iowa; Approval of Conversion Application

Notice is hereby given that on October 18, 1993, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Grinnell Federal Savings Bank, Grinnell, Iowa, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039.

Dated: October 20, 1993.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 93–26223 Filed 10–25–93; 8:45 am]

BILLING CODE 6720–01–M

[AC–51; OTS No. 4993]

Fidelity Federal Savings Bank, Chicago, Illinois; Approval of Conversion Application

Notice is hereby given that on October 18, 1993, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Fidelity Federal Savings Bank, Chicago, Illinois, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 111 East Wacker Driver, suite 800, Chicago, Illinois 60601–4360.

Dated: October 20, 1993.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 93–26222 Filed 10–25–93; 8:45 am]

BILLING CODE 6720–01–M

[AC–52; OTS No. 2154]

The Federal Savings Bank, Waltham, Massachusetts; Approval of Conversion Application

Notice is hereby given that on October 19, 1993, the Deputy Assistant Director, Corporate Activities Division, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of The Federal Savings Bank, Waltham, Massachusetts, to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Northeast Regional Office, Office of Thrift Supervision, 10 Exchange Plaza Center, 18th Floor, Jersey City, New Jersey 07302.

Dated: October 20, 1993.

By the Office of Thrift Supervision.

Kimberly M. White,

Corporate Technician.

[FR Doc. 93–26221 Filed 10–25–93; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Cemeteries and Memorials; Meeting

The Department of Veterans Affairs gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 2401, will be held at TechWorld Plaza, 801 I Street, Washington, DC 20420 in room 1105 on December 8 and 9, 1993.

The sessions will begin at 9 a.m. each day to conduct routine business. The meeting will be open to the public up to the seating capacity which is about 40 persons. Those wishing to attend should contact Mr. Larry De Meo, Executive Assistant to the Director, National Cemetery System, [phone (202) 535–7816] not later than 12 noon, EST November 17, 1993.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Director, National Cemetery System (40) at 810 Vermont Avenue, NW., Washington, DC 20420. In any such letters, the writers must fully identify themselves and state the organization or association or person they represent. Also, to the extent practicable, letters should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those wishing to

file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to the Director, National Cemetery System. Letters and written statements as discussed above must be mailed or delivered in time to reach the Director, National Cemetery System by 12 noon EST November 17, 1993. Oral statements will be heard only between 1:30 p.m. and 2 p.m. December 8th, 1993.

Dated: October 15, 1993.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–26232 Filed 10–25–93; 8:45 am]

BILLING CODE 8320–01–M

Veterans' Advisory Committee on Education; Meeting

The Department of Veterans Affairs gives notice that a meeting of the Veterans' Advisory Committee on Education, authorized by 38 U.S.C. 3692, will be held on November 8 and 9, 1993, from 8:30 a.m. to 4:30 p.m. each day. The meeting will take place at The Holiday Inn Ballston, 4610 N. Fairfax, Arlington, Virginia 22203. Meeting room number to be posted in lobby of hotel. The purpose of the meeting will be to discuss Veterans Affairs education issues.

The meeting will be open to the public up to the seating capacity of the conference room. Due to the limited seating capacity, it will be necessary for those wishing to attend to contact Mrs. Celia P. Dollarhide, Executive Secretary, Veterans' Advisory Committee on Education (phone 202–233–2152) prior to November 1, 1993.

Interested persons may attend, appear before, or file statements with the Committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 10 a.m. on November 9, 1993.

Dated: October 15, 1993.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 93–26233 Filed 10–25–93; 8:45 am]

BILLING CODE 8320–01–M

Privacy Act of 1974; Amendment of Systems of Records

AGENCY: Department of Veterans Affairs.

ACTION: Amendment of systems of records.

Notice is hereby given that the Department of Veterans Affairs (VA) is deleting a system of records entitled, "Employee ADP Training Records—VA" (59VA31) which is set forth on page 971 of the **Federal Register** publication, "Privacy Act Issuances, 1991 Compilation. Volume II." The records included a collection of class rosters used to keep track of which VA Central Office or Austin Data Processing Center employees had received automated data processing (ADP) training from the Office of Information Systems and Telecommunications (OIS&T), formerly the Department of Data Management. It was used to make certain that OIS&T employees received the training they needed. This system of records 59VA31 is being deleted since the office responsible for the records has been deactivated and its functions decentralized. The records were destroyed as duplicates of information in the Personnel files.

A "Report of Intention to Publish a **Federal Register** Notice of Deletion of a System of Records" and advance copy of the system notice have been provided to the Chairmen of the House Committee on Government Operations and the Senate Committee on Governmental Affairs, and the Administrator of the Office of Regulatory Affairs, Office of Management and Budget (OMB) , as required by the provisions of 5 U.S.C. 552a(r), and guidelines issued by OMB (50 FR 52730), December 24, 1985.

Interested persons are invited to submit written comments, suggestions, or objections regarding the deletion of the aforementioned system of records to the Secretay of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All relevant material received before November 26, 1993, will be considered. All written comments received will be available for public inspection in Room 170 of the above address only between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until December 6, 1993.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, the system will be deleted effective November 26, 1993, or 40 days after the notice was approved, whichever is latest.

In addition, notice is hereby given that VA is revising certain paragraphs in the system of records entitled, "Integrated Data Communications Utility Network Management Data Base" (78VA30) which is set forth on page 986 of the **Federal Register** publication, "Privacy Act Issuances, 1991 Compilation, Volume II." The System Number, System Location, System Manager and Address, Notification Procedure, and Record Access Procedures are being revised to reflect a change in the designation of the office which is responsible for the maintenance of these records.

Approved: October 14, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

Notice of Amendment to System of Records

The system identified as 78VA30, "Integrated Data Communications Utility Network Management Data Base" appearing on page 986 of the **Federal Register** publication, "Privacy Act Issuances, 1991 Compilation, Volume II" is amended by revising the entries for System Number, System Location, System Manager and Address, Notification Procedure, and Record Access Procedures to read as follows:

78VA331

SYSTEM NAME:

Integrated Data Communications Utility Network Management Data Base—VA.

SYSTEM LOCATION:

Hard copy and magnetic media records will be maintained by the IDCU Network Service Center, 205 East King Street, Martinsburg, West Virginia 25401.

* * * * *

SYSTEM MANAGER AND ADDRESS:

Director, Wide Area Network Service (331), VA Central Office, Washington, 20420

NOTIFICATION PROCEDURE:

An individual who wishes to determine whether a record is being maintained by the Director, Wide Area Network Service under his or her name or other personal identifier or who want to determine the contents of such records should submit a written request or apply in person to the Office of the Director, Wide Area Network Service.

RECORD ACCESS PROCEDURES:

An individual who seeks access or wishes to contest records maintained under his or her name or other personal identifier may write, call or visit the Office of the Director, Wide Area Network Service.

* * * * *

[FR Doc. 93–26234 Filed 10–25–93; 8:45 am]

BILLING CODE 8320–01

Privacy Act of 1974, New Routine Use Statement

AGENCY: Department of Veterans Affairs.

ACTION: Notice; New routine use statement.

SUMMARY: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e), notice is hereby given that the Department of Veterans Affairs (VA) is adding a routine use to a system of records.

DATES: Interested persons are invited to submit written comments, suggestions, or objections regarding the new routine use. All relevant material received before November 26, 1993, will be considered. All written comments received will be available for public inspection in Room 170 at the address given below between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 6, 1993. If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by VA, the routine use statement included herein is effective November 26, 1993, or 40 days after the notice was approved, whichever is latest.

ADDRESSES: Written comments concerning the new routine use may be mailed to the Secretary, Department of Veterans Affairs (271A), 810 Vermont Avenue, NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Harold Ramsey, Program Specialist, Medical Administration Service (161B4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 535–7657.

SUPPLEMENTARY INFORMATION: Section 7464 of Title 38, United States Code, provides for the review and disclosure of Patient Medical Records, or information included in those records, to certain VA employees against whom specific adverse personnel actions have been taken. The provision applies to VA employees holding a full-time permanent appointment under 38 U.S.C. 7401(1) who have satisfactorily completed the probationary period required by 38 U.S.C. 7403(b). These employees include physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants and expanded-function dental auxiliaries. When a major adverse action (i.e., suspension, transfer, reduction in grade, reduction in basic pay, discharge) is based in whole or in part on a question of professional conduct or competence, the employee may appeal the action to a VA Disciplinary Appeals Board. Section 7464 provides that the chairman of a Disciplinary Appeals Board may, in connection with the considerations of the Board, authorize the disclosure of patient medical records to the employee, or representative of the employee, whose appeal is before the Board. The proposed routine use will provide Privacy Act authority to permit these disclosures to former VA employees who have been discharged and are appealing an action to the Board.

The proposed routine use will be added to the system of records entitled "Patient Medical Records-VA" (24VA136) set forth on page 938 of the **Federal Register** publication, "Privacy Act Issuances, 1991 Compilation, Volume II" and amended at 57 FR 28003, June 23, 1992, 57 FR 45419, October 1, 1992, 58 FR 29853, May 24, 1993, and, 58 FR 40852, July 30, 1993.

Approved: October 19, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

Notice of Addition of Routine Use

In the system identified as 24VA136, "Patient Medical Records-VA" appearing on page 938 of the **Federal Register** publication, "Privacy Act Issuances, 1991 Compilation, Volume II," and amended at 57 FR 28003, June 23, 1992, 57 FR 45419, October 1, 1992, 58 FR 29853, May 24, 1993, and, 58 FR 40852, July 30, 1993, the following routine use is added:

24VA136

SYSTEM NAME:

Patient Medical Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

* * * * *

43. Pursuant to 38 U.S.C. 7464 and notwithstanding sections 5701 and 7332, when requested by a VA employee or former VA employee (or a representative of the employee) whose case is under consideration by VA Disciplinary Appeals Board, in connection with the considerations of the Board, records or information may be reviewed by or disclosed to the employee or former employee (or representative) to the extent the Board considers appropriate for purposes of the proceedings of the Board in that case, when authorized by the chairperson of the Board.

* * * * *

[FR Doc. 93–26235 Filed 10–25–93; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 205
Tuesday, October 26, 1993

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).

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 25, November 1, 8, and 15, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 25

Monday, October 25

2:00 p.m.
Discussion of Nuclear Safety in the Former Soviet Union and Eastern Europe (Closed—Ex. 1)

Tuesday, October 26

10:00 a.m.
Briefing on Severe Accident Research Program (Public Meeting)
(Contact: Brian Sheron, 301–492–3500)
2:00 p.m.
Briefing on Proposed Standards for Gaseous Diffusion Facilities (Public Meeting)
(Contact: Charles Nilsen, 301–492–3834)

Wednesday, October 27

10:00 a.m.
Briefing on NRC Research Program on High Level Waste (Public Meeting)
(Contact: Nick Costanzi, 301–492–3760)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Friday, October 29

10:00 a.m.
Briefing on Status of Thermo-Lag (Public Meeting)
(Contact: Ashok Thadani, 301–504–2884)

Week of November 1—Tentative

Wednesday, November 3

11:00 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule, 10 CFR Parts 30, 40, 50, 70, and 72, "Self-Guarantee as an Additional Financial Assurance Mechanism" (Tentative)
(Contact: Clark Prichard, 301–492–3734)

Week of November 8—Tentative

Monday, November 8

9:30 a.m.
Briefing on Site Decommissioning Management Plan (Public Meeting)
(Contact: David Fauver, 301–504–2554)
11:00 a.m.
Briefing on Investigative Matters (Closed—Ex. 5 & 7)

Wednesday, November 10

2:00 p.m.
Briefing on NRC Research Programs on Human Factors (Public Meeting)
(Contact: Tom King, 301–492–3510)
3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of November 15—Tentative

There are no Commission meetings scheduled for the Week of November 15.

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.

The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill, (301) 504–1661.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–26481 Filed 10–22–93; 2:27 pm]

BILLING CODE 7590–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR section 7.5) and the Government in the Sunshine Act (5 U.S.C. section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, November 2, 1993, in Washington, DC. The meeting is open to the public and will be held at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., in the Benjamin Franklin Room. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

There will also be a session of the Board on Monday, November 1, 1993, but it will consist entirely of briefings and is not open to the public.

Agenda

Tuesday Session

November 2—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, October 4–5, 1993.
2. Remarks of the Postmaster General and CEO. (Marvin Runyon)
3. Consideration of Nonprofit Rates. (Michael J. Riley, Chief Financial Officer and Senior Vice President, Finance)
4. Fiscal Year 1994 Borrowing Request. (Mr. Riley)
5. Quarterly Report on Service Performance. (Ann McK. Robinson, Vice President, Consumer Advocate)
6. Briefing on Carrier Sequence Bar Code Sorter. (William J. Dowling, Vice President, Engineering)
7. Tentative Agenda for the December 6–7, 1993, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 93–26426 Filed 10–22–93; 11:22 am]

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Part II

Office of Management and Budget

Final Revision to OMB Circular A–45; Notice

OFFICE OF MANAGEMENT AND BUDGET

Final Revision to OMB Circular A–45, "Rental and Construction of Government Quarters"

AGENCY: Office of Management and Budget.

ACTION: The Office of Management and Budget (OMB) is publishing a final revision of its Circular No. A–45, dealing with the manner in which rents are set for Government rental quarters and related facilities, and the construction of Federally-owned housing.

SUMMARY: This revision of OMB Circular A–45 was undertaken pursuant to the requirement in the 1984 version of the circular that its policies and procedures be periodically reviewed. The circular was first published in 1951, and revised in 1952, 1964, and 1984. Portions of OMB Cir. No. A–18, Policies on Construction of Family Housing, October 18, 1957 (rescinded August 26, 1992), have been incorporated in A–45.

OMB published the proposed new circular in the **Federal Register** on November 22, 1991, and received 269 comments in response. New provisions relating to construction of Federally-owned housing were not published for comment as they were merely established policies that moved to and consolidated with A–45.

DATES: The effective date of the final version of Circular No. A–45 is 30 days from the date it is signed.

FOR FURTHER INFORMATION CONTACT: Richard A. Ong, Deputy Associate Administrator, Office of Federal Procurement Policy, 725 17th Street, NW., Washington, DC 20503. Telephone (202) 395–7209. Copies of the circular can be obtained by calling the OMB Publications Office at (202) 395–7332.

SUPPLEMENTARY INFORMATION: OMB convened a meeting of a number of housing officials from agencies affected by the policies of Circular A–45 in August of 1988 to discuss problems in interpreting or administering the rental quarters program and to discuss a number of unsolicited agency and Federal employee comments that were received. OMB solicited public comments in November of 1991 and convened another meeting of Federal housing officials to discuss the comments received. Meetings with the staff of the Alaska delegation were also held with respect to the definition of an "established community." The following discusses certain major issues raised by the comments and participants in the meetings described, and lists the major changes made in the circular:

1. *In general.* The Federal agency quarters program affects 19,000 units in widely different environments. Unavoidably, Circular No. A–45 relies on general rules that do not reach every individual tenant's circumstances or address every possible eventuality. Nonetheless, the overall result of implementation of the circular is rents for Government quarters that are fair, low, and responsive to individual circumstances and to the absence of features that make one's residence desirable to most of our contemporaries in and out of the Government.

2. *Isolation Adjustment.* Comments overwhelmingly rejected the proposed change in the method of calculating the isolation adjustment. Accordingly, the formula remains as it was in the 1984 circular. We did not adopt any other suggestions for changing the value of the isolation adjustment. The formula provides for an adequate adjustment based on number of trips and mode of travel and takes into account periodic increases in the Government's standard mileage rate. Our intention in proposing a change in the method of calculating the adjustment was to do away with the all-or-nothing aspect of the formula 31-point line not to make a change because we wished to make the formula more generous.

3. *Nearest established community—population criterion only.* OMB also proposed to change the definition of "nearest established community" to delete the requirement that the community have minimum essential medical facilities, leaving only year-round population as the sole criterion of an "established community." This change too was overwhelmingly opposed by commenters and accordingly has not been implemented.

The definition of an established community was further modified to eliminate from consideration as established communities those communities that are, broadly speaking, unusual in some way. Thus, we have added a requirement to the definition of an established community that it must have a private rental market with housing available to the general public. This will eliminate communities such as military installations, park communities, and reservations from designation as established communities. The added requirement that medical facilities be available on a nonemergency basis also will ensure that established communities are designated that in fact provide the kind of medical care most quarters occupants require.

Many commenters suggested that the population criterion in the definition be increased, left alone, or reduced, or that we list other services, in addition to medical services. We did not adopt the suggestions to increase or reduce the population figure because the current population figures (1,500 and 5,000 for Alaska) have proved to be acceptable standards. The retention of the medical services criterion in the definition of an established community ensures that the population requirement does not sweep too broadly and qualify communities that are unusually deficient in goods and services.

4. *Pay versus rent.* Pay issues are different from quarters issues. Many commenters described either the difficulty they experience in recruiting or retaining employees to serve in certain remote locations, or their own or their subordinates' limited family budgets. Whether or not Government employees are properly compensated, however, is not an issue that the quarters program may address under current law. Matters relating to overtime work, call pay, being on emergency standby, or public/private employee compensation differences are pay issues. Unusual economic circumstances prevailing where quarters are located are intended to be addressed by cost of living allowances and pay differentials already provided by Congress. On the question of providing for a subsidy for quarters occupants, Congress has simply forbidden it in 5 U.S.C. 5536.

5. *Required occupancy.* Similarly, required occupancy is not a quarters issue. It is only so far as we must determine the proper rent for quarters in which a required occupant must live. We do not make a subjective inquiry whether a required occupant would rather live somewhere else, only whether, using objective methods, the rent for a particular structure has been properly determined. The correct result for the quarters program should be an acknowledgment by all quarters occupants—permitted or required—that, even though they might rather live in other quarters, they are nonetheless paying the correct rent (determined according to prescribed procedures) for the quarters they have been assigned. One commenter suggested that A–45 deal with required occupancy in greater detail. We prefer instead that agency regulations deal with this issue, if they deem it necessary.

6. *Choice of employment or assignment.* There are also certain aspects of living in remote areas that relate to one's choice of employment that Circular No. A–45 cannot address

under current statutory requirements. In remote areas it is possible that there will be a lack of opportunities for working spouses, distant or inadequate local schools, a lack of organized community services, extra transportation expenses, limited newspaper circulation, lack of child care, and limited business delivery services. Available public and private services, as well as commercial goods, simply will never be the equal of those available in larger urban areas. Where employees choose to compete for jobs that inevitably require recurrent changes in duty station, or where such changes are advisable for career advancement, employees may encounter these difficulties and may well also be limited in their ability to build equity in a home. Required occupancy can also be understood in this context. The majority, if not all, required occupancy assignments are identified as such in job announcements and may or may not represent opportunities for advancement for the employee.

