9-14-90
Vol. 55 No. 179
Pages 37851-38034

federal register

Friday
September 14, 1990

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

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

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

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

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 55 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–783–3238**
Magnetic tapes	**275–3328**
Problems with public subscriptions	**275–3054**
Single copies/back copies:	
Paper or fiche	**783–3238**
Magnetic tapes	**275–3328**
Problems with public single copies	**275–3050**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5240**
Magnetic tapes	**275–3328**
Problems with Federal agency subscriptions	**523–5240**

For other telephone numbers, see the Reader Aids section at the end of this issue.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

WASHINGTON, DC

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

DALLAS, TX

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

Contents

Federal Register
Vol. 55, No. 179
Friday, September 14, 1990

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 55, No. 179
Friday, September 14, 1990

Presidential Documents

Title 3—

The President

Proclamation 6177 of September 11, 1990

National Give the Kids a Fighting Chance Week, 1990

By the President of the United States of America

A Proclamation

In a society that focuses much attention on physical appearance, looking "different" can be very difficult—especially for a child. Children who have some kind of craniofacial deformity often experience rejection and emotional isolation as well. Fortunately, however, a number of organizations throughout the United States and around the world are working to help young people with craniofacial disfigurement.

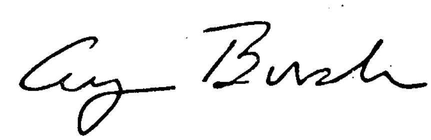
The International Craniofacial Foundations, Inc., its affiliated centers, the National Foundation for Facial Reconstruction, and other concerned organizations fund research and education programs designed to aid those affected by craniofacial deformity. Seeking out individuals who can benefit from their services, these organizations have also funded surgical and nonsurgical treatment for more than 10,000 patients throughout the United States and 12 countries.

Efforts to ease the burdens of the youngest sufferers of craniofacial deformities—to give them a fighting chance—merit recognition. This week, we pay tribute to the dedicated men and women who are working on behalf of these special children and their families.

The Congress, by House Joint Resolution 515 (Public Law 101-371), has designated the week beginning September 16, 1990, as "National Give the Kids a Fighting Chance Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week beginning September 16, 1990, as National Give the Kids a Fighting Chance Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

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



[FR Doc. 90-21962
Filed 9-12-90; 4:30 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 6178 of September 12, 1990

National Historically Black Colleges Week, 1990

By the President of the United States of America

A Proclamation

For more than 100 years, our Nation's historically Black colleges and universities have been committed to opportunity and academic excellence. At a time when many institutions of higher learning barred their doors to Black Americans, these colleges and universities offered minority men and women their best, and often their only, opportunity to pursue a post-secondary education. Today, while the barriers that led to the creation of separate schools for minority students have been eliminated by law, America's historically Black colleges and universities continue a great tradition of educational choice and diversity.

Since the first of these institutions was established over a century ago, historically Black colleges and universities have played a significant role in the social, economic, and political development of the United States. Thousands of their students worked tirelessly and courageously during the early years of the civil rights movement, seeking an end to racial discrimination and segregation in the United States and calling upon their fellow Americans to uphold this Nation's promise as a land of liberty and opportunity for all. Their graduates have advanced to distinguished and influential careers in business, government, education, science, engineering, and in virtually every other field of endeavor. Today historically Black colleges and universities offer Americans of all backgrounds rewarding opportunities to gain the knowledge and skills needed to participate more fully in our increasingly technological and competitive world.

In recognition of the exemplary goals and achievements of historically Black colleges and universities, the Congress, by Senate Joint Resolution 285, has designated the week beginning September 9 and ending September 15, 1990, as "National Historically Black Colleges Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of September 9 through September 15, 1990, as National Historically Black Colleges Week. I encourage all Americans to observe this week with appropriate programs, ceremonies, and activities designed to express our appreciation and support for these important educational institutions.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of September, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

G Bush

[FR Doc. 90-21963
Filed 9-12-90; 4:31 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 55, No. 179
Friday, September 14, 1990

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 315

Career and Career Conditional Employment

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations setting forth the requirements for noncompetitive conversion of employees occupying reader, interpreter, or personal assistant positions from the excepted service. These regulations will permit employees who have at least 1 year of satisfactory service in such a position to be converted noncompetitively. These regulations are necessary to implement Executive Order 12685, which authorizes such conversions.

EFFECTIVE DATES: October 15, 1990.

FOR FURTHER INFORMATION CONTACT: Larry Chloupek, (202) 606–0870.

SUPPLEMENTARY INFORMATION: OPM issued interim regulations to implement E.O. 12685 on April 3, 1990 (55 FR 12327). Comments on the regulations were received from one Federal agency. The comments suggested the deletion of § 315.711(a)(2). We considered these comments, however, the regulations will remain as published.

These regulations were developed to retain individuals assigned to assist disabled employees and who, for reasons beyond management control, are in positions which are no longer needed. The Executive order and our regulations recognize that when a disabled employee resigns or is reassigned, this could, in some situations, lead to the separation of readers, interpreters, and personal assistants because these incumbents serve with the concurrence of the disabled employee. The Executive order and the regulations provided needed protection in the situations indicated.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities (including small businesses, small organizational units, and small governmental jurisdictions) because they apply only to Federal employees.