A new subsection 5c makes clear that employees have a responsibility to inform themselves of conditions that prevail at prospective duty stations.

7. *Privacy.* The distinction between intrusions relating to official duties and other intrusions has been eliminated. Pursuant to an earlier request for an exception, we have provided for privacy reduction for quarters in or near prisons where normal use of quarters cannot be made by virtue of living areas being within view of inmate population.

8. *Legislative requirements respecting equal treatment of persons occupying quarters.* Public Law 88–459, which provides the legislative underpinning of the quarters program, addressed the problem of agencies' not interpreting then existing law with reasonable uniformity. It also sought to remedy the fact that existing law did not apply to situations where members of the uniformed services and contractor employees occupy Government quarters, among other things. Paragraph 5(b)(3) has been modified to clarify the intent of Pub. L. 88–459, codified at 5 U.S.C. § 5911.

9. *Incorporation of OMB Cir. A–18.* OMB Cir. No. A–18, Policies on Construction of Family Housing, October 18, 1957, was rescinded August 26, 1992, pursuant to OMB's revision of its circular system. Certain portions thereof, relating to construction standards of Federally-owned quarters, have been incorporated in A–45. No change in the policies of A–18 are contemplated in moving certain of them to A–45. Thus, nothing in A–45 is an authorization for construction of new quarters. General policy provisions and matters relating to budget estimate and reapportionment requests in A–18 have already been moved to OMB Circular No. A–11, Preparation and Submission of Budget Estimates, subsection 12.5(n). Consistent with our policy of primary agency reliance on private housing for employees, we are adding language to subsection 5a to make clear to agencies that if there is no requirement of service or protection pursuant to subsection 12.5(n) of OMB Circular No. A–11, Preparation and Submission of Budget Estimates, then the agency may not acquire or otherwise obtain additional quarters for its employees.

10. *Heating and cooling.* Heating and cooling provisions have been moved from ¶ 7c(6) to ¶ 7b(5) to remove them from operation of the 40% or 50% cap on administrative adjustments in subsection 7c. We do not believe it would be fair potentially to limit the total amount of adjustments available to an employee if part of the expense to the occupant is due to the Government's providing quarters that are excessively expensive to heat or cool.

11. *Phase-in of rent increases.* One commenter recommended that we allow rent increases to be phased in over a longer period of time beginning at a threshold of 25% rather than 50%, or where the total increase in rent is $25 or more. We adopted this more generous provision in part. As Congress requires that Government quarters rents must be closely connected to private rents, any gap between base rental rates of Government quarters and private rents must inevitably be closed. Allowing for a more generous provision relating to phasing in the necessary changes, however, will help to alleviate the burden employees may encounter in adjusting to rent increases. Note that whether to invoke the phase-in option at all, how long a period to allow for the phase-in, whether to phase in rent increases only for certain pay grades, etc., is solely a matter of agency discretion.

12. *Hazardous road conditions.* Several commenters objected to the removal of hazardous conditions from the isolation adjustment formula. This remained part of the formula inadvertently after the decision was taken in 1984 not to include a provision in the text of the circular relating to hazardous conditions. The ownership or availability of four-wheel drive vehicles and tire chains, as well as of tracked vehicles or heavy multi-passenger vehicles; frequency, timeliness, and adequacy of road clearing operations; terrain; road surface; weather patterns (freezing rain, blizzards, freezes, thaws, wind, temperature); residences or other shelter close to the road; choice of time of day to travel; and availability of telephone and radio communications all have a bearing on whether road conditions are "hazardous."

Whether or not hazardous conditions prevail is thus clearly not a simple judgement. There are no objective criteria and we do not propose to provide them. To do so would be to inject further complexity into the process of administering the circular, when it is our desire to simplify administration by relying on simple, objective tests wherever possible. We believe, furthermore, that in all but the most extreme cases road clearing operations and/or judicious adjustments to the employee's driving practices will make travel safe even though there will be times when temporary extremes of weather will make any road impassible or extremely dangerous. Furthermore, the different road surfaces and modes of transportation in the isolation adjustment formula implicitly recognize degrees of hazard.

13. *Amenity adjustments.* Numerous suggestions for adding amenity adjustments or increasing their value were received. We did not adopt those because we believe the available amenity adjustments are sufficient. The lack of nearby video rental stores, rural mail delivery, or adequate mechanical service professionals, as well as the higher cost of some goods and services (including utilities) in some locations are all problems likely to be encountered in remote locations that are not amenable to solution by agency action. We believe agencies and/or quarters occupants should deal with the lack of cable TV reception by installing satellite reception systems, rather than Cir. A–45's providing for an amenity adjustment. The isolation adjustment is also intended to result in rental rates in remote areas that reflect these conditions likely to be found in remote areas.

14. *Profit.* Some commenters stated that the Government should not make a profit and therefore should not base rents on private sector rents that do include the element of profit. Government quarters rents are required to be based on rents in the private sector. Far from seeking a profit, the Government does not even seek to recover the actual cost of providing quarters. In fact, it allows for reductions as large as 50–60% to be made for market-based quarters rents. Most agencies in the quarters program do not recover all of the costs to them of maintaining quarters for their employees, especially those agencies that provide quarters to seasonal

employees who do not pay rent year round but which must still maintain the quarters in question.

15. *Standards.* Portions of new section 8 of the circular, which incorporates portions of now rescinded OMB Cir. No. A–18, were amended to conform Federal policies to the modern standards. Thus, a specification of the number of baths permitted for two-story structures has been added at the request of officials in the Department of Defense. The wet-bulb and dry-bulb temperature standards of the American Society of Heating, Refrigeration and Air Conditioning Engineers "A Manual of Recommended Practices" will also now apply, and thus simplify the engineering calculations in determining whether or not air conditioning may be installed (subsection 8f). The reference to an outdated booklet of design standards has been replaced by a reference to the Uniform Building Code (subsections 8g and 8h).

16. *Other matters.* The changes briefly mentioned in the November 22, 1991, notice in the **Federal Register** under the heading of "Other changes" have all been made in the final circular. Numerous editorial changes were made. Suggestions that appeared to be limited in their scope have not been addressed here or adopted in the circular.

Date: October 20, 1993.

Allan V. Burman,

Administrator, Office of Federal Procurement Policy.

Circular No. A–45 (Revised)

To the Heads of Executive Departments and Establishments

Subject: Rental and Construction of Government Quarters

1. Purpose

This circular sets forth policies and administrative guidance to be used by executive agencies in establishing and administering rental rates and other charges for Government rental quarters and related facilities located within the fifty states, the District of Columbia, and the territories and possessions of the United States. It also sets forth policies and administrative guidance to be used by executive agencies respecting construction of Federally-owned housing (exclusive of military barracks) for civilian and military personnel, as well as for employees of Government contractors, whether provided on a rental basis or free of charge, both in the United States and overseas. This circular does not deal with determinations of whether construction of housing is appropriate, for which please see Office of Management and Budget (OMB) Circular No. A–11, Preparation and Submission of Budget Estimates, § 12.5(n).

2. Background

The policies and procedures of this circular have been revised pursuant to section 9 of the 1984 version of the circular. Portions of OMB Circular No. A–18, Policies on Construction of Family Housing (rescinded August 26, 1992), have been incorporated into section 8 of this circular.

3. Rescission

This rescinds OMB Circular No. A–45, dated March 28, 1984, as amended, and incorporates portions of rescinded OMB Circular No. A–18, Policies on Construction of Family Housing, October 18, 1957.

4. Authority

This circular is issued by virtue of the authority vested in the President by 5 U.S.C. 5911(f), and delegated to the Director of the Office of Management and Budget by section 9 of Executive Order 11609 of July 22, 1971; by 31 U.S.C. 1111; and by section 2(d) of Executive Order 8248 of September 8, 1939 and section 1 of Executive Order 11541 of July 1, 1970.

5. Policy

a. Reliance on private housing market. It is the policy of the Federal Government to rely on the private housing market to provide housing for its civilian employees. If there is no requirement of service or protection or if there is no lack of available housing, as discussed in OMB Circular No. A–11, Preparation and Submission of Budget Estimates, sections 12.5(n)(2) and (3), agencies must not acquire additional rental quarters.

b. Determination of rents. Agencies of the Federal Government must adhere to the following in determining rental rates for Government rental quarters:

(1) Reasonable value to employee. Rental rates and charges for Government quarters and related facilities will be based upon their "reasonable value * * * to the employee * * * in the circumstances under which the quarters and facilities are provided, occupied or made available." 5 U.S.C. 5911. As intended by the Congress, reasonable value to the employee or other occupant is determined by the rule of equivalence; namely, that charges for rent and related facilities should be set at levels equal to those prevailing for comparable private housing located in the same area, when practicable; and

(2) Subsidies, inducements prohibited. Federal employees whose pay and allowances are fixed by statute or regulation may not receive additional pay and allowances for any service or duty unless specifically authorized by law. 5 U.S.C. 5536. Consequently, rents and other charges may not be set so as to provide a housing subsidy, serve as an inducement in the recruitment or retention of employees, or encourage occupancy of existing Government housing.

(3) Fairness, consistency. When properly determined in accordance with the provisions of this circular, rental rates will be fair as between the Government and the employee (or other authorized occupant) and as between employees of different agencies living in the same installation in similar housing, or employees living in Government quarters at different installations. Rents should not be set so as to serve as an inducement to recruit or retain employees. Moreover, rents should reflect a consistent local pattern for all Federal quarters in a given location.

c. Employee responsibilities. Employees have a responsibility to inform themselves of all the conditions that prevail in and near the quarters and duty stations to which they might be assigned before accepting transfer to or employment at such duty stations.

6. Definitions

a. Agency. As defined in Public Law 88–459, 78 Stat. 557 (1964), the term "agency" means (1) each executive department of the Government; (2) each agency or independent establishment in the Executive Branch of the Government; (3) each corporation owned or controlled by the Government, except the Tennessee Valley Authority; and (4) the General Accounting Office.

b. Air conditioning. The process of cooling air either through evaporation of water (evaporative cooling) or refrigeration (mechanical or absorption), and the distribution of such air.

c. Base rental rate. The base rental rate is the rental value of the quarters, established in accordance with the provisions of this circular, before applying any administrative adjustments or charges for related facilities.

d. Comparable housing. Comparable housing is housing in the private sector that is generally equivalent in size to the rental quarters, with the same number of bedrooms, and with generally equivalent amenities and related facilities. Such housing is housing available on a landlord-tenant basis, with rental rates reflecting the fair market value of the accommodations.

This is distinguished from housing rented on an "employer-employee" basis or between friends and relatives, for which other considerations may have influenced the rental rates. In addition, other Government rental housing (Federal, State or local) and housing provided by churches or religious societies are excluded from this definition of comparable housing.

e. Construction. "Construction" includes conversions of structures for dwelling purposes.

f. Established community. An established community is ordinarily the nearest population center (Metropolitan Statistical Area or an incorporated or unincorporated city or town) having a year-round population of 1,500 or more (5,000 or more in Alaska), provided that it has minimum essential medical facilities (i.e., at least one physician and one dentist) available to all occupants of Government quarters on a nonemergency basis and a private rental market with housing available to the general public. Population determinations will be based upon the most recently published decennial census of the United States.

g. Net area. For purposes of construction of quarters, the net area of a dwelling is the space inside exterior or party walls, excluding only attic, garage, and basement (or service and storage space in lieu of basement).

h. Reasonable value. Reasonable value for rental quarters is to be measured by the test of equivalence, i.e., what the employee would pay for comparable housing in the open market. Rental rates, including charges for related facilities when appropriate, will be based upon prevailing rates for comparable private housing located in the same general area, after taking into account those factors that reduce or increase the value of the housing to the tenant.

i. Related facilities. Related facilities are equipment, supplies and services made available in connection with the occupancy of quarters including, but not limited to, household furniture and equipment, garage space, utilities, subsistence, and trash and laundry services.

j. Rental quarters. Except as specifically excluded herein or by statute, the term "rental quarters," includes all furnished and unfurnished quarters supplied under specific government authority to Government employees, contractors, contractor employees, and all other persons to whom housing is provided as an incidental service in support of Government programs. It includes, but is not limited to, Government-owned or -leased dwellings, apartments, bunkhouses, dormitories, trailer pads, cabins, guard stations and lookouts, mobile homes, house trailers, and housekeeping as well as nonhousekeeping units. The term excludes tents, containers, housing which due to extreme deterioration is unsuitable for occupancy except in exigent circumstances, and "public quarters" designated for occupancy by members of the uniformed services with loss of allowances, but it includes quarters occupied by such personnel on a rental basis under 37 U.S.C. 403(e), 42 U.S.C. 1594a(f) and 1594b, and other authorities.

k. Room. A room is a living space such as a living room, bedroom, kitchen, finished attic or basement, or other suitable living space. A half room is a small space used for living purposes, such as a dinette, breakfast nook, dressing room, or reception room. No count is made of bathrooms, strip or pullman kitchens, halls or foyers, alcoves, pantries, laundries, storage or utility rooms, or unfinished attics and basements.

7. Procedures for Determining Rents and Other Charges

a. Charges for quarters. The determination of reasonable value of Government rental quarters will be based upon an impartial study of comparable private rental housing. There are two methods that may be employed to determine the base rental rate. The first, an appraisal, involves direct comparison with individual private rental housing units. The second, the regional survey, creates a series of economic models based upon a survey of comparable private rental housing throughout the region. While both methods are accurate, agencies are encouraged to utilize the survey method, whenever possible, due to the costs and administrative burdens associated with conducting individual appraisals. Both methods are subject to the conditions and limitations set forth below.

(1) Appraisals.

(a) Urban and suburban locations. If Government quarters are located in or within five miles of an established community, in an urban or suburban location, the base rental rate may be determined by either a staff or contract appraiser, applying recognized real estate valuation principles.

None of the administrative adjustments provided in subsection 7c will be made for isolation, site amenities, space devoted to official use, or excessive heating or cooling costs when an appraisal is made in an urban or suburban location. These factors, if appropriate, will already have been considered by the appraiser in the appraisal process. Adjustments, suitably documented, may be made by agencies when an appraiser has not considered or incorrectly calculated the effect of these factors.

(b) *Rural areas.* When the appraisal method is used to determine the reasonable value of quarters that are not located in, or within five miles of, an established community, it will be subject to the following limitation: To ensure a uniform approach to valuation when conducting an appraisal in such areas, the staff or contract appraiser will be limited to comparing the Government rental quarters with housing in the nearest established community. (If the nearest established community does not contain sufficient comparables or is unduly affected by severe economic conditions, the appraiser may select comparable rental units from the next closest established community that does have sufficient comparables or does not have a severely deflated or inflated housing market.) Such comparison will be limited to adjustments for the physical differences in the housing. The appraiser in such circumstances will not make adjustments for location (isolation) or for the absence of site amenities. These adjustments, if applicable, will be made administratively in the same manner as authorized for regional surveys in ¶¶ 7c(1) and 7c(2).

(2) Regional surveys. Regional surveys may be used in all locations where Government quarters are located. If the regional survey method is used, the base rental rates will be set by means of a series of economic models that utilize typical rental rates for comparable private rental housing in the established communities nearest to the sites in which the Government quarters are located. (If the nearest established community does not contain sufficient comparables or is unduly affected by severe economic conditions, the survey may utilize comparable rental units from the next closest established community that does have sufficient comparables or does not have a severely deflated or inflated housing market. The actual analysis of rental data for the establishment of base rental rates may be accomplished using appropriate statistical techniques, such as step-wise multiple regression.

To avoid duplication and inconsistent rates, all agencies with quarters in a given location should coordinate their survey plans and conduct a single survey applicable to all. The area selected for survey should be large

enough to permit an adequate sampling of comparable rental properties in several established communities and may encompass one or more states. Ideally, the survey would establish the rental rates for a large number of Government quarters and thereby reduce the cost per unit surveyed. The methods of analysis must be capable of recognizing both the physical characteristics and the differences in economic conditions, and reflecting such differences in the base rental rates. Private rental housing samples reflecting extremely high or low rental rates should be excluded from the data base subjected to final analysis. Appropriate adjustments may be made to the base rental rates established for quarters in accordance with the provisions of subsection 7c.

(3) Agency review. Regardless of the method used, results of surveys and appraisals will be reviewed by the agency prior to implementation to assure that they are fair and reasonable, and that they were developed in accordance with the provisions of this circular. In those communities where the rental rates are extremely high or low, the rental housing market should be reviewed periodically between surveys to determine whether changes in the private rental housing market warrant revision of the base rental rates for the quarters located near those communities.

b. Charges for related facilities and costs.

(1) Utilities. It is Government policy to minimize energy consumption. Consumption has been found to decrease when occupants of Government rental quarters are required to pay for the actual cost of utilities used (such as electricity, oil, natural gas, propane, coal, telephone, cable television, water and sewer). Utilities should be furnished by a private company and billed directly to the occupant, wherever possible.

When Government furnished utilities are provided, they should be metered or measured, where practicable. The rate for utilities furnished by the Government will be the same as the residential rate for these utilities in the nearest established community (when the appraisal method is used) or survey area (when the survey method is used) used in determining the base rental rate. The consumed amount of Government furnished utilities that are individually metered or measured will be determined by actual readings.

When Government furnished utilities are not individually metered or measured, consumption will be determined on the basis of an analysis of the average amounts of utilities used in comparable private rental housing in the nearest established community (when the appraisal method is used) or survey area (when the survey method is used). (Such estimates are usually available from local utility companies.) Alternatively, consumption may be determined using engineering tables (such as design heat loss tables from the American Society of Heating and Refrigeration Engineers) and meteorological records. Normally, utility charges will be clearly shown and separated from rent charges. Utility charges may be combined, however, in one charge for nonhousekeeping rooms. Where it is impractical to shut off heat and electricity to unused rooms and the employee is otherwise entitled to the reduction in ¶ 7c(5) for quarters of excessive size, a proportionate reduction in the utility charges based on the area of the unused quarters may be made.

(2) Furnishings. If there is an inadequate market of comparably furnished housing for purposes of comparison with furnished Government quarters, the rents on otherwise comparable unfurnished private units may be used as the base and adjusted by a reasonable charge for furnishings. This adjustment should be based on actual replacement costs allocated over the useful life of the furnishings.

(3) Other services. Charges for other services provided by the Government including, but not limited to, laundry, trash and garbage removal, lawn care and snow removal will be based upon prevailing rates for such services in the nearest established community (when the appraisal method is used) or survey area (when the survey method is used).

(4) Adjustments to obtain base rental rate. Where the rental charge for comparable housing includes the values of utilities, furnishings, or other services, downward adjustments to obtain the base rental rate will be based on the prevailing rates for such utilities, furnishings, and other services in the nearest established community (when the appraisal method is used) or the survey area (when the survey method is used). The value of furnishings and other services may be based upon national average costs where such data are available.

(5) Excessive heating or cooling costs. A deduction from the rental rate is permissible if quarters require an unreasonable additional expense to the employee for heating or cooling because of poor design, the lack of all-weather construction, or other related factors. The amount of the deduction will be determined as follows: If the rental quarters in question require expenses to the occupant in excess of 25 percent for the heating or cooling season over the average of heating or cooling for comparable housing in the same area and climate zone as determined by a suitable survey or appraisal, the head of agency may determine that the excessive costs (i.e., those in excess of 25 percent over the average) may be deducted from the annual rental rates.

c. Administrative adjustments. Additional adjustments in the form of deductions from, the base rental rate are appropriate in the specific situations described below. The total amount deducted for all reasons must not be excessive, resulting in a rental rate to the occupant that is less than the reasonable value of the quarters, since this would constitute a supplementation of salary in contravention of law. The rental rate, after all adjustments, must not be less than 50 percent of the base rental rate, unless an adjustment for isolation has been made. In such instances, the rental rate may be set at not less than 40 percent of the base rental rate.

(1) Isolated locations. In some cases, the Government supplies quarters in locations where minimal community services are available but only at some distance from the quarters. In addition, travel conditions or mode of transportation may serve further to isolate some employees from minimal community services. In such situations, the agency shall grant a reasonable adjustment to ameliorate the direct economic effects of the isolation, utilizing the procedure described below and in the appendix.

The nearest established community will be used as the community for calculating the deduction, even though that community may not serve as the location of the comparable private rental housing used in establishing the base rental rates. The mileage used in computing the adjustment will be the shortest route usually traveled from the rental quarters to the center of the nearest established community. If that route is closed seasonally, a weighted average adjustment will be used for the entire year, based upon the number of months each route would ordinarily be used.

The adjustment is designed to recognize different categories of highways and modes of transportation. Because of the range of possible travel conditions and modes of transportation, point values have been assigned to each category of transportation. These point values represent differences in time, cost, or both, associated with each mile of each category of transportation from

the quarters to the nearest established community.

The point values are multiplied by the number of one-way miles from the quarters to the nearest established community, to produce one-way points. When travel from the quarters to the nearest established community involves more than one category of transportation, the one-way miles are distributed accordingly. When the category of travel is category 4 or 5 on the Isolation Adjustment Computation form in the appendix, 29 and 27 points are added, respectively, to the product of columns A and B. The one-way points in each category are then added to produce total one-way points, which must exceed 30, or there is no adjustment. Finally, the total adjusted points for all modes of transport are multiplied by an Isolation Adjustment Factor (based on the automobile mileage allowance determined by the General Services Administration) to produce the monthly dollar adjustment.

(2) Site amenities. Living conditions at the locations of some Government housing are not always the same as those found in or immediately adjacent to the survey or appraisal communities. In such communities, the amenities listed below are generally present and their contributory value included in the base rent. The lack of availability of any of these items at the quarters location represents a generally less desirable condition that should be reflected as a negative percentage adjustment to the base rental rate, as shown below.

(a) *Reliability and adequacy of water supply.* The system should provide potable water (free of significant discoloration or odor) at adequate pressure at usual outlets. (No more than a −3 percent adjustment can be made for this category.)

(b) *Reliability and adequacy of electric service.* Service must equal or exceed a 100-ampere power system capable of providing 24-hour service under normal conditions. (Occasional temporary outages are considered normal.) If an adequate backup generator is available, the amenity will be rated as present regardless of the reliability of the primary power source. (No more than a −3 percent adjustment can be made for this category.)

(c) *Reliability and adequacy of fuel for heating, cooling and cooking.* There should be sufficient fuel storage capacity to meet prevailing weather conditions and cooking needs. Where electricity is used to heat, cool, or cook, this adjustment is to be made only when the deduction in (b), above, applies. (No more than a −3 percent adjustment can be made for this category.)

(d) *Reliability and adequacy of police protection.* Law enforcement personnel, including Government employees with law enforcement authority, should be available on a 24-hour basis. Availability is defined as the ability to respond to emergencies as quickly as any officer in the nearest established community. Part-time officers are not necessarily unable to meet this test of availability. Gaps in availability due to temporary illness or injury, use of annual leave, temporary duties, training, or other short absences, do not render law enforcement personnel "unavailable" at the Government quarters. (No more than a −3 percent adjustment can be made for this category.)

(e) *Fire insurance availability or reliability and adequacy of fire protection.* Fire insurance should be available with the premium charge based upon a rating equal to the rating available to comparable housing located in or adjacent to the nearest established community, or, in the alternative, adequate equipment, adequate water (or fire retardant chemical) supply, and trained personnel should be available on a 24-hour basis to meet foreseeable emergencies. If either element is present, i.e., adequate insurance or an adequate fire fighting capability, no adjustment may be made. (No more than a −3 percent adjustment can be made for this category.)

(f) *Reliability and adequacy of sanitation service.* An adequately functioning sewage disposal system and a solid waste disposal system, whether community or individually provided, should be available. Individual sewage disposal systems (septic, cesspool, or other) will be considered adequate even though they may require periodic maintenance, as long as they are usable during periods of occupancy. (No more than a −3 percent adjustment can be made for this category.)

(g) *Reliability and adequacy of telephone service.* Twenty-four-hour accessibility to commercial telephone facilities should be available. A deduction of 3 percent is authorized if telephone service is unavailable both within the employee's quarters and within 100 yards of the quarters. A deduction of 2 percent is authorized if there is no telephone service within the employee's quarters, but telephone service (either private or party line) is available within 100 yards of the quarters. A deduction of 1 percent is authorized if telephone service is available in the employee's quarters, but is not private line service and/or is not accessible on a 24-hour per day basis.

(h) *Noise and odors.* There should be an absence of significant, frequent disturbing noises or offensive odors. (No more than a −3 percent adjustment can be made for this category.)

(i) *Miscellaneous improvements.* One or more of the following improvements should be present: paved roads, sidewalks, or street lights. (No more than a −1 percent adjustment can be made for this category.)

(3) *Impositions on privacy or living space.* Administrative adjustments in the base rental rate are allowed if the living space or privacy of the occupant is restricted. In each such case, the agency will make a special determination of the specific conditions making certain that the conditions have not already been reflected in establishing the base rental rate.

(a) *Loss of privacy.* If occupants are subject to loss of privacy during nonduty hours by virtue of repeated public visits (i.e., occurring several times daily) or inhibited from enjoying the full range of activities normally associated with rental occupancies (such as where restrictions are imposed on activities in quarters in or near national cemeteries or where quarters are within view of prison inmates), a deduction not to exceed 10 percent of the base rental rate is allowable. Proportional deductions will be made in situations of less frequency or seriousness in their impact upon privacy or usage or to reflect seasonal variations.

(b) *Space devoted to official use.* When the agency determines that the use of a portion of the quarters is required for official business (i.e., office, storage, etc.), loss of living space should be reflected by an adjustment to the base rental rate, based on the square footage occupied.

(4) Transient and temporary use of quarters for other than temporary duty assignments and uniformed service members on permanent change of station.

(a) *Transient quarters.* Charges for quarters occupied on a transient basis, that is, normally for 90 days or less, will be assessed at rates equivalent to private transient housing of comparable type and quality. These rates may be set on a nightly or weekly basis, or both. If comparable private transient housing does not exist in the area, the rental may be established by determining the reasonable monthly rental rate for the quarters through application of the other provisions of this circular, and adding to the monthly rate an additional charge of at least 20 percent to cover necessary additional administrative and service charges. The total will be divided by 30

days for the nightly rate or 4⅓ weeks for the weekly rate.

(b) *Temporary quarters.* This adjustment will apply when an employee occupies quarters for the convenience of the Government on a temporary basis (normally more than 60 days) and does not receive per diem. Under these circumstances, if the employee maintains two households, the agency is authorized to adjust the rental rate on the quarters unit so that the combined rent or rent and mortgage payment paid during the period of occupancy is not excessively burdensome. The adjustment may not exceed 20 percent of the base rental rate of the quarters unit, unless the agency determines that the circumstances fully justify a greater deduction.

(5) Quarters of excessive or inadequate size or quality. If there is a lack of housing of appropriate size or quality, an employee may be provided Government quarters of a size or quality either excessive or inadequate to that which the prudent employee would have selected in the private community. In these exceptional circumstances, the base rental rate will be reduced by up to 10 percent in direct proportion to the degree of the excess or deficiency. This reduction will not continue beyond one month after the availability of either appropriate Government rental quarters or private rental housing, except when the agency determines that the reassignment of quarters will not benefit the Government.

(6) Changes in administrative adjustments. For specific quarter rental rates, agencies should implement new administrative adjustments to reflect changes in any of the factors contained in subsection 7c as soon as possible after learning of those changes, normally within 30 days.

d. Cyclical and annual adjustments; newly acquired quarters. Charges for rental quarters and related facilities shall be adjusted periodically in accordance with the following:

(1) Adjustments based on surveys or appraisals. Base rental rates established for rental quarters shall be affirmed or adjusted by a survey or appraisal of the private rental market, as follows:

(a) At least every fifth year or when the base rental rate for the quarters has been increased by 40 percent through application of the rent series of the U.S. City Average Revised Consumer Price Index for Urban Wage Earners and Clerical Workers, Rent Series, whichever occurs first, or

(b) Any year when changes in the private rental market in the nearby established community indicate a need to adjust base rental rates on the basis of a survey or appraisal of the rental market.

(2) Adjustments based on changes in the CPI. Annual adjustments in the base rental rate shall be made by applying the percent change in the CPI Rent Series from the month and year that the last regional survey or reappraisal of the private rental market was conducted. The new rates shall be effective at the beginning of the first pay period that starts on or after March 1 of each year. Though effective in March, the adjustment shall be based on the preceding September CPI data to provide the required lead time.

(3) Annual adjustments for isolation. The Isolation Adjustment Factor (currently 1.9) will be recomputed each year to reflect the Government mileage allowance for automobiles published by the General Services Administration as of the last day of September each year. The new isolation adjustment factor will be used to compute the monthly isolation adjustment applicable to rents being charged starting with the first full pay period in March of each year. This is done to coincide with the implementation of rental rates adjusted by the CPI Rent Series each year, as required in ¶ 7d(2) of this circular.

(4) Annual adjustments of utilities, furnishings, and services. To ensure that rates for Government furnished utilities, furnishings, and services keep pace with current costs, they shall be adjusted annually. Where appraisals are used, the rate will be the average residential rate for the utility, furnishings, and services in the nearest established community as of the last day of September. Where surveys are used, utility costs will be adjusted by amounts coinciding with the changes in the appropriate components of the September Consumer Price Index for Urban Wage Earners and Clerical Workers: Nonfood Expenditure Categories, Seasonally Adjusted, U.S. City Average. The adjusted value of furnishings and other services may be based upon local or national average costs. The new changes will be effective at the beginning of the first pay period that starts on or after March 1 of each year.

(5) Periodic/cycle year adjustment. The cycle year (and survey or appraisal month within the cycle year) occurs at different times for different employee quarters within an agency. Therefore, since annual CPI adjustments effective in March are based on the preceding September CPI data, cycle year adjustments for any particular quarters or facility shall be made as follows:

(a) When the private rental market survey or appraisal is made during the months of September through February, no CPI adjustment will be made on March 1 of the following year, but will be deferred until the start of the first pay period that begins after March 1 of the following year. Rental adjustments based on the survey or appraisal will be put into effect in the usual manner. Example: If the survey month is October 1989, no CPI adjustment will be made in March 1990, but will be deferred until March 1991. Such CPI adjustments will be based on the changes in the CPI from the actual date of the survey through September 1990.

(b) When the private rental market survey or appraisal is made during the months of March through August, no CPI adjustments will be made in March of that year, but will be deferred until the start of the first pay period that begins after March 1 of the following year. Rental adjustments based on the survey will be put into effect in the usual manner. Example: If the survey month is April 1989, no CPI adjustment will be made in March 1989, but will be deferred until March 1, 1990. Such CPI adjustment will be based on the changes in the CPI from the actual date of the survey through September 1989.

(6) Newly acquired quarters. Rates for newly acquired quarters shall be the same as those prevailing for similar Government rental quarters in the area. If there are no established rates, an initial survey or appraisal to establish valid and realistic comparability with private rental housing shall be made upon acceptance of newly acquired quarters, and the corresponding rental rates shall be made effective upon occupancy. The initial CPI adjustment in rental rates shall be made as follows:

(a) When the initial survey or appraisal of the private rental market is made during the months of March through August, the initial CPI adjustment will be made at the start of the first pay period that begins after March 1 of the following year.

(b) When the initial survey or appraisal of the private rental market is made during the months of September through February, the initial CPI adjustment will be made in accordance with the procedure set forth in subparagraph (5)(a), above.

(7) Incremental adjustments. If new appraisals, surveys or CPI adjustments result in increases in rental rates of 25 percent or more above the current rental rate, such increases may be imposed incrementally over a period not to exceed one year, on the condition that they be applied in equal increments on at least a quarterly basis.

e. Qualifications and extensions. The principle of comparability with private

rental practice may be modified under the conditions described below:

(1) Extension of comparability. For lack of available alternative quarters, employees must sometimes occupy space for use as quarters that is generally unsuitable for that purpose. Such space may be unsuitable, for example, because it was originally built for seasonal occupancy only, or because it was not originally built for use as quarters. In other instances, quarters may be suitable only for particular types of occupancy, such as rooming houses, bunkhouses, bachelor quarters, residence hotel-type structures, barracks-type structures, or guard stations and lookouts.

In all such cases, if no comparable rental data can be obtained or professional appraisals are not made, rental rates will be determined by the square footage occupied, at a rate equivalent to one-half the base rental rate per square foot charged for the nearest adequate rental quarters of the same or any other Federal agency. This rate will apply only to the shelter rental, with additions thereto for all other related facilities at rates comparable to those in the area. Rental and other charges will be based upon desired capacity and, when so determined, will remain in effect for each occupant without regard to fluctuations in the number of occupants from time to time either above or below designed capacity.

In buildings where space is assigned for occupancy of several persons or families, common-use space in the building will be distributed to all occupants in proportion to the space assigned for the sole occupancy of each, to determine the number of square feet chargeable to each. Common-use space includes, for example, washrooms, stairs, hallways, and storage, lobby, and lounge areas.

(2) Quarters for uniformed service personnel. Rental rates and other charges incident to the occupancy of quarters on a rental basis by members of the uniformed services will be established in accordance with the provisions of this circular.

Those quarters that have been designated inadequate public quarters or substandard pursuant to law and regulations of the Surgeon General of the Public Health Service and the Secretaries of Defense and Transportation require special treatment in one respect. The total of the rental rate, plus charges for furniture and utilities (except telephone), will be adjusted, if required, so as not to exceed 75 percent of the member's basic allowance for quarters. The rental rate, as used in the preceding sentence, is the rate obtained after the additions or deductions required or authorized elsewhere in this circular have been applied to the base rental rate, including that requirement contained in subsection 7c, that the rental rate, after adjustments, will not be less than 50 percent of the base rental rate.

(3) Instances of hardship. In certain hardship cases where continued occupancy of public quarters by former uniformed service members and dependents or by dependents of deceased service members is permitted, an amount equivalent to the member's full basic allowance for quarters and other housing allowances (i.e., Variable Housing Allowance, etc.) may be charged for such periods of time as may be properly allowed in each particular case. Occupancy of quarters in such instances will normally not exceed 60 days.

Similarly, former Federal employees (or other occupants) and dependents, or dependents of deceased Federal employees (or other occupants), may continue to occupy Government rental quarters for a period normally not to exceed 60 days. Such occupants will continue to pay the established rental rate for those quarters.

(4) Alternative requirements. The provisions of this circular will not apply in the following instances:

(a) When employees attend training programs at Federal or private facilities and the cost of housing is factored into the program cost to the agency or through other means, the valuation rules of this circular need not be applied, so long as the per diem rate (or actual per diem expense rates) paid the employee is set to reflect the fact that the housing is provided at no cost to the employee. In other than training situations when employees are receiving per diem (or actual per diem expense rates) and occupying Government housing, the per diem paid the employees is set to reflect the fact that the housing is provided at no cost to the employee.

(b) When employees are receiving a remote worksite commuting allowance, in accordance with 5 U.S.C. 5942, and housing is provided at no cost to the employees, the allowance paid will consist of factors other than the housing cost portion of the allowance.

(5) Exceptions. Efforts have been made in the preparation of this circular to allow for unusual circumstances that may exist with respect to rental quarters. Exceptions to the requirements included in this circular will be permitted, therefore, only upon written request and in those very unusual circumstances when it is demonstrated to the Office of Management and Budget that the application of the provisions of this circular will not result in a rental rate equivalent to the reasonable value of the quarters to the occupant. If an exception is granted by the Director of the Office of Management and Budget, the agency concerned will be notified in writing.

8. Construction of Federally-Owned Housing

Unless otherwise provided by law (e.g., 10 U.S.C. 2826), the following provides guidance to agencies on determining housing construction needs and construction standards:

a. Determination of number of families to be housed and pattern of housing required. The agency should determine the number of families to be housed under the particular circumstances and the probable pattern of family size and composition by a statistical study of families and numbers of dependents within the service or agency adjusted for agency experience, changes in staffing patterns, and national trends in family size. Most frequently, the agency will be adding a limited number of houses at a station where some housing already exists. Under these circumstances, the agency should first make certain that existing housing (owned, leased, or otherwise available to the agency) is properly assigned. After ascertaining that there is a proper utilization of existing housing, the agency should determine what further construction, if any, is required to establish a proper pattern of housing at the station. The determination must discount temporary and unusual peak numbers of employees at the station, but not necessarily recurring requirements for seasonal employees who must be housed. Three general situations with basically different housing requirements are likely to occur:

(1) Small station. Where only one to five Government houses are to be supplied at a station, it is likely that no stable family pattern can be predicted on a statistical basis. The most reasonable method of meeting the housing requirement under these circumstances is to supply three three-bedroom houses, one two-bedroom house, and one four-bedroom house.

(2) Medium station. Where five to 25 Government houses are to be supplied, the group is probably still too small to expect a stable family pattern, but the group is too large to permit building all houses the same size. Under these circumstances, the agency should seek to develop a flexible housing supply, if possible. However, in view of family size trends, it would be best to construct mostly three-bedroom houses, with a

smaller number of two-bedroom houses, and a few four-bedroom houses.

(3) Large station. Where more than 25 Government houses are to be supplied, it is reasonable to expect that a fairly stable family pattern exists. Under these circumstances, the agency should determine what this pattern is, as described above, and, utilizing Table 1, below, plan to provide the appropriate number and distribution of rooms. At military installations the probable number of personnel entitled to family housing quarters by grade, rank, and position will determine the family housing requirements. In the table of net floor areas given below, Table 1, the normal construction limits will govern the maximum areas of houses to be constructed, except that agencies may construct up to the statutory or maximum limitation for housing for commanding officers and in unusual circumstances. The numbers of rooms will be governed by Table 1, below, showing the relation between number of bedrooms and net square footage areas. OMB will consider exceptions under special circumstances only when fully justified.

TABLE. 1.—NUMBER OF ROOMS

Persons in household	Rooms to be provided	Bedrooms	Baths—One-story	Baths—Two-story
2–3	4	2	1	1 or 1½.
4	5, 5½, or 6	3	1 or 1½	2 or 2½.
5	5½, 6, or 7	3 or 4	1½ or 2	2 or 2½.
6	7	4	2	2 or 2½.

b. Types of family dwellings to be constructed. Family dwellings similar in type to acceptable dwellings normally built in the local area will be constructed whenever practicable, with full advantage being taken of the economy of construction and maintenance of multiple-family dwellings—apartment, row, or duplex. The construction of single-family dwellings may receive special consideration in locations where remoteness of the station from other community facilities makes it undesirable from the standpoint of safety, employee morale, recruitment and retention of personnel, and satisfactory living conditions under adverse circumstances to house employees in multiple-family dwellings.

c. Prospective rental levels and their effect on construction. The type of dwellings to be constructed will also be governed by the amount of rent that the occupants can afford to pay (public quarters excepted) as determined in accordance with this circular. Hence, care must be taken to ensure that dwellings would rent at rates within the reach of employees to be housed. In cases where there are large numbers of high-salaried personnel who would normally rent larger houses than are usually provided on the station and where the ability to hold such employees in Government service may be dependent upon the housing available, agencies may construct a limited number of larger houses upon securing specific advance approval from OMB.

d. Determination of the number of rooms to be provided in family housing. The number of rooms to be provided must be based on the size and normal composition of families to be housed. Consideration should be given to the trends in family size. It is permissible to provide larger houses for civilian directors or military commanders of large stations, for military officers of general or flag rank, chiefs of Foreign Service missions, Foreign Service officers with the rank of career minister, and to a limited extent, for higher salaried personnel who can afford to and will pay commercially comparable rents for superior quarters. Table 2, below, indicates the number of rooms and bedrooms that should normally be planned for families of varying sizes. Again, OMB will consider justified exceptions depending upon the remoteness of the small or medium station and the extent to which the family is isolated from normal community facilities.

TABLE. 2.—MAXIMUM AND MINIMUM NET FLOOR AREA PER DWELLING UNIT

	1 Bedroom [1]	2 Bedrooms	3 Bedrooms	4 or more Bedrooms
Minimum [2]	550 sq. ft	[3] 750	[3] 960	[3] 1,190.
Normal [4]	730	1,000	1,415	1,670.
Maximum	810	[5] 1,250	[5] 1,670	[6] 2,100.

[1] For multi-family or apartment construction only. No one-bedroom houses should be built.
[2] Any construction proposed to provide less square footage than these minimums must be specifically approved by OMB.
[3] Applies to flats or multi-family construction. Not recommended for single or duplex houses.
[4] Budget estimates will not be considered for construction beyond these normal limits unless accompanied by a specific determination of the agency that up to the specified maximums are necessary.
[5] Applies to single-family houses without basements for higher salaried personnel only.
[6] Applies to single-family houses without basements for higher salaried personnel only. Larger areas may be considered by OMB on special justification for heads of large stations, flag officers, or in unusual circumstances only.

e. Net areas of houses. The net areas shown below in Table 2 may be increased 10 percent (a) if outside the continental United States, (b) for commanding officers or civilian heads of large installations, or (c) under conditions of extreme isolation where the family may be confined to the home for long periods due to weather conditions or lack of community facilities within reasonable distance. The minimum floor areas below represent the limit below which it is not deemed advisable to go when building permanent housing; such minimum areas should be used only for multiple-family dwellings. Maximum floor areas represent the limit above which Federal funds need not be invested to provide housing reasonably commensurate with

income for all but the highest income groups.

Although agencies cannot always determine the grades of the occupants, there is a normal range of grades for the personnel who are required or permitted to occupy Government housing on the station. The minimum size for the number of bedrooms needed should be provided for those in the lowest grades in order that the housing may not be more expensive than the occupants could be expected to rent if they were securing their own quarters commercially. Larger quarters may be provided for progressively higher grades up to the maximums for personnel at and above general schedule grade 14 and ranks equivalent to the military rank of colonel.

f. Special features. Special features may be provided to meet special work or isolation conditions. These include: extra rooms with outside doors for the employee whose home is also his or her work headquarters; special access to bath or shower rooms without going through the house where the employee's work is particularly dirty and shower facilities are not provided in work buildings; fireplaces in remote areas where wood is readily available and the fireplaces would serve a practical purpose; extra storage space and facilities where distances to market are such as to necessitate purchasing food and other supplies in quantity; and some space for recreation purposes where families may be confined to the house for long periods of time during bad weather conditions.

Air conditioning may be installed in living quarters only in locations where during the six warmest months of the year the dry bulb temperature is 80 °F or higher for over 650 hours or the wet bulb temperature is 67 °F or higher for over 800 hours.

Air conditioning otherwise permitted by the standards described above, should employ evaporative cooling when engineering studies indicate it is feasible and more economical than refrigeration systems to install and operate.

It is suggested that Departments and agencies initiate a priority system for installing air conditioning in existing personnel living quarters to ensure that the air conditioning of quarters in the warmest areas under these criteria is completed first.

g. Design standards. Agencies should consult the Uniform Building Code or the codes developed by the Council of American Building Officials for guidance in planning construction of permanent family housing that is liveable, durable, safe, sanitary, and not impose an unreasonable and uneconomical burden upon the Government.

h. Compliance with design standards. Agencies shall plan new construction of family housing in accordance with this circular and nationally recognized design standards, such as those set forth in the Uniform Building Code or the codes developed by the Council of American Building Officials. Budget requests and apportionment requests for this purpose shall be based upon compliance with the approved design standards and the provisions of this circular. The square-foot construction cost should not exceed that generally recognized as prevailing in the area for non-Federal dwellings of similar size and type of occupancy. Exceptions may be made by those agencies constructing housing outside the continental United States where climatic conditions or local building codes and restrictions prevent compliance. Any other exceptions should be plainly set forth in the budget or apportionment request.

i. Budget and apportionment requests. Consult OMB Circular No. A–11, Preparation and Submission of Budget Estimates, subsection 12.5(n), for guidance respecting budget and apportionment requests.

9. Agency Regulations

The following guidelines must also be observed in establishing charges for rental quarters and related facilities and in developing agency regulations and procedures implementing this circular:

a. Conflicts of interest. To avoid potential conflicts of interest, agencies will not assign employee occupants of quarters or their subordinates to perform appraisals or serve as members of regional survey teams used to recommend rents and other charges.

b. Consistent local patterns; Interagency Committees. Where several different Federal agencies provide rental quarters in the same area, those agencies will take necessary steps to ensure a consistent local pattern in rents and utility rates. In particular, such agencies are urged to establish interagency committees to coordinate and oversee the establishment of consistent and uniform rental rates.

c. Agency records regarding recommendations and adjustments. A full record of the findings and recommendations of the appraiser or survey team, as well as documentation to justify administrative adjustments, will be kept by the agency concerned.

d. Agency central records and supervision. Sufficient information will be maintained centrally by the agency to allow agency management to be informed of, and to monitor, the status of administration of the requirements of this circular.

e. Reconsideration, procedures for. Agencies will provide a procedure for dealing with requests for reconsideration of rental determinations and other charges.

f. Leave status, charges during. Employees on leave will continue to be charged for quarters and related facilities, unless the quarters are vacated and made available for reassignment.

g. Landlord-tenant relationship. To aid all agency administrative officials and employees in understanding how the circular is to be applied, agencies will make clear that they assume the customary responsibilities of the landlord and that those who occupy rental quarters assume the customary responsibilities of tenants.

h. Required occupancy. Agency regulations will specify the conditions under which the agency head, or his or her designee, will require occupancy of Government rental quarters, in accordance with the limitations cited in 5 U.S.C. § 5911(e), which provides that employee or member occupancy of rental quarters may not be required unless the agency head determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected.

i. Safe and sanitary quarters. Agency heads will ensure that Government rental quarters are safe and sanitary. Although adjustments to the basic rental rate are permitted for such circumstances as excessive heating and cooling costs, poor condition, and lack of potable water, such conditions should not be permitted to continue any longer than absolutely necessary.

j. Agency housing officers. Each Federal agency that provides rental quarters shall appoint a principal housing officer with responsibility to supervise the agency's implementation of the policies of this circular.

10. Inquiries

For information concerning this circular, contact the Office of Management and Budget, Office of Federal Procurement Policy, 725 17th Street, NW., Washington, DC 20503, telephone (202) 395–6803.

Leon E. Panetta,

Director.

Appendix

Isolation Adjustment Computation

The monthly adjustment for isolation, as described in ¶ 7c(1), is computed, as follows:

• Step 1. Determine the one-way distance in miles (from the quarters to the nearest established community) for each affected

category of transportation listed in Figure 1. Enter mileage(s) in the appropriate block(s) under Column B.

• Step 2. Multiply mileage figures entered in Column B by point values listed in Column A for each affected category of transportation to produce one-way points for each category. Add 29 points to the category 4 subtotal and 27 points to the category 5 subtotal to reflect relative differences in cost or time by use of these modes of travel.

• Step 3. Add all categories of one-way points in Column C to produce total one-way points. (The total must exceed 30 points or there is no adjustment for isolation.)

FIGURE 1

Category of travel	Col. A point value		Col. B one-way miles						Col. C one-way points
(1) Paved road or rail	1.0	x	_____	....	.....	....	.....	=	_____
(2) Unpaved but improved road	1.5	x	_____	....	.....	....	.....	=	_____
(3) Unimproved road	2.0	x	_____	....	.....	....	.....	=	_____
(4) Water, snowmobile, pack animal, foot or other special purpose conveyance	2.5	x	_____	=	_____	+	29	=	_____
(5) Air	4.0	x	_____	=	_____	+	27	=	_____
Total one-way points	.....	....	.....	....	.....	....	.....	=	_____
• Step 4. Calculate the Isolation Adjustment Factor (IAF) using the following formula: Multiply 2 (to reflect round-trip points) by 4 (to reflect number of trips per month) and then multiply by $x.xx (GSA's current automobile mileage allowance). For example, the GSA mileage allowance, as of the date of this circular, is $0.25 per mile, resulting in a IAF of 2.0 (rounded to the nearest tenth).									
Isolation adjustment factor	.....	....	.....	....	.....	....	.....	=	2.0
• Step 5. Multiply total adjusted points by the Isolation Adjustment Factor to produce the monthly adjustment for isolation (rounded to the nearest whole dollar).									
Monthly adjustment	.....	....	.....	....	.....	....	.....	=	.....

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Tuesday
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Part III

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Program; Final Rules

5 CFR Part 1636

Federal Retirement Thrift Investment Board

7 CFR Part 15e

Department of Agriculture

22 CFR Part 1701

United States Institute of Peace

34 CFR Part 1200

National Council on Disability

45 CFR Part 2301

Arctic Research Commission

45 CFR Part 2490

James Madison Memorial Fellowship Foundation

FEDERAL RETIREMENT THRIFT BOARD

5 CFR Part 1636

DEPARTMENT OF AGRICULTURE

7 CFR Part 15e

INSTITUTE OF PEACE

22 CFR Part 1701

NATIONAL COUNCIL ON DISABILITY

34 CFR Part 1200

ARCTIC RESEARCH COMMISSION

45 CFR Part 2301

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

45 CFR Part 2490

Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs

AGENCIES: Federal Retirement Thrift Investment Board; Department of Agriculture; United States Institute of Peace; National Council on Disability; Arctic Research Commission; James Madison Memorial Fellowship Foundation.

ACTION: Final rule.

SUMMARY: This regulation requires that the agencies listed above operate all of their programs and activities to ensure nondiscrimination against qualified individuals with handicaps. It sets forth standards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition for individual with handicaps and qualified individual with handicaps, and establishes a complaint mechanism for resolving allegations of discrimination. This regulation is issued under the authority of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by Federal Executive agencies.

EFFECTIVE DATE: November 26, 1993.

ADDRESSES: See individual agencies below. Copies of this regulation will be made available on tape for persons with impaired vision who request them. They will be provided by the Coordination and Review Section, Civil Rights Division, Department of Justice, Washington, DC 20530, (202) 307–2222 (voice) or (202) 307–7678 (TDD).

FOR FURTHER INFORMATION CONTACT: See individual agencies below.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to programs and activities conducted by the following agencies (hereinafter "the agencies"): Federal Retirement Thrift Investment Board, United States Department of Agriculture, United States Institute of Peace, National Council on Disability, Arctic Research Commission, James Madison Memorial Fellowship Foundation. Section 504 states, in pertinent part, that:

> No otherwise qualified individual with handicaps in the United States, * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

(29 U.S.C. 794 (1978 amendment italicized).)

On October 25, 1991, the agencies jointly published a Notice of Proposed Rulemaking in the **Federal Register**. 56 FR 55416. That proposed rule was based on the regulations adopted by more than 90 other Federal Executive agencies, including the Department of Justice, for their federally conducted programs and activities, which, in turn, were based on the Department of Justice's prototype for regulations implementing section 504 for federally conducted programs.

Each agency individually received and analyzed comments on the proposed rule. On the basis of their analysis, the agencies decided to adopt this final rule. Because the final rule to be adopted is the same for all of the agencies, the agencies are publishing this final regulation jointly. It will be codified in each agency's portion of the Code of Federal Regulations as indicated in the information provided for individual agencies below.

The substantive nondiscrimination obligations of the agency, as set forth in this rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. (See 28 CFR part 41 (section 504 coordination regulation for federally assisted programs).) This general parallelism is in accord with the intent expressed by supporters of the 1978 amendment in floor debate, including its sponsor, Rep. James M. Jeffords, that the Federal Government should have the same section 504 obligations as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) *id.;* 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); *id.* at 38,552 (remarks of Rep. Sarasin).

There are, however, some language differences between this rule and the Federal Government's section 504 regulations for federally assisted programs. These changes are based on the Supreme Court's decision in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), and the subsequent circuit court decisions interpreting *Davis* and section 504. See *Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis*, 655 F.2d 1272 (D.C. Cir. 1981) (APTA); see also *Rhode Island Handicapped Action Committee* v. *Rhode Island Public Transit Authority*, 718 F.2d 490 (1st Cir. 1983).

These language differences are also supported by the decision of the Supreme Court in *Alexander* v. *Choate*, 469 U.S. 287 (1985), where the Court held that the regulations for federally assisted programs did not require a recipient to modify its durational limitation on Medicaid coverage of inpatient hospital care for handicapped persons. Clarifying its *Davis* decision, the Court explained that section 504 requires only "reasonable modifications," *id.* at 300, and explicitly noted that "[t]he regulations implementing § 504 [for federally assisted programs] are consistent with the view that *reasonable* adjustments in the nature of the benefit offered must at times be made to assure meaningful access." *Id.* at 301 n.21 (emphasis added).

Incorporation of these changes, therefore, makes this regulation implementing section 504 for federally conducted programs consistent with the Federal Government's regulations implementing section 504 for federally assisted programs as they have been interpreted by the Supreme Court. Many of these federally assisted regulations were issued prior to the interpretations of section 504 by the Supreme Court in *Davis*, by lower courts interpreting *Davis*, and by the Supreme Court in *Alexander*; therefore their language does

not reflect the interpretation of section 504 provided by the Supreme Court and by the various circuit courts. Of course, these federally assisted regulations must be interpreted to reflect the holdings of the Federal judiciary. Hence the agencies believe that there are no significant differences between this rule for federally conducted programs and the Federal Government's interpretation of section 504 regulations for federally assisted programs.

The comments filed on the proposed regulation suggested that the final rule should incorporate requirements from the Department of Justice's regulation implementing title II of the Americans with Disabilities Act (ADA), which extended the requirements of section 504 to all services, programs, and activities of State and local governments. The Department of Justice is planning to issue guidance to the agencies with regulations implementing section 504 for federally assisted and federally conducted programs on how those regulations should be updated in light of the ADA and other recent developments. The agencies participating in this publication intend to cooperate with the Department in making additional changes that will be recommended, but have decided to issue this final regulation without waiting for the additional guidance.

This regulation has been reviewed by the Department of Justice. It is an adaptation of a prototype prepared by the Department of Justice under Executive Order 12250 (45 72995, 3 CFR, 1980 Comp., p. 298). This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). It is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared. This regulation does not have an impact on small entities. It is not, therefore, subject to the Regulatory Flexibility Act (5 U.S.C. 601–612).

Section-by-Section Analysis

Section _____.101 Purpose

Section _____.101 states the purpose of the regulation which is to effectuate section 119 of the Rehabilitation, Comprehensive Service, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

Section _____.102 Application

The regulation applies to all programs or activities conducted by the agencies. Under this section, a federally conducted program or activity is, in simple, terms, anything a Federal Agency does. Aside from employment, there are two major categories of federally conducted programs or activities covered by this regulation: those involving general public contact as part of ongoing agency operations and those directly administered by the agencies for program beneficiaries and participants. Activities in the first category include communication with the public (telephone contacts, office walk-ins, or interviews) and the public's use of the agency's facilities. Activities in the second category include programs that provide Federal services or benefits.

A commenter objected to the exclusion from coverage of programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States, arguing that the regulation should cover extraterritorial employment to the same extent that it is covered under the Civil Rights Act of 1991. That Act, however, did not amend section 504, which applies only to discrimination against an "otherwise qualified individual *in the United States*" (emphasis added). Thus, the statute does not permit coverage of discrimination against individuals outside of the United States. The regulation does, however, prohibit actions by the agency outside the United States that result in discrimination against a qualified individual in the United States.

Section _____.103 Definitions

Assistant Attorney General. "Assistant Attorney General" refers to the Assistant Attorney General, Civil rights Division, United States Department of Justice.

Auxiliary aids. "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicitly only by §_____.160(a))1), they may also be necessary to meet other requirements of the regulation.

Commenters suggested that the list of examples of auxiliary aids be expanded, and that the regulation be revised to make clear that the list is illustrative and not exhaustive. One commenter recommended adding aids for people with speaking disabilities to the list of examples of auxiliary aids. It is not possible to provide an exhaustive list, because any attempt to do so would omit the new devices that will become available with emerging technology. The agencies believe that the inclusion of the phrase "and other similar services and devices" makes it clear that the definition includes aids and services that are, or may become, available, even though they are not named specifically.

Although the agency has not revised the definition, it agrees with the comment that Federal agencies have special responsibilities to ensure that individuals, including individuals with speech impairments, are able to effectively communicate with their government. Agency employees are required to provide auxiliary aids where necessary to communicate with individuals with speech impairments, but are also required to exercise patience and courtesy in order to understand such individuals when a formal auxiliary aid is not necessary.

The agencies have also declined to adopt the suggestion that the list should include aids for individuals with manual impairments. Auxiliary aids and services are those aids and services designed to provide effective communications, e.g., making aurally and visually delivered information available to persons with hearing, speech, and vision impairments. Methods of making services, programs, or activities accessible to or usable by individuals with mobility or manual dexterity impairments are addressed by other sections of this part, such as the requirements of §_____.150, for program accessibility. For the same reason, the agencies have not adopted the suggestion that a reference to auxiliary aids and services be added to §_____.150.

Complete complaint. "Complete complaint" is defined to include all the information necessary to enable the agency to investigate the complaint. The definition is necessary, because the 180 day period for the agency's investigation (§_____.170(g)) begins when the agency receives a complete complaint.

Facility. The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs (28 CFR 41.3(f)) except that the term "rolling stock or other conveyances" has been added and the phrase "or interest in such property" has been deleted because the term "facility," as used in this regulation, refers to structures and not to intangible property rights. It should,

however, be noted that the regulation applies to all programs and activities conducted by the agency regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency.

Historic preservation programs. "Historic properties," and "Substantial impairment." These terms are defined in order to aid in the interpretation of §_____.150(a)(2) and (b)(2), which relate to accessibility of historic preservation programs.

"Individuals with handicaps." The definition of "individual with handicaps" is identical to the definition of "handicapped person" appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.31). Although section 103(d) of the Rehabilitation Act Amendments of 1986 changed the statutory term "handicapped individual" to "individual with handicaps," the legislative history of this amendment indicates that no substantive change was intended. Thus, although the term has been changed in this regulation to be consistent with the statute as amended, the definition is unchanged. In particular, although the term as revised refers to "handicaps" in the plural, it does not exclude persons who have only one handicap.

In response to comments, the agency has added HIV disease (whether symptomatic or asymptomatic) to the list of impairments in the definition of "individual with handicaps."

Qualified individual with handicaps. The definition of "qualified individual with handicaps" is a revised version of the definition of "qualified handicapped person" appearing in the section 504 coordination regulation for federally assisted programs (28 CFR 41.32).

Paragraph (1) is an adaptation of existing definitions of "qualified handicapped person" for purposes of federally assisted preschool, elementary, and secondary education programs (see, e.g., 45 CFR 84.3(k)(2)). It provides that an individual with handicaps is qualified for preschool, elementary, or secondary education programs conducted by the agency if he or she is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive these services from the agency. In other words, an individual with handicaps is qualified if, considering all factors other than the handicapping condition, he or she is entitled to receive education services from the agency.

Paragraph (2) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified individual with handicaps" with regard to any program other than those covered by paragraph (1) under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified individual with handicaps is one who can achieve the purpose of the program without modifications in the program that the agency can demonstrate would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Davis*. In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." *Id.* at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," *id.* at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." *Id.* at 410.

We have incorporated the Court's language in the definition of "qualified individual with handicaps" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable an applicant with handicaps to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some individuals with handicaps from some programs, it requires that an individual with handicaps who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

Commenters suggested that the reference to a "fundamental alteration" in the program should not be included in the definition of "qualified individual with handicaps," but should be moved to a separate "defense" section in order to make clear that the agency has the burden of proving that an individual is not "qualified." This suggestion has not been adopted because the definition makes clear that the agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the agency must follow the procedures established in §_____.150(a) and §_____.160(d), which are discussed below, for demonstrating that an action would result in undue financial and administrative burdens. That is, the decision must be made by the agency head or his or her designee in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the agency head determines that an action would result in a fundamental alteration, the agency must consider options that would enable the individual with handicaps to achieve the purpose of the program but would not result in such an alteration.

For programs or activities that do not fall under either of the first two paragraphs, paragraph (3) adopts the existing definition of "qualified handicapped person" with respect to services (28 CFR 41.32(b)) in the coordination regulation for programs receiving Federal financial assistance. Under this definition, a qualified individual with handicaps is an individual with handicaps who meets the essential eligibility requirements for participation in the program or activity.

Paragraph (4) explains that "qualified individual with handicaps" means "qualified handicapped person" as that term is defined for purposes of employment in the Equal Employment Opportunity Commission's regulation at 29 CFR 1614.203(a)(6), which is made applicable to this regulation by §_____.140. Nothing in this regulation changes existing regulations applicable to employment.

Section 504. This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section _____.110 Self-Evaluation

The agency shall conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. The

self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.5(b)(2)). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with individuals with handicaps that promotes both effective and efficient implementation of section 504.

Section _____.111 Notice

Section _____.111 requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section _____.130 General Prohibitions Against Discrimination

Section _____.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.51).

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in §_____.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. If the agency violates a provision in any of the subsequent sections, it will also violate one of the general prohibitions found in §_____.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of individuals with handicaps. The agency may not refuse to provide an individual with handicaps with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (*e.g.*, epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. It would be permissible, therefore, to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commercial vehicle in interstate commerce; but it may not be permissible to automatically disqualify all those who are blind in just one eye.

In addition, section 504 prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to an individual with handicaps be as effective as that afforded to others. The later sections on program accessibility (§_____.149—_____.151) and communications (§_____.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide individuals with handicaps with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) requires that different or separate aids, benefits, or services be provided only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits, or services would be more effective, paragraph (b)(2) provides that a qualified individual with handicaps still has the right to choose to participate in the program that is not designed to accommodate individuals with handicaps.

Paragraph (b)(1)(v) prohibits the agency from denying a qualified individual with handicaps the opportunity to participate as a member of a planning or advisory board.

Paragraph (b)(1)(vi) prohibits the agency from limiting a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny individuals with handicaps access to the agency's programs and activities. The phrase "criteria or methods of administration" refers to official written agency policies and to the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny individuals with handicaps an effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in §_____.130(b)(3) to the process of selecting sites for construction of new facilities or selecting existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency, in the selection of procurement contractors, from using criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

Paragraph (b)(6) prohibits the agency from discriminating against qualified individuals with handicaps on the basis of handicap in the granting of licenses or certification. A person is a "qualified individual with handicaps" with respect to licensing or certification if he or she can meet the essential eligibility requirements for receiving the license or certification (see §_____.103).

In addition, the agency may not establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. For example, the agency must comply with this requirement when establishing safety standards for the operations of licensees. In that case the agency must ensure that standards that it promulgates do not discriminate against the employment of qualified individuals with handicaps in an impermissible manner.

Paragraph (b)(6) does not extend section 504 directly to the programs or activities of licensees or certified entities themselves. The programs or activities of Federal licensees or certified entities are not themselves federally conducted programs or activities nor are they programs or activities receiving Federal financial assistance merely by virtue of the Federal license or certificate. However, as noted above, section 504 may affect the content of the rules established by the agency for the operation of the program or activity of the licensee or certified entity, and thereby indirectly affect limited aspects of their operations.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive order that are designed to benefit only individuals with handicaps or a given class of individuals with handicaps may be limited to those individuals with handicaps.

Paragraph (d), discussed above, provides that the agency must administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps, i.e., in a setting that enables individuals with handicaps to interact with nonhandicapped persons to the fullest extent possible.

Section _____.140 Employment

Section _____.140 prohibits discrimination on the basis of handicap in employment by the agency. Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies. *Gardner* v. *Morris*, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith* v. *United States Postal Service*, 742 F.2d 257, 259–260 (6th Cir. 1984); *Prewitt* v. *United States Postal Service*, 662 F.2d 292, 302–04 (5th Cir. 1981). *Contra McGuiness* v. *United States Postal Service*, 744 F.2d 1318, 1320–21 (7th Cir. 1984); *Boyd* v. *United States Postal Service*, 752 F.2d 410, 413–14 (9th Cir. 1985).

Courts uniformly have held that, in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Morgan* v. *United States Postal Service*, 798 F.2d 1162, 1164–65 (8th Cir. 1986); *Smith*, 742 F.2d at 262; *Prewitt*, 662 F.2d at 304. Accordingly, §_____.140 (Employment) of this rule adopts the definitions, requirements, and procedures of section 501 as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR part 1614. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (3 CFR, 1978 Comp., p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap. In addition to this section, §_____.170(b) specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination.

Section _____.149 Program Accessibility: Discrimination Prohibited

Section _____.149 states the general nondiscrimination principle underlying the program accessibility requirements of § _____.150 and _____.151.

Section _____.150 Program Accessibility: Existing Facilities

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.57), with certain modifications. Thus, § _____.150 requires that each agency program or activity, when viewed in its entirety, be readily accessible to and usable by individuals with handicaps. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible (§ _____.150(a)(1)). However, § _____.150, unlike 28 CFR 41.57, places explicit limits on the agency's obligation to ensure program accessibility (§ _____.150(a)(2), (a)(3)).

Paragraph (a)(2), which establishes a special limitation on the obligation to ensure program accessibility in historic preservation programs, is discussed below in connection with paragraph (b).

Paragraph (a)(3) generally codifies recent case law that defines the scope of the agency's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirement the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § _____.160(d). This provision is based on the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two "undue burdens" would be created as a result of the modification sought to be imposed under section 504. See, e.g., *Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis*, (*APTA*), 655 F.2d 1272 (D.C. Cir. 1981).

Paragraphs (a)(3) and _____.160(d) are also supported by the Supreme Court's decision in *Alexander* versus *Choate*, 469 U.S. 287 (1985). *Alexander* involved a challenge to the State of Tennessee's reduction of inpatient hospital care coverage under Medicaid from 20 to 14 days per year. Plaintiffs argued that this reduction violated section 504 because it had an adverse impact on handicapped persons. The Court assumed without deciding that section 504 reaches at least some conduct that has an unjustifiable disparate impact on handicapped people, but held that the reduction was not "the sort of disparate impact" discrimination that might be prohibited by section 504 or its implementing regulation. *Id.* at 299.

Relying on *Davis*, the Court said that section 504 guarantees qualified handicapped persons "meaningful access to the benefits that the grantee offers," *Id.* at 301, and that "*reasonable adjustments* in the nature of the benefit being offered must at times be made to assure meaningful access." *Id.* at n.21 (emphasis added). However, section 504 does not require " 'changes,' 'adjustments,' or 'modifications' to existing programs that would be 'substantial' * * * or that constitute 'fundamental alteration[s] in the nature of a program.' " *Id.* at n.20 (citations omitted). *Alexander* supports the position, based on *Davis* on the earlier, lower court decisions, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. Thus failure to include such an "undue burdens" provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to individuals with handicaps. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that individuals with handicaps receive the benefits and services of the federally conducted program or activity.

It is our view that compliance with § _____.150(a) would in most cases not result in undue financial and administrative burdens on the agency. In determining whether financial and administrative burdens are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with a § _____.150(a) would fundamentally alter the nature of

a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee and must be accompanied by a written statement of the reasons for reaching that conclusion. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in §_____.170.

Paragraph (b)(1) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of individuals with handicaps. Structural changes to the needs of individuals with handicaps. Structural changes in existing facilities are required only when other methods of providing access are not effective. (It should be noted that "structural changes" include all physical changes to a facility; the term does not refer only to changes to stuctural features, such as removal of or alternation to a load-bearing structural member.) The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraph _____.150(a)(2) provides an additional limitation on the obligation to ensure program accessibility that is applicable only to historic preservation programs. In order to avoid possible conflict between the congressional mandates to preserve historic properties on the one hand and to eliminate discrimination against individuals with handicaps on the other, §_____150(a)(2) provides that in historic preservation programs the agency is not required to take any action that would result in a substantial impairment of significant historic features of an historic property.

Nevertheless, because the primary benefit of an historic preservation program is uniquely the experience of the historic property itself, §_____.150(b)(2) requires the agency to give priority to methods of providing program accessibility that permit individuals with handicaps to have physical access to the historic property. This priority on physical access may also be viewed as a specific application of the general requirement that the agency administer programs in the most integrated setting appropriate to the needs of qualified individuals with handicaps (§_____.130(d)). Only when providing physical access would result in a substantial impairment of significant historic features, a fundamental alteration in the nature of the program, or in undue financial and administrative burdens, may the agency adopt alternative methods for providing program accessibility that do not ensure physical access. Examples of some alternative methods are provided in §_____.150(b)(2).

The special limitation on program accessibility set forth in §_____.150(a)(2) is applicable only to programs that have preservation of historic properties as a primary purpose (see *supra* discussion of definition of "historic preservation program," §_____.103). Narrow application of the special limitation is justified because of the inherent flexibility of the program accessibility requirement. Where historic preservation is not a primary purpose of the program the agency is not bound to a particular facility. It can relocate all or part of its program to an accessible facility, make home visits, or use other standard methods of achieving program accessibility without making structural alterations that might impair significant historic features of the historic property.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section _____.151 Program Accessibility: New Construction and Alterations

Overlapping coverage exists with respect to new construction and alterations under section 504 and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section _____.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by individuals with handicaps in accordance with 41 CFR 101–19.600 to 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Commenters suggested that the final regulation should use the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (ADAAG) as the architectural standard for new construction and alterations. The agency has determined that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of this regulation are not required by the regulation to meet accessibility standards simply by virtue of being leased. They are subject, however, to the program accessibility standard for existing facilities in §_____.150. To the extent the buildings are newly constructed or altered, they must also meet the new construction and alteration requirements of §_____.151.

Federal practice under section 504 has always treated newly leased buildings as subject to the existing facility program accessibility standard. Unlike the construction of new buildings where architectural barriers can be avoided at little or no cost, the application of new construction standards to an existing building being leased raises the same prospect of retrofitting buildings as the use of an existing Federal facility, and the agency believes the same program accessibility standard should apply to both owned and leased existing buildings.

In *Rose* v. *United States Postal Service*, 774 F.2d 1355 (9th Cir. 1985), the Ninth Circuit held that the Architectural Barriers Act requires accessibility at the time of lease. The *Rose* court did not address the issue of whether section 504 likewise requires accessibility as a condition of lease, and the case was remanded to the District Court for, among other things, consideration of that issue. The agency may provide more specific guidance on section 504 requirements for leased buildings after the litigation is completed.

Section _____.160 Communications

Section _____.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities,

applicants, participants, and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under §_____.160(a)(1) to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They shall also include an opportunity for individuals with handicaps to request the auxiliary aids of their choice. This expressed choice shall be given primary consideration by the agency (§_____.160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under §_____.160(d). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it (*see supra* preamble discussion of §_____.150(a)(3)). Unless not required by §_____.160(d), the agency shall provide auxiliary aids at no cost to the individual with handicaps.

The discussion of §_____.150(a), Program accessibility: Existing facilities, regarding the determination of undue financial and administrative burdens also applies to this section and should be referred to for a complete understanding of the agency's obligation to comply with §_____.160.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not be, particularly when the information being communicated is complex or exchanged for a lengthy period of time (e.g., a meeting) or where the hearing-impaired applicant or participant is not skilled in spoken or written language. In these cases, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to inform the public of (1) the communications services it offers to afford individuals with handicaps an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature (§_____.160(a)(1)(ii)). For example, the agency need not provide eyeglasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

Paragraph (b) requires the agency to provide information to individuals with handicaps concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signage at inaccessible facilities that directs users to locations with information about accessible facilities.

Section _____.170 Compliance Procedures

Paragraph (a) specifies that paragraphs (c) through (1) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR part 1614) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

Paragraph (c) is amended by each individual agency. It designates the official responsible for coordinating implementation of §_____.170 and provides an address to which complaints may be sent.

The agency is required to accept and investigate all complete complaints (§_____.170(d)). If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal Government (§_____.170(e)).

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act was designed, constructed, or altered in a manner that does not provide ready access to and use by individuals with handicaps.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal (§_____.170(g)). One appeal within the agency shall be provided (§_____.170(i)). The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance.

Paragraph (1) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

Adoption of the Common Rule

The agency specific adoptions of the text of the common rule appear below.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1636

FOR FURTHER INFORMATION CONTACT: John J. O'Meara—(202) 942–1662.

List of Subjects in 5 CFR Part 1636

Blind, Buildings and facilities, Civil rights, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Government employees, Historic places, Historic preservation, Individuals with disabilities.

Title 5, chapter VI of the Code of Federal Regulations is amended as follows:

1. Part 1636 is added as set forth at the end of this document.

PART 1636—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sec.

1636.101 Purpose.
1636.102 Application.
1636.103 Definitions.
1636.104–1636.109 [Reserved]
1636.110 Self-evaluation.
1636.111 Notice.
1636.112–1636.129 [Reserved]
1636.130 General prohibitions against discrimination.
1636.131–1636.139 [Reserved]
1636.140 Employment.
1636.141–1636.148 [Reserved]
1636.149 Program accessibility: Discrimination prohibited.
1636.150 Program accessibility: Existing facilities
1636.151 Program accessibility: New construction and alterations.
1636.152–1636.159 [Reserved]
1636.160 Communications.
1636.161–1636.169 [Reserved]
1636.170 Compliance procedures.
1636.171–1636.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 1636 is further amended by revising paragraph (c) in § 1636.170 to read as follows:

§ 1636.170 Compliance procedures.

* * * * *

(c) The Assistant General Counsel (Administration) shall be responsible for coordinating implementation of this section. Complaints may be sent to the Executive Director.

* * * * *

Francis X. Cavanaugh,

Executive Director.

DEPARTMENT OF AGRICULTURE

7 CFR Part 15e

FOR FURTHER INFORMATION CONTACT: Judith A. Demont, Equal Opportunity Specialist, Complaints and Adjudication Division, Office of Advocacy and Enterprise, U.S. Department of Agriculture, Washington, DC 20250 (202) 720–4200. TDD available at (202) 720–7327.

List of Subjects in 7 CFR Part 15a

Blind, Buildings and facilities, Civil rights, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Government employees, Historic places, Historic preservation, Individuals with disabilities.

Title 7, subtitle A of the Code of Federal Regulations is amended as follows:

1. Part 15e is added as set forth at the end of this document.

PART 15e—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES DEPARTMENT OF AGRICULTURE

Sec.

15e.101 Purpose.
15e.102 Application.
15e.103 Definitions.
15e.104–15e.109 [Reserved]
15e.110 Self-evaluation.
15e.111 Notice.
15e.112–15e.129 [Reserved]
15e.130 General prohibitions against discrimination.
15e.131–15e.139 [Reserved]
15e.140 Employment.
15e.141–15e.148 [Reserved]
15e.149 Program accessibility: Discrimination prohibited.
15e.150 Program accessibility: Existing facilities.
15e.151 Program accessibility: New construction and alterations.
15e.152–15e.159 [Reserved]
15e.160 Communications.
15e.161–15e.169 [Reserved]
15e.170 Compliance procedures.
15e.171–15e.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 15e is further amended by revising paragraph (c) in § 15e.170 to read as follows:

§ 15e.170 Compliance procedures.

* * * * *

(c) The Director, Office of Advocacy and Enterprise, shall be responsible for coordinating implementation of this section and shall make the determinations described in paragraph (g) of this section. Complaints may be sent to Office of Advocacy and Enterprise, U.S. Department of Agriculture, Washington, DC 20250.

* * * * *

Mike Espy,

Secretary of Agriculture.

UNITED STATES INSTITUTE OF PEACE

22 CFR Part 1701

FOR FURTHER INFORMATION CONTACT: Ms. Bernice Carney, United States Institute of Peace, 1550 M Street, NW., Washington, DC 20005–1708 (202) 457–1700 (Voice) (202) 457–1719 (TDD).

ADDITIONAL SUPPLEMENTARY INFORMATION: This regulation, which implements the spirit of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, defines the scope of the USIP's obligation to insure that, to the extent practicable, handicapped individuals are provided with equal access to USIP programs and activities.

This regulation implements the spirit of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs and activities conducted by various agencies. Although the USIP does not believe that Congress contemplated coverage of independent Federal institutions such as the USIP, it has voluntarily chosen to promulgate this regulation pursuant to section 504.

List of Subjects in 22 CFR Part 1701

Blind, Buildings and facilities, Civil rights, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Government employees, Historic places, Historic preservation, Individuals with disabilities.

Title 22 of the Code of Federal Regulations is amended as follows:

1. Chapter XVII, consisting of part 1701 is added to Title 22 of the Code of Federal Regulations to read as follows:

CHAPTER XVII—UNITED STATES INSTITUTE OF PEACE

Part 1701—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the United States Institute of Peace

2. Part 1701 is added as set forth at the end of this document.

2. PART 1701—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES INSTITUTE OF PEACE

Sec.

1701.101 Purpose.
1701.102 Application.
1701.103 Definitions.
1701.104–1701.109 [Reserved]
1701.110 Self-evaluation.
1701.111 Notice.
1701.112–1701.129 [Reserved]
1701.130 General prohibitions against discrimination.
1701.131–1701.139 [Reserved]
1701.140 Employment.
1701.141–1701.148 [Reserved]
1701.149 Program accessibility: Discrimination prohibited.
1701.150 Program accessibility: Existing facilities.
1701.151 Program accessibility: New construction and alterations.
1701.152–1701.159 [Reserved]
1701.160 Communications.
1701.161–1702.169 [Reserved]
1701.170 Compliance procedures.
1701.171–1701.999 [Reserved]

Authority: 29 U.S.C. 794.

3. Part 1701 is further amended by revising § 1701.101 to read as follows:

§ 1701.101 Purpose.

The purpose of this part is to implement the spirit of section 119 of the Rehabilitation, Comprehensive Services and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by various Executive agencies. Although the USIP does not believe that Congress contemplated coverage of independent Federal institutions, such as the USIP, it has chosen to promulgate this part.

4. Part 1701 is further amended by revising paragraph (c) in § 1701.170 to read as follows:

§ 1701.170 Compliance procedures.

* * * * *

(c) The Director for Administration, United States Institute of Peace, shall be responsible for coordinating implementation of this section. Complaints may be sent to Director of Administration at the following address:

1550 M Street, NW., suite 700, Washington, DC 20005.

* * * * *

Charles Duryea Smith,
General Counsel.

NATIONAL COUNCIL ON DISABILITY

34 CFR Part 1200

FOR FURTHER INFORMATION CONTACT: Janice Mack, National Council on Disability, (202) 267–3846.

List of Subjects in 34 CFR Part 1200

Blind, Buildings and facilities, Civil rights, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Government employees, Historic places, Historic preservation, Individuals with disabilities.

Title 34 of the Code of Federal Regulations is amended as follows:

1. Subtitle C, chapter XII, consisting of part 1200, is added to title 34 of the Code of Federal Regulations to read as follows:

Subtitle C—Regulations Relating to Education

CHAPTER XII—NATIONAL COUNCIL ON DISABILITY

Part 1200—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the National Council on Disability

2. Part 1200 is added as set forth at the end of this document.

PART 1200—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL COUNCIL ON DISABILITY

Sec.
1200.101 Purpose.
1200.102 Application.
1200.103 Definitions.
1200.104–1200.109 [Reserved]
1200.110 Self-evaluation.
1200.111 Notice.
1200.112–1200.129 [Reserved]
1200.130 General prohibitions against discrimination.
1200.131–1200.139 [Reserved]
1200.140 Employment.
1200.141–1200.148 [Reserved]
1200.149 Program accessibility: Discrimination prohibited.
1200.150 Program accessibility: Existing facilities.
1200.151 Program accessibility: New construction and alterations.
1200.152–1200.159 [Reserved]
1200.160 Communications.
1200.161–1200.169 [Reserved]
1200.170 Compliance procedures.
1200.171–1200.999 [Reserved]

Authority: 29 U.S.C. 794.

3. Part 1200 is further amended by revising paragraph (c) in § 1200.170 to read as follows:

§ 1200.170 Compliance procedures.

* * * * *

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to the National Council on Disability, 800 Independence Avenue, SW., suite 814, Washington, DC 20591.

* * * * *

Edward P. Burke,
Acting Executive Director.

ARCTIC RESEARCH COMMISSION

45 CFR Part 2301

FOR FURTHER INFORMATION CONTACT: Dr. Philip L. Johnson, Executive Director, Arctic Research Commission, ICC Building, room 6333, 12th & Constitution Avenue, NW., Washington DC 20423. Voice (202) 371–9631. TDD (202) 357–9867.

ADDITIONAL SUPPLEMENTARY INFORMATION: The Arctic Research Commission is responsible for conducting public meetings annually; at least one of these must be held in Alaska pursuant to the Arctic Research and Policy Act. 15 U.S.C. 4102. When determining where such meeting will be held, the Commission must consider the public, industries and government agencies from which opinions are sought, and the extent to which delay or expense can be minimized. In order to maximize participation by arctic residents, some meetings are held in rural Alaska.

Meetings held in the Commission's offices shall be accessible in accordance with this regulation. As to meetings held outside of the Commission's offices, the Commission will attempt to locate accessible facilities that conform to the requirements of this regulation. In such instances the Commission will include in this notice of the meeting a request that persons desiring to attend should inform the Commission in advance of any accessibility features they may require. If the Commission receives a request in advance for an accessible meeting site in response to this notice, the Commission will arrange access or move the meeting to an accessible meeting site even though this accessible site may be farther from the population that the Commission needs to reach, so long as such move would not exceed the "undue burdens" and "fundamental alterations" limitations set forth at § 2301.150(a)(3). Thus, the Commission will, subject only to the limitations of § 2301.150(a)(3), ensure access for any individual with handicaps who gives reasonable advance notice.

The notice regarding all Commission meetings, including both meetings held in and outside of the Commission's offices, will also ask individuals with handicaps to inform the Commission in advance of any auxiliary aids, such as sign language interpreters, that may be necessary. In such instances also, the Commission will, subject only to the limitations of § 2301.160(d), ensure that any individual with handicaps who provides the Commission with reasonable advance notice that he or she needs auxiliary aids in order to participate is provided with such auxiliary aids.

List of Subjects in 45 CFR Part 2301

Blind, Buildings and facilities, Civil rights, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Government employees, Historic places, Historic preservation, Individuals with disabilities.

Title 45 of the Code of Federal Regulations is amended as follows:

1. Chapter XXIII, consisting of part 2301, is added to title 45 of the Code of Federal Regulations to read as follows:

CHAPTER XXIII—ARCTIC RESEARCH COMMISSION

Part 2301—Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the United States Arctic Research Commission

2. Part 2301 is added as set forth at the end of this document.

PART 2301—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE UNITED STATES ARCTIC RESEARCH COMMISSION

Sec.
2301.101 Purpose.
2301.102 Application.
2301.103 Definitions.
2301.104–2301.109 [Reserved]
2301.110 Self-evaluation.
2301.111 Notice.
2301.112–2301.129 [Reserved]
2301.130 General prohibitions against discrimination.
2301.131–2301.139 [Reserved]
2301.140 Employment.
2301.141–2301.148 [Reserved]
2301.149 Program accessibility: Discrimination prohibited.
2301.150 Program accessibility: Existing facilities.
2301.151 Program accessibility: New construction and alterations.
2301.152–2301.159 [Reserved]
2301.160 Communications.
2301.161–2301.169 [Reserved]
2301.170 Compliance procedures.

Sec.
2301.171–2301.999 [Reserved]

Authority: 29 U.S.C. 794.

3. Part 2301 is further amended by revising paragraph (c) in § 2301.170 to read as follows:

§ 2301.170 Compliance procedures.

* * * * *

(c) The Executive Director shall be responsible for coordinating implementation of this section. Complaints may be sent to Executive Director, United States Arctic Research Commission, ICC Building, room 6333, 12th & Constitution Avenue, NW., Washington, DC 20423.

* * * * *

Philip Johnson,

Executive Director.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

45 CFR Part 2490

FOR FURTHER INFORMATION CONTACT: Mr. Gary S. Foy (202) 653–8700.

List of Subjects in 45 CFR Part 2490

Blind, Buildings and facilities, Civil rights, Equal educational opportunity, Equal employment opportunity, Federal buildings and facilities, Government employees, Historic places, Historic preservation, Individuals with disabilities.

Title 45, chapter XXIV of the Code of Federal Regulations is amended as follows:

1. Part 2490 is added as set forth at the end of this document.

PART 2490—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Sec.
2490.101 Purpose.
2490.102 Application.
2490.103 Definitions.
2490.104–2490.109 [Reserved]
2490.110 Self-evaluation.
2490.111 Notice.
2490.112–2490.129 [Reserved]
2490.130 General prohibitions against discrimination.
2490.131–2490.139 [Reserved]
2490.140 Employment.
2490.141–2490.148 [Reserved]
2490.149 Program accessibility: Discrimination prohibited.
2490.150 Program accessibility: Existing facilities.
2490.151 Program accessibility: New construction and alterations.
2490.152–2490.159 [Reserved]
2490.160 Communications.
2490.161–2490.169 [Reserved]
2490.170 Compliance procedures.
2490.171–2490.999 [Reserved]

Authority: 29 U.S.C. 794.

2. Part 2490 is further amended by revising paragraph (c) in § 2490.170 to read as follows:

§ 2490.170 Compliance procedures.

* * * * *

(c) The Director of Administration and Finance shall be responsible for coordinating implementation of this section. Complaints may be sent to James Madison Memorial Fellowship Foundation, 2000 K Street, NW., suite 303, Washington, DC 20006.

* * * * *

Paul A. Yost, Jr.,

Admiral, USCG (Ret.), President.

Text of Common Rule

The text of the common rule, as adopted by the agencies in this document, appears below.

PART —ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY

Sec.
_____.101 Purpose.
_____.102 Application.
_____.103 Definitions.
_____.104–_____.109 [Reserved]
_____.110 Self-evaluation.
_____.111 Notice.
_____.112–_____.129 [Reserved]
_____.130 General prohibitions against discrimination.
_____.131–_____.139 [Reserved]
_____.140 Employment.
_____.141–_____.148 [Reserved]
_____.149 Program accessibility: Discrimination prohibited.
_____.150 Program accessibility: Existing facilities.
_____.151 Program accessibility: New construction and alterations.
_____.152–_____.159 [Reserved]
_____.160 Communications.
_____.161–_____.169 [Reserved]
_____.170 Compliance procedures.
_____.171–_____.999 [Reserved]

Authority: 29 U.S.C. 794.

_____.101 *Purpose*

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

_____.102 *Application*

This part (§ _____.101–_____.170) applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

_____.103 *Definitions*

For purposes of this part, the term—

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Auxiliary aids means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TTD's), interpreters, notetakers, written materials, and other similar services and devices.

Complete complaint means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

Facility means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

Historic preservation programs means programs conducted by the agency that have preservation of historic properties as a primary purpose.

Historic properties means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a

record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) *Physical or mental impairment* includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, HIV disease (whether symptomatic or asymptomatic), and drug addiction and alcoholism.

(2) *Major life activities* include functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by the agency as having such an impairment.

Qualified individual with handicaps means—

(1) With respect to preschool, elementary, or secondary education services provided by the agency, an individual with handicaps who is a member of a class of persons otherwise entitled by statute, regulation, or agency policy to receive education services from the agency;

(2) With respect to any other agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(3) With respect to any other program or activity, an individual with handicaps who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; and

(4) *Qualified handicapped person* as that term is defined for purposes of employment in 29 CFR 1614.203(a)(6), which is made applicable to this part by § _____.140.

Section 504 means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended. As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Substantial impairment means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration.

_____.104–_____.109 [Reserved]

_____.110 Self-evaluation

(a) The agency shall, by November 28, 1994, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

(1) A description of areas examined and any problems identified; and

(2) A description of any modifications made.

_____.111 Notice

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the head of the agency finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this part.

_____.112–_____.129 [Reserved]

_____.130 General Prohibitions Against Discrimination

(a) No qualified individual with handicaps shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified individual with handicaps the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with handicaps an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in according equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to provide qualified individuals with handicaps with aid, benefits, or services that are as effective as those provided to others;

(v) Deny a qualified individual with handicaps the opportunity to participate as a member of planning or advisory boards;

(vi) Otherwise limit a qualified individual with handicaps in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified individual with handicaps the opportunity to participate in programs or activities that are no separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods

of administration the purpose or effect of which would—

(i) Subject qualified individuals with handicaps to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(4) The agency may not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude individuals with handicaps from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to individuals with handicaps.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified individuals with handicaps to discrimination on the basis of handicap.

(6) The agency may not administer a licensing or certification program in a manner that subjects qualified individuals with handicaps to discrimination on the basis of handicap, nor may the agency establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with handicaps to discrimination on the basis of handicap. However, the programs or activities of entities that are licensed or certified by the agency are not, themselves, covered by this part.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to individuals with handicaps or the exclusion of a specific class of individuals with handicaps from a program limited by Federal statute or Executive order to a different class of individuals with handicaps is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with handicaps.

_____.131–_____.139 [Reserved]

_____.140 Employment

No qualified individual with handicaps shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1614, shall apply to employment in federally conducted programs or activities.

_____.141–_____.148 [Reserved]

_____.149 Program Accessibility: Discrimination Prohibited

Except as otherwise provided in § _____.150, no qualified individual with handicaps shall, because the agency's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

_____.150 Program Accessibility: Existing Facilities

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by individuals with handicaps;

(2) In the case of historic preservation programs, require the agency to take any action that would result in a substantial impairment of significant historic features of an historic property; or

(3) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § _____.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that result in such an alteration or such burdens but would nevertheless ensure that individuals with handicaps receive the benefits and services of the program or activity.

(b) *Methods.*—(1) *General.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with handicaps. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified individuals with handicaps in the most integrated setting appropriate.

(2) *Historic preservation programs.* In meeting the requirements of § _____.150(a) in historic preservation programs, the agency shall give priority to methods that provide physical access to individuals with handicaps. In cases where a physical alteration to an historic property is not required because of § _____.150(a)(2) or (a)(3), alternative methods of achieving program accessibility include—

(i) Using audio-visual materials and devices to depict those portions of an historic property that cannot otherwise be made accessible;

(ii) Assigning persons to guide individuals with handicaps into or through portions of historic properties that cannot otherwise be made accessible; or

(iii) Adopting other innovative methods.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section by January 24, 1994, except that where structural changes in facilities are undertaken, such changes shall be made by November 26, 1996, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, by May 26, 1994, a transition plan setting forth the steps necessary to complete such changes. The agency shall provide an opportunity to interested persons, including individuals with handicaps or

organizations representing individuals with handicaps, to participate in the development of the transition plan by submitting comments (both oral and written). A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to individuals with handicaps;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the official responsible for implementation of the plan.

_____.151 Program Accessibility: New Construction and Alterations

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with handicaps. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

_____.152–_____.159 [Reserved]

_____.160 Communications

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford an individual with handicaps an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the individual with handicaps.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used to communicate with persons with impaired hearing.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signage at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § _____.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head or his or her designee after considering all agency resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with handicaps receive the benefits and services of the program or activity.

_____.161–_____.169 [Reserved]

_____.170 Compliance Procedures

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs and activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The head of the agency shall designate an official to be responsible for coordinating implementation of this section.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate Government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), is not readily accessible to and usable by individuals with handicaps.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt from the agency of the letter required by § _____.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by the head of the agency.

(j) The head of the agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the head of the agency determines that additional information is needed from the complainant, he or she shall have 60 days from the date of receipt of the additional information to make his or her determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated to another agency.

_____.171–_____.999 [Reserved]

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federal register

Tuesday
October 26, 1993

Part IV

Department of Education

34 CFR Part 644
Educational Opportunity Centers;
Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 644

RIN 1840–AB65

Educational Opportunity Centers

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing the Educational Opportunity Centers program. These regulations are needed to implement the Higher Education Amendments of 1992. The proposed regulations also clarify and simplify requirements governing the program.

The purposes and allowable activities of the Educational Opportunity Centers program support the National Education Goals. Specifically, the program funds projects designed to increase education opportunities for adults (Goal 5).

DATES: Comments must be received on or before November 26, 1993.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Richard T. Sonnergren, U.S. Department of Education, room 5065, FOB–6, 400 Maryland Avenue, SW., Washington, DC 20202–5249.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Margaret A. Wingfield, U.S. Department of Education, 400 Maryland Avenue, SW, room 5065, Washington, DC 20202–5249. Telephone: (202) 708–4804. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background

These proposed regulations would implement the Higher Education Amendments of 1992 (Pub. L. 102–325, enacted July 23, 1992). The Educational Opportunity Centers program provides grants to institutions of higher education; public and private agencies and organizations; combinations of institutions, agencies, and organizations; and secondary schools under special circumstances. The purposes of the program are to (1) provide information regarding financial and academic assistance available for individuals who desire to pursue a program of postsecondary education; and (2) assist individuals in applying for admission to institutions that offer programs of postsecondary education, including preparing necessary applications for use by admissions and financial aid officers.

The major provisions of these proposed regulations include the following:

1. Eligibility for a Grant (§ 644.2)

The proposed regulations would implement a statutory amendment that extends eligibility to combinations of institutions of higher education and public and private agencies and organizations.

2. Allowable Activities (§ 644.4)

The proposed regulations would implement a statutory provision that expands the list of examples of allowable activities and services provided to Educational Opportunity Centers participants.

3. Project Period (§ 644.5)

The proposed regulations would implement a statutory provision that expands the project period to four years—or five years in the case of applications that receive peer review scores in the highest 10 percent of all scores for approved new projects.

4. Definitions (§ 644.7)

The regulations would revise or add definitions to clarify certain terms used in the regulations, including a definition of a project "participant."

5. Projects in Territories (§ 644.20)

The proposed regulations would reflect a requirement in section 1204(a) of the Higher Education Act (HEA) to give priority to applications from certain territories.

6. Selection Criteria (§ 644.21)

The proposed regulations would revise the application selection criteria to simplify and clarify the review and increase grantee accountability. In addition, the proposed regulations would clarify and strengthen the requirements for a grantee's evaluation of a project.

7. Prior Experience (§ 644.22)

The proposed regulations would revise the criteria for the evaluation of a grantee's prior experience to focus on project outcomes.

8. Project Size (§ 644.32)

The proposed regulations would establish a minimum of 1,000 participants residing in the target area who must be served by a project in each budget period, subject to a reduction of the minimum number if the grant amount for the budget period is less than $180,000. Coupled with the new definition of "participant" in § 644.7 and the new recordkeeping requirements for participants in § 644.32, this provision is intended to ensure that projects provide a reasonable level of services to a significant number of recipients. This intended result is consistent with section 402A(b)(3) of the HEA, which establishes a $180,000 minimum grant level for awards beginning in fiscal year 1994 unless the applicant requests a lesser amount.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small institutions of higher education, other agencies and organizations, and secondary schools that receive Federal funds under this program. However, the regulations would not have a significant economic impact on the small entities affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 644.21, 644.22, and 644.32 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Institutions of higher education; public and private agencies and organizations; combinations of institutions, agencies, and organizations; and secondary schools are eligible to apply for grants under these regulations. The Department needs and uses the application data and information to make grants. Annual grantee reporting is estimated to average 34 hours per response for 62 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirement should direct them to the Office of

Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirement 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 this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection during and after the comment period in room 5065, FOB–6, 400 Maryland Avenue, SW, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 644

Colleges and Universities, Education of disadvantaged, Grant programs—education, Reporting and recordkeeping requirements, Secondary education.

(Catalog of Federal Domestic Assistance Number 84.066 Educational Opportunity Centers Program)

Dated: October 20, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary proposes to revise Part 644 of Title 34 of the Code of Federal Regulations to read as follows:

PART 644—EDUCATIONAL OPPORTUNITY CENTERS

Subpart A—General

Sec.

644.1 What is the Educational Opportunity Centers program?
644.2 Who is eligible for a grant?
644.3 Who is eligible to participate in a project?
644.4 What services may a project provide?
644.5 How long is a project period?
644.6 What regulations apply?
644.7 What definitions apply?

Subpart B—Assurances

644.10 What assurances must an applicant submit?

Subpart C—How Does the Secretary Make a Grant?

644.20 How does the Secretary decide which new grants to make?
644.21 What selection criteria does the Secretary use?
644.22 How does the Secretary evaluate prior experience?
644.23 How does the Secretary set the amount of a grant?

Subpart D—What Conditions Must Be Met by a Grantee?

644.30 What are allowable costs?
644.31 What are unallowable costs?
644.32 What other requirements must a grantee meet?

Authority: 20 U.S.C. 1070a–11 and 1070a–16, unless otherwise noted.

Subpart A—General

§ 644.1 What is the Educational Opportunity Centers program?

The Educational Opportunity Centers program provides grants for projects designed to provide—

(a) Information regarding financial and academic assistance available for individuals who desire to pursue a program of postsecondary education; and

(b) Assistance to individuals in applying for admission to institutions that offer programs of postsecondary education, including assistance in preparing necessary applications for use by admissions and financial aid officers.

(Authority: 20 U.S.C. 1070a–16)

§ 644.2 Who is eligible for a grant?

The following are eligible for a grant to carry out an Educational Opportunity Centers project:

(a) An institution of higher education.

(b) A public or private agency or organization.

(c) A combination of the types of institutions, agencies, and organizations described in paragraphs (a) and (b) of this section.

(d) A secondary school, under exceptional circumstances such as if no institution, agency, or organization described in paragraphs (a) and (b) of this section is capable of carrying out an Educational Opportunity Centers project in the target area to be served by the proposed project.

(Authority: 20 U.S.C. 1070a–11)

§ 644.3 Who is eligible to participate in a project?

(a) An individual is eligible to participate in an Educational Opportunity Centers project if the individual meets all of the following requirements:

(1)(i) Is a citizen or national of the United States;

(ii) Is a permanent resident of the United States;

(iii) Is in the United States for other than a temporary purpose and provides evidence from the Immigration and Naturalization Service of his or her intent to become a permanent resident;

(iv) Is a permanent resident of Guam, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands (Palau); or

(v) Is a resident of the Freely Associated States—the Federated States of Micronesia or the Republic of the Marshall Islands.

(2)(i) Is at least 19 years of age; or

(ii) Is less than 19 years of age, and the individual cannot be appropriately served by a Talent Search project under 34 CFR Part 643, and the individual's participation would not dilute the Educational Opportunity Centers project's services to individuals described in paragraph (a)(2)(i) of this section.

(3) Expresses a desire to enroll, or is enrolled, in a program of postsecondary education, and requests information or assistance in applying for admission to, or financial aid for, such a program.

(b) A veteran as defined in § 644.7(b), regardless of age, is eligible to participate in an Educational Opportunity Centers project if he or she satisfies the eligibility requirements in paragraph (a) of this section other than the age requirement in paragraph (a)(2).

(Authority: 20 U.S.C. 1070a–11 and 1070a–16)

§ 644.4 What services may a project provide?

An Educational Opportunity Centers project may provide the following services:

(a) Public information campaigns designed to inform the community about opportunities for postsecondary education and training.

(b) Academic advice and assistance in course selection.

(c) Assistance in completing college admission and financial aid applications.

(d) Assistance in preparing for college entrance examinations.

(e) Guidance on secondary school reentry or entry to a General Educational Development (GED) program or other alternative education program for secondary school dropouts.

(f) Personal counseling.
(g) Tutorial services.
(h) Career workshops and counseling.
(i) Mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of these persons.
(j) Activities described in paragraphs (a) through (i) of this section that are specifically designed for students of limited English proficiency.
(k) Other activities designed to meet the purposes of the Educational Opportunity Centers program stated in § 644.1.

(Authority: 20 U.S.C. 1070a–16)

§ 644.5 How long is a project period?

(a) Except as provided in paragraph (b) of this section, a project period under the Educational Opportunity Centers program is four years.
(b) The Secretary approves a project period of five years for applications that score in the highest ten percent of all applications approved for new grants under the criteria in § 644.21.

(Authority: 20 U.S.C. 1070a–11)

§ 644.6 What regulations apply?

The following regulations apply to the Educational Opportunity Centers program:
(a) The Education Department General Administrative Regulations (EDGAR) as follows:
(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).
(2) 34 CFR Part 75 (Direct Grant Programs), except for § 75.511.
(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations), except for the definition of "secondary school" in § 77.1.
(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).
(5) 34 CFR Part 82 (New Restrictions on Lobbying).
(6) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).
(7) 34 CFR Part 86 (Drug-Free Schools and Campuses).
(b) The regulations in this Part 644.

(Authority: 20 U.S.C. 1070a–11 and 1070a–16)

§ 644.7 What definitions apply?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Budget
Budget period
EDGAR
Equipment
Facilities
Fiscal year
Grant
Grantee
Private
Project
Project period
Public
Secretary
Supplies

(b) *Other definitions.* The following definitions also apply to this part:

HEA means the Higher Education Act of 1965, as amended.

Institution of higher education means an educational institution as defined in sections 1201(a) and 481 of the HEA.

Low-income individual means an individual whose family's taxable income did not exceed 150 percent of the poverty level amount in the calendar year preceding the year in which the individual initially participated in the project. The poverty level amount is determined by using criteria of poverty established by the Bureau of the Census of the U.S. Department of Commerce.

Participant means an individual who—
(1) Is determined to be eligible to participate in the project under § 644.3; and
(2) Receives project services.

Postsecondary education means education beyond the secondary school level.

Potential first-generation college student means—
(1) An individual neither of whose parents received a baccalaureate degree; or
(2) An individual who regularly resided with and received support from only one parent and whose supporting parent did not receive a baccalaureate degree.

Secondary school means a school that provides secondary education as determined under State law, except that it does not include education beyond grade 12.

Target area means a geographic area served by an Educational Opportunity Centers project.

Veteran means a person who served on active duty as a member of the Armed Forces of the United States—
(1) For a period of more than 180 days, any part of which occurred after January 31, 1955, and who was discharged or released from active duty under conditions other than dishonorable; or
(2) After January 31, 1955, and who was discharged or released from active duty because of a service-connected disability.

(Authority: 20 U.S.C. 1070a–11, 1070a–16, and 1141)

Subpart B—Assurances

§ 644.10 What assurances must an applicant submit?

An applicant shall submit, as part of its application, assurances that—
(a) At least two-thirds of the individuals it serves under its proposed Educational Opportunity Centers project will be low-income individuals who are potential first-generation college students;
(b) Individuals who are receiving services from another Educational Opportunity Centers project or a Talent Search project under 34 CFR Part 643 will not receive services under the proposed project;
(c) The project will be located in a setting or settings accessible to the individuals proposed to be served by the project; and
(d) If the applicant is an institution of higher education, it will not use the project as a part of its recruitment program.

(Authority: 20 U.S.C. 1070a–16)

Subpart C—How Does the Secretary Make a Grant?

§ 644.20 How does the Secretary decide which new grants to make?

(a) The Secretary evaluates an application for a new grant as follows:
(1)(i) The Secretary evaluates the application on the basis of the selection criteria in § 644.21.
(ii) The maximum score for all the criteria in § 644.21 is 100 points. The maximum score for each criterion is indicated in parentheses with the criterion.
(2)(i) For an application for a new grant to continue to serve substantially the same populations or campuses that the applicant is serving under an expiring project, the Secretary evaluates the applicant's prior experience in delivering services under the expiring project on the basis of the criteria in § 644.22.
(ii) The maximum score for all the criteria in § 644.22 is 15 points. The maximum score for each criterion is indicated in parentheses with the criterion.
(3) The Secretary awards additional points equal to 10 percent of the application's score under paragraphs (a)(1) and (2) of this section to an application for a project in Guam, the

Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands (Palau), or the Northern Mariana Islands if the applicant meets the requirements of Subparts A, B, and D of this part.

(b) The Secretary makes new grants in rank order on the basis of the applications' total scores under paragraphs (a) (1) through (3) of this section.

(c) If the total scores of two or more applications are the same and there are insufficient funds for these applications after the approval of higher-ranked applications, the Secretary uses the remaining funds to serve geographic areas and eligible populations that have been underserved by the Educational Opportunity Centers program.

(d) The Secretary may decline to make a grant to an applicant that carried out a project that involved the fraudulent use of funds under section 402A(c)(2)(B) of the HEA.

(Authority: 20 U.S.C. 1070a–11, 1070a–16, and 1144a(a))

§ 644.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application for a new grant:

(a) *Need for the project* (24 points). The Secretary evaluates the need for an Educational Opportunity Centers project in the proposed target area on the basis of the extent to which the application contains clear evidence of—

(1) A high number or percentage, or both, of low-income families residing in the target area;

(2) A high number or percentage, or both, of individuals residing in the target area with education completion levels below the baccalaureate level;

(3) A high need on the part of residents of the target area for further education and training from programs of postsecondary education in order to meet changing employment trends; and

(4) Other indicators of need for an Educational Opportunity Centers project, including the presence of unaddressed educational or socio-economic problems of adult residents in the target area.

(b) *Objectives* (8 points). The Secretary evaluates the quality of the applicant's proposed project objectives on the basis of the extent to which they—

(1) Include both process and outcome objectives relating to each of the purposes of the Educational Opportunity Centers program stated in § 644.1;

(2) Address the needs of the target area;

(3) Are clearly described, specific, and measurable; and

(4) Are ambitious but attainable within each budget period and the project period given the project budget and other resources.

(c) *Plan of operation* (30 points). The Secretary evaluates the quality of the applicant's plan of operation on the basis of the following:

(1) (4 points) The plan to inform the residents, schools, and community organizations in the target area of the goals, objectives, and services of the project and the eligibility requirements for participation in the project;

(2) (4 points) The plan to identify and select eligible participants and ensure their participation without regard to race, color, national origin, gender, or disability;

(3) (2 points) The plan to assess each participant's need for services provided by the project;

(4) (12 points) The plan to provide services that meet participants' needs and achieve the objectives of the project; and

(5) (8 points) The plan, including the project's organizational structure and the time committed to the project by the project director and other personnel, to ensure the proper and efficient administration of the project.

(d) *Applicant and community support* (16 points). The Secretary evaluates the applicant and community support for the proposed project on the basis of the extent to which the applicant has made provision for resources to supplement the grant and enhance the project's services, including—

(1) (8 points) Facilities, equipment, supplies, personnel, and other resources committed by the applicant; and

(2) (8 points) Resources secured through written commitments from schools, community organizations, and others.

(e) *Quality of personnel* (9 points). (1) The Secretary evaluates the quality of the personnel the applicant plans to use in the project on the basis of the following:

(i) The qualifications required of the project director.

(ii) The qualifications required of each of the other personnel to be used in the project.

(iii) The plan to employ personnel who have succeeded in overcoming the disadvantages of circumstances like those of the population of the target area.

(2) In evaluating the qualifications of a person, the Secretary considers his or her experience and training in fields related to the objectives of the project.

(f) *Budget* (5 points). The Secretary evaluates the extent to which the project budget is reasonable, cost-effective, and adequate to support the project.

(g) *Evaluation plan* (8 points). The Secretary evaluates the quality of the evaluation plan for the project on the basis of the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project's objectives;

(2) Provide for the applicant to determine, using specific and quantifiable measures, the success of the project in—

(i) Making progress toward achieving its objectives (a formative evaluation); and

(ii) Achieving its objectives at the end of the project period (a summative evaluation); and

(3) Provide for the disclosure of unanticipated project outcomes, using quantifiable measures if appropriate.

(Authority: 20 U.S.C. 1070a–16)

§ 644.22 How does the Secretary evaluate prior experience?

(a) In the case of an application described in § 644.20(a)(2)(i), the Secretary reviews information relating to an applicant's performance under its expiring Educational Opportunity Centers project. This information includes performance reports, audit reports, site visit reports, and project evaluation reports.

(b) The Secretary evaluates the applicant's prior experience in delivering services on the basis of the following criteria:

(1) (3 points) (i) Whether the applicant provided services to the required number of participants who resided in the target area; and

(ii) Whether two-thirds of all participants served were low-income individuals and potential first-generation college students.

(2) (6 points) The extent to which the applicant met or exceeded its objectives regarding the provision of assistance to individuals in applying for admission to, or financial aid for, programs of postsecondary education.

(3) (6 points) The extent to which the applicant met or exceeded its objectives regarding the admission or reentry of participants to programs of postsecondary education.

(Authority: 20 U.S.C. 1070a–16)

§ 644.23 How does the Secretary set the amount of a grant?

(a) The Secretary sets the amount of a grant on the basis of—

(1) 34 CFR 75.232 and 75.233, for new grants; and

(2) 34 CFR 75.253, for the second and subsequent years of a project period.

(b) If the circumstances described in section 402A(b)(3) of the HEA exist, the

Secretary uses the available funds to set the amount of the grant beginning in fiscal year 1994 at the lesser of—

(1) $180,000; or

(2) The amount requested by the applicant.

(Authority: 20 U.S.C. 1070a–11)

Subpart D—What Conditions Must Be Met by a Grantee?

§ 644.30 What are allowable costs?

The cost principles that apply to the Educational Opportunity Centers program are in 34 CFR part 74, subpart Q. Allowable costs include the following if they are reasonably related to the objectives of the project:

(a) Purchase of testing materials.

(b) In-service training of project staff.

(c) Rental of space if—

(1) Space is not available at the site of the grantee; and

(2) The rented space is not owned by the grantee.

(d) Purchase of computer hardware, computer software, or other equipment for student development, project administration, and recordkeeping, if the applicant demonstrates to the Secretary's satisfaction that the equipment is required to meet the objectives of the project more economically or efficiently.

(Authority: 20 U.S.C. 1070a–11 and 1070a–16)

§ 644.31 What are unallowable costs?

Costs that are unallowable under the Educational Opportunity Centers program include, but are not limited to, the following:

(a) Tuition, fees, stipends, and other forms of direct financial support for participants.

(b) Application fees for enrollment or for financial aid.

(c) Transportation, meals, or lodging for project participants.

(d) Research not directly related to the evaluation or improvement of the project.

(e) Construction, renovation, and remodeling of any facilities.

(Authority: 20 U.S.C. 1070a–11 and 1070a–16)

§ 644.32 What other requirements must a grantee meet?

(a) *Eligibility of participants.* (1) A grantee shall determine the eligibility of each participant in the project at the time that the individual is selected to participate.

(2) A grantee shall determine the status of a low-income individual on the basis of the documentation described in section 402A(e) of the HEA.

(b) *Number of participants.* In each budget period, a grantee shall serve a minimum of 1,000 participants who reside in the target area. However, the Secretary may reduce the minimum number of these participants if the amount of the grant for the budget period is less than $180,000.

(c) *Recordkeeping.* For each participant, a grantee shall maintain a record of—

(1) The basis for the grantee's determination that the participant is eligible to participate in the project under § 644.3;

(2) The services that are provided to the participant; and

(3) The specific educational benefits to the participant that resulted from the services.

(d) *Project director.* (1) A grantee shall employ a full-time project director unless paragraph (d)(3) of this section applies.

(2) The grantee shall give the project director sufficient authority to administer the project effectively.

(3) The Secretary waives the requirement in paragraph (d)(1) of this section if the applicant demonstrates that the requirement will hinder coordination—

(i) Among the Federal TRIO Programs (sections 402A through 402F of the HEA); or

(ii) Between the programs funded under sections 402A through 410 of the HEA and similar programs funded through other sources.

(Authority: 20 U.S.C. 1070a–11 and 1070a–16).

[FR Doc. 93–26301 Filed 10–25–93; 8:45 am]
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federal register

Tuesday
October 26, 1993

Part V

International Trade Commission

Import Investigations: Generalized System of Preferences, Eligible Articles List, Etc.; Notice

INTERNATIONAL TRADE COMMISSION

[Inv. Nos. TA–131–20, 503(a)–25, and 332–346]

President's List of Articles Which May Be Designated or Modified as Eligible Articles for Purposes of the U.S. Generalized System of Preferences

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: On October 18, 1993, the Commission received a request from the U.S. Trade Representative (USTR) requesting certain Commission advice under sections 131, 503, and 504 of the Trade Act of 1974 (the 1974 Act) and section 332(g) of the Tariff Act of 1930. Following receipt of that request, the Commission instituted investigation Nos. TA–131–20, 503(a)–25, and 332–346 in order to:

(1) Provide advice, pursuant to sections 131(a) and 503(a) of the 1974 Act (19 U.S.C. 2151(b) and 2463(a)), with respect to each article listed in Part A of the attached Annex, as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of U.S. import duties under the Generalized System of Preferences (GSP); (2) provide advice pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g))—

(a) As to the probable economic effect on domestic industries producing like or directly competitive articles and on consumers of the removal of the article listed in Part B of the attached Annex from eligibility for duty-free treatment under the GSP;

(b) As to the probable economic effect on domestic industries producing like or directly competitive articles and on consumers of the removal of Venezuela from eligibility for duty-free status under the GSP with respect to HTS subheading 7308.90.90 (pt), listed in Part C of the attached annex;

(c) And in accordance with section 504(c)(3)(a)(i) of the 1974 Act, as to whether any industry in the United States is likely to be adversely affected by:

(i) A waiver of the competitive need limits specified in section 504(c)(1) of the 1974 Act for countries specified with respect to the articles listed in Part D of the attached Annex and for Indonesia with respect to HTS subheading 8529.90.10;

(ii) A waiver of the competitive need limits specified in section 504(c)(1) of the 1974 Act for both Indonesia and Malaysia with respect to HTS subheading 8471.20.00 and HTS subheading 8471.91.00 and for both Malaysia and the Philippines with respect to HTS subheading 8525.20.50;

(iii) A waiver of the competitive need limits specified in section 504(c)(2) of the 1974 Act, but not a waiver of the competitive need limits specified in section 504(c)(1) of the 1974 Act, for Brazil with respect to the articles provided for in HTS subheading 8409.91.91 (pt), for HTS subheading 8409.91.91, for which Brazil currently is subject to the reduced competitive need limits specified in section 504(c)(2)(B) of the 1974 Act.

(d) As to whether products like or directly competitive with the articles in Part A of the attached Annex were being produced in the United States on January 3, 1985 (section 504(d)(1) of the 1974 Act provides an exemption for articles for which no like or directly competitive article was being produced in the United States on January 3, 1985).

In providing its advice under (1), the Commission will assume, as requested by USTR, that the benefits of the GSP would not apply to imports that would be excluded from receiving such benefits by virtue of the competitive need limits specified in section 504(c)(1) of the Trade Act of 1974 (except as specified in the USTR letter with respect to articles from Indonesia included under HTS subheading 8529.90.10).

As requested by USTR, the Commission will seek to provide its advice not later than January 19, 1994.

EFFECTIVE DATE: October 22, 1993.

FOR FURTHER INFORMATION CONTACT:

(1) Agricultural and forest products, C.B. Stahmer (202–205–3321)

(2) Energy, chemicals, and textiles products, Stephen Wanser (202–205–3363)

(3) Minerals, metals, and miscellaneous manufacturers, Hazel Robinson (202–205–3496)

(4) Machinery and transportation, Georgia Jackson (202–205–3399)

(5) Services and electronic technology, John Kitzmiller (202–205–3387)

All of the above are in the Commission's Office of Industries. For information on legal aspects of the investigation contact Mr. William Gearhart of the Commission's Office of the General Counsel at 202–205–3091.

Background

The letter from the USTR provided the following by way of background:

The Trade Policy Staff Committee (TPSC) has recently announced in the **Federal Register**, the acceptance of product petitions for modification of the Generalized System of Preferences (GSP) received as part of the 1993 annual review. Modifications to the GSP which may result from this review will be announced in the spring of 1994, and become effective in the summer of 1994.

Public Hearing

A public hearing in connection with this investigation is currently scheduled to begin at 9:30 a.m. on November 17, 1993, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter asking to testify with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on October 29, 1993. In addition, persons testifying should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on November 3, 1993. In the event that no requests to appear at the hearing are received by the close of business on October 29, 1993, the hearing will be cancelled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary of the Commission (202–205–1808) after November 2, 1993 to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on November 26, 1993. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Commission.

Attachment.

Issued: October 22, 1993.

Donna R. Koehnke,

Secretary.

Annex I (HTS Subheadings) [1]

A. Petitions to add products to the list of eligible articles for the Generalized System of Preference (GSP).

0805.30.40
2933.39.37 (pt)
0806.20.10
2309.90.90 (pt)
2902.11.00
2918.30.20 (pt)
2921.49.40 (pt)
2937.92.20 (pt)
2937.92.80 (pt)
2937.99.80 (pt)
8529.90.10
9106.90.80 (pt)

B. Petitions to remove a product from the list of eligible articles for the GSP.

4007.00.00

C. Petitions to remove duty-free status from beneficiary countries for products on the list of eligible articles for the GSP [2]

7308.90.90 (pt) (Venezuela).

D. Petitions for waiver of competitive need limit for products on the list of eligible products for the GSP from the specified country.

4203.21.40 (Philippines)
7113.19.21 (Israel)
8402.20.00 (Philippines)
8407.34.2080 (Brazil)
8409.91.91 (pt) (Brazil) [1]
8471.20.00 (Indonesia, Malaysia, and both)
8471.91.00 (Indonesia, Malaysia, and both)
8521.10.60 (Indonesia)
8525.20.20 (Philippines)
8525.20.50 (Malaysia, Philippines, and both)
8527.31.40 (Malaysia)
8527.32.00 (Malaysia)
8528.10.30 (Malaysia)
8529.90.10 (Indonesia)

[1] Brazil is currently subject to the reduced competitive need limit specified in section 504(c)(a)(B) of the 1974 Act for this HTS subheading.

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BILLING CODE 7020–02–P

[1] See USTR **Federal Register** notice of October xx, 1993 (xx F.R. xxxxx) for article description.

[2] While the Trade Policy Staff Committee (TPSC) review will focus on the designated country(ies), the TSPC reserves the right to address removal of GSP status for countries other than those specified as well as GSP status for the entire article.

federal register

Tuesday
October 26, 1993

Part VI

The President

Proclamation 6618—United Nations Day, 1993

Federal Register
Vol. 58, No. 205
Tuesday, October 26, 1993

Presidential Documents

Title 3—

The President

Proclamation 6618 of October 23, 1993

United Nations Day, 1993

By the President of the United States of America

A Proclamation

As the world continues to experience sweeping change after the end of the Cold War, it is increasingly important that we rededicate ourselves to the uplifting principles of the United Nations Charter and to the hard work of bringing those principles closer to reality. Secretary General Boutros Boutros-Ghali lists development, peace, and democracy as the overriding goals of the United Nations. On the 48th anniversary of the founding of the United Nations, the United States must continue its work in cooperation with the United Nations to bring these principles closer to reality.

America alone is responsible for protecting its own vital interests. But many of the concerns we have about political, military, economic, and environmental challenges around the world are shared by other states. By working with the United Nations, and by doing all we can in association with like-minded governments to reform and energize it, we can advance our own interests and, at the same time, strengthen the ties that bind the international community.

The United Nations has often been on the front lines of efforts to deter, contain, and put an end to the rash of ethnic and subnational conflicts that have erupted in the post-Cold War era. Despite limitations on its capabilities and resources, the United Nations has the potential to be a resolute force for peace and democracy. In troubled areas around the globe, UN peacekeepers and observers are repatriating refugees; clearing land mines; monitoring elections; caring for victims of violence; helping protect human rights; arranging and monitoring ceasefires; and helping to construct democratic institutions where anarchy once prevailed.

Efforts of the United Nations have contributed greatly to the birth of a democratic Namibia, have helped bring an end to the civil war in El Salvador, and have created the conditions under which the Cambodian people could form a government legitimized by free elections and a new constitution. In Somalia, the United States and the UN have worked together to save hundreds of thousands of lives threatened by anarchy-induced famine. In Bosnia, the UN's humanitarian relief effort has been sustained under dangerous and frustrating conditions. In many nations, particularly in Africa, UN operations are working to facilitate the transition from civil conflicts to peaceful development.

The cause of peace is linked to the need for inclusive and lasting economic growth that gives more and more people a stake in stability and a voice in decisions that affect their lives. America's interest in enlarging the world's community of market democracies is echoed in the Preamble of the UN Charter, which calls for "social progress and better standards of life in larger freedom."

The United States applauds the work of a variety of UN programs and agencies that promote development and counter the hardships of poverty, homelessness, and disease. The UN High Commissioner for Refugees, whose workload has regrettably increased in recent years; the World Health Organization, whose responsibility it is to halt the deadly spread of AIDS; and the UN Development Program, which is being reinvigorated under new

leadership, all deserve special recognition for their momentous achievements in the face of enormous obstacles.

Despite the efforts of the many dedicated public servants at the United Nations, there remains an urgent need to improve the management of the UN system in order to make it more efficient, effective, and accountable. The United States is working actively with UN officials and with other governments on a number of management-related initiatives. The Secretary General is to be commended for recently establishing an office and appointing an Assistant Secretary General for Inspections and Investigations. This is a useful first step, but more must be done to translate such steps into tangible results.

It has been said that "all work that is worth anything is done in faith." The United Nations was built on the profound faith that people from different backgrounds, creeds, races, and religions can live together peaceably and can pursue shared goals. That faith is the antithesis of the hatred we see in some parts of the world today and is the foundation upon which a future of trust and goodwill among all nations and peoples can be built. The United States has a bipartisan tradition, established long before the creation of the United Nations, of support for an international organization dedicated to social progress and the preservation of world peace. As President, I intend to carry on that tradition.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Sunday, October 24, 1993, as "United Nations Day," and urge all Americans to acquaint themselves with the activities and accomplishments of the United Nations.

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

William J. Clinton

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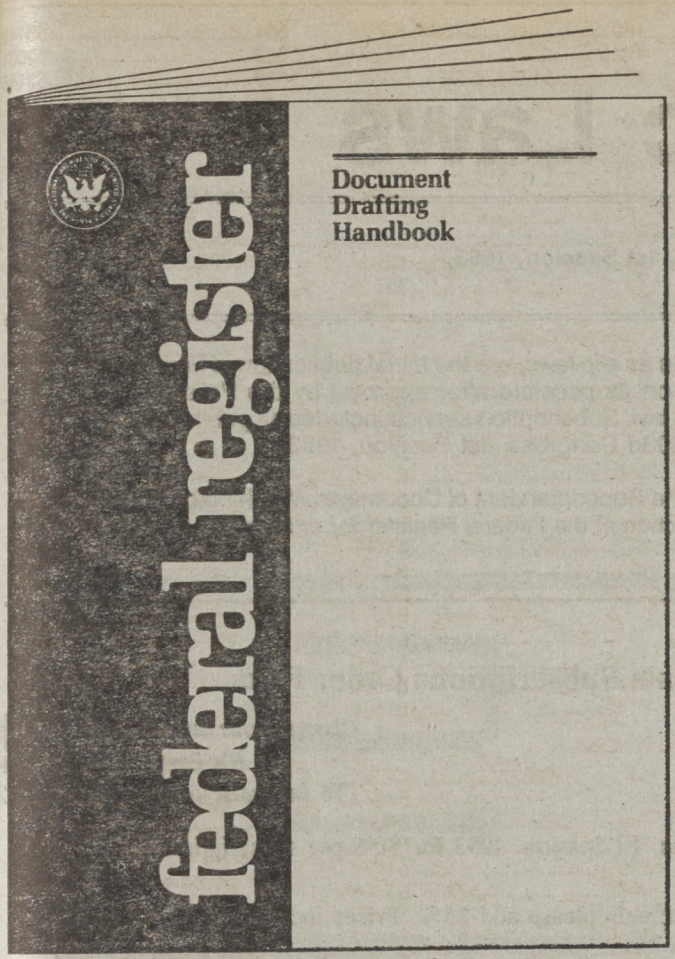

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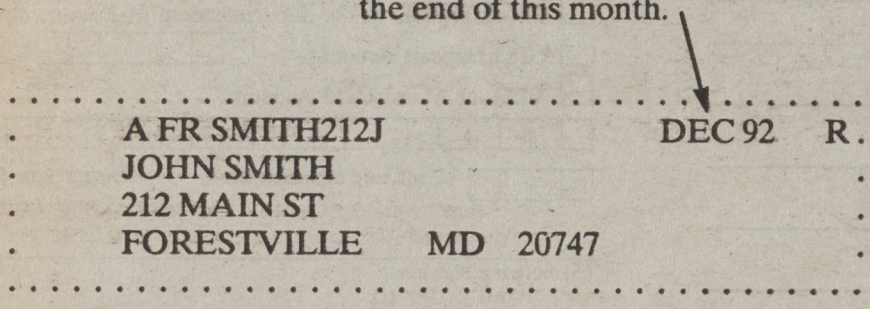

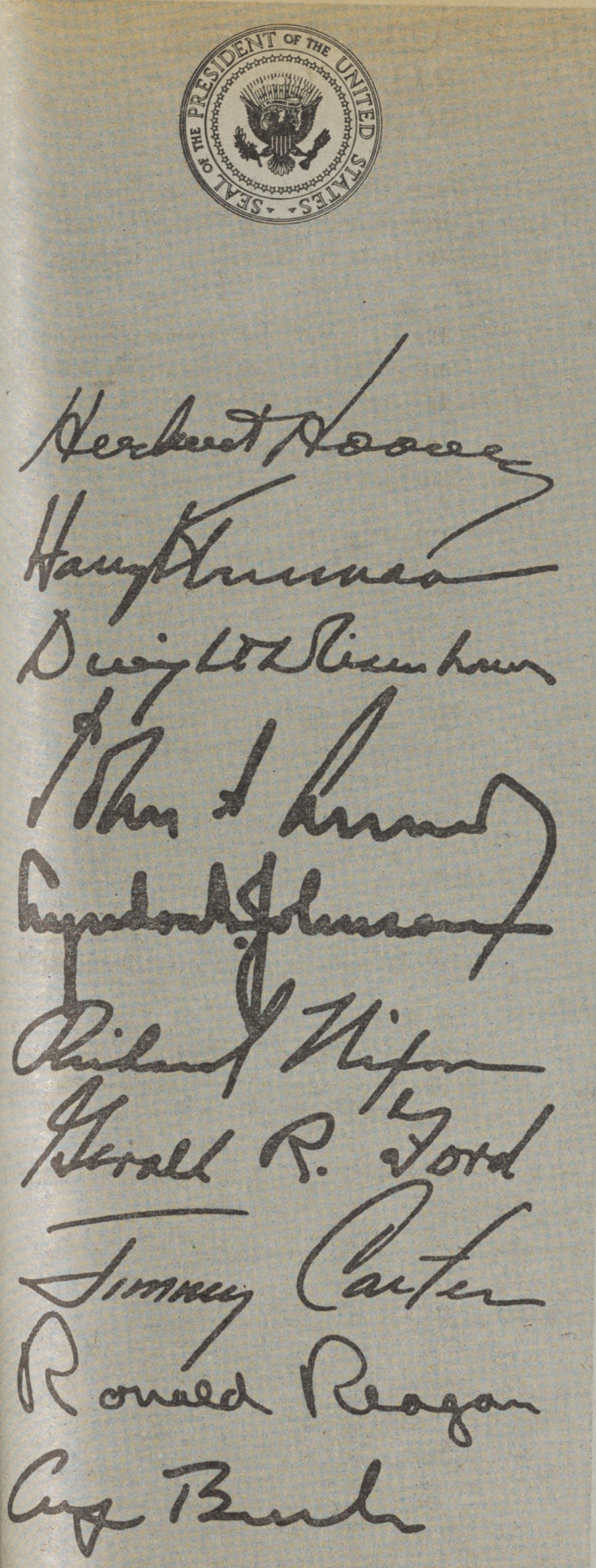

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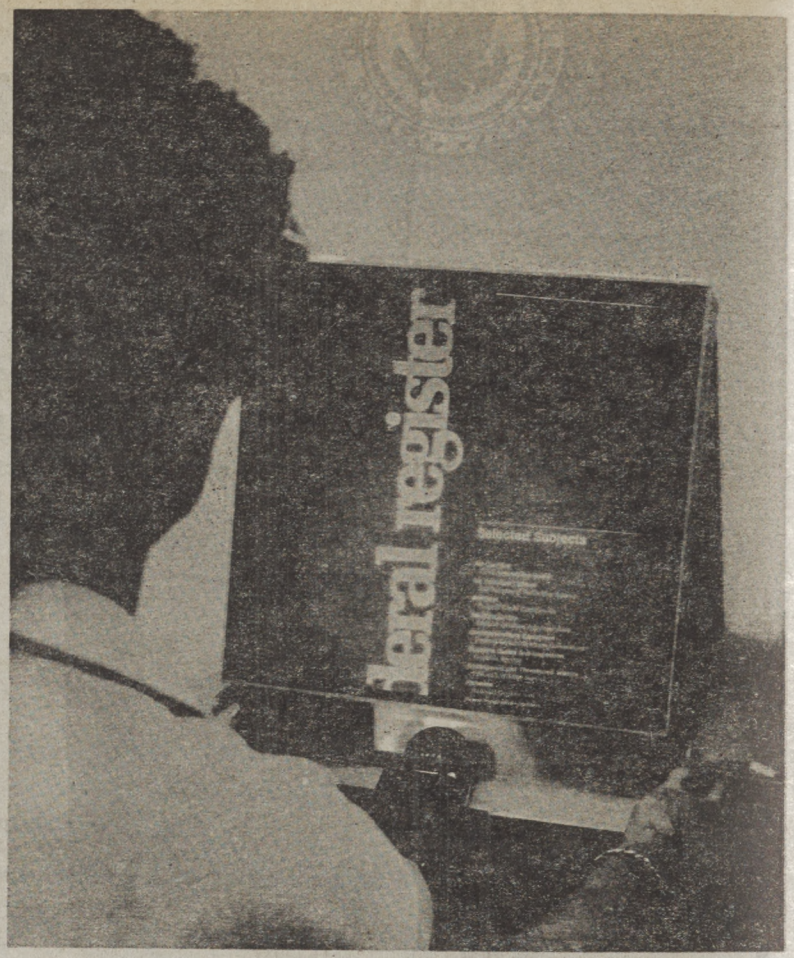

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