List of Subjects in 5 CFR Part 315

Administrative practice and procedure, Equal employment opportunity, Government employees, Handicapped

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

Accordingly, OPM is adopting its interim regulations on 5 CFR part 315 published at 55 FR 12327 on April 3, 1990, as final without change.

[FR Doc. 90–21696 Filed 9–13–90; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-44-AD; Amdt. 39-6728]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rules.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 737 series airplanes, which requires inspection of the wings' inboard leading edge landing light cavities for improperly applied vapor barrier sealing, and rework, if necessary. This amendment is prompted by a manufacturer's quality control report which indicated that, during production assembly, the wings' inboard fixed leading edge vapor barrier may have been improperly sealed. In the event of a fuel leak into either wing's inboard fixed leading edge, fuel vapors may enter the landing light cavity. This condition, if not corrected, could result in a potential fire hazard resulting from fuel vapor ignition.

EFFECTIVE DATE: October 23, 1990.

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

FOR FURTHER INFORMATION CONTACT: Stephen Bray, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227–2681. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 737 series airplanes, which requires an inspection of the wings' inboard leading edge landing light cavities for improperly applied vapor barrier sealing, and rework, if necessary, was published in the **Federal Register** on April 26, 1990 (55 FR 17631).

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

The Air Transport Association (ATA), on behalf of a member operator, requested that the proposed compliance period be extended so that the inspection could be accomplished within a schedule "C" check. In addition, the ATA member pointed out that no operators have reported findings which justify a compliance period that would require operators to inspect on an unscheduled basis. The FAA does not concur. The FAA has been advised that an over-night shutdown is ample time to perform the inspection procedures outlined in Boeing Service Bulletin 73–57A1197, dated December 21, 1989. In developing the compliance time required to accomplish the modification, the cost and availability of the modification, and the interim safeguards, the FAA has determined that the compliance time, as proposed, represents the maximum interval of time allowable for affected airplanes to continue to operate prior to an inspection/modification without compromising safety. Further, regarding the request that the compliance time be extended to the next "C" check, since maintenance schedules may vary from operator to operator, there would be no assurance that the modification would be accomplished during that time. Under provisions of paragraph C. of the final rule, however, operators may apply for the approval of an alternate means of compliance of adjustment of the compliance time if sufficient justification is presented to the FAA.

Included in the ATA comment, another member requested that paragraph B., concerning the reporting requirement, be deleted from the proposed rule. This ATA member pointed out that such provisions are appropriate for interim actions where the FAA needs feedback to determine whether additional regulatory action is needed. The FAA does not concur. When the unsafe condition addressed by an AD appears to be attributed to a manufacturer's quality control (QC) problems, such a reporting requirement is instrumental in ensuring that the FAA is able to gather as much information as possible as to the extent and nature of the QC problem or QC breakdown, especially in cases where this information may not be available through other established means. This information is necessary to ensure that proper corrective action is implemented.

A comment was received by an operator who has a significant number of Model 737-200, -300, and -400 airplanes. The operator had no objection to the proposed AD as currently written.

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

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

There are approximately 1,800 Model 737 series airplanes of the affected design in the worldwide fleet. It is estimated that 850 airplanes of U.S. registry will be affected by this AD, that it will take approximately 7 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $238,000.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 737 series airplanes, as listed in Alert Service Bulletin 737-57A1197, dated December 21, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent fuel vapor leaks into the inboard fixed leading edge landing light cavities, resulting in fuel vapor ignition, accomplish the following:

A. Within the next 180 days after the effective date of this AD, inspect the wings' inboard leading edge landing and runway turn-off/taxi light cavities for improper fuel vapor barrier sealing, in accordance with Boeing Alert Service Bulletin 737-57A1197, dated December 21, 1989. If the sealing is found to be improperly applied, rework the vapor barrier sealing prior to further flight, in accordance with the service bulletin.

B. Within 10 days after the inspection required by paragraph A. of this AD, if configuration discrepancies are discovered, submit a report of findings to the Manager, Seattle Manufacturing District Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

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

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

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

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

This amendment becomes effective October 23, 1990.

Issued in Renton, Washington, on September 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-21685 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-182-AD; Amt. 39-6743]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires a one-time inspection of the two landing gear selector valve installations, and correction of improper configurations, if necessary. This amendment is prompted by a recent incident in which a Model

747-400 landed with nose and body landing gear retracted and the wing gear down and locked, due to improper configuation of the landing gear selector valve installations. This condition, if not corrected, could result in additional partial gear-up or all gear-up landing incidents.

EFFECTIVE DATE: October 5, 1990.

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

FOR FURTHER INFORMATION CONTACT: Mr. Mahinder K. Wahi, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2673. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue S.W., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Recently, a Boeing Model 747-400 series airplane made a partial gear up landing with the two body gear and the nose gear up. The airplane landed on the two wing gear and the nose gear doors. The airplane sustained minor damage to the nose landing gear doors and support structure. Ground investigation determined that the crew was unable to extend the nose and body gear due to a missing bolt and nut in the mechanical linkage between the nose and body gear selector valve and the selector valve input quadrant. This also prevented alternate extension due to hydraulic pressure being applied continuously to the gear up ports of the affected gear retract actuators. Further investigation revealed that the attachment nut of the input crank mechanism to the wing gear selector valve was also missing; however, the bolt was in place. It was discovered that two types of bolt/nut installations are in use in the selector valve assembly: one uses a drilled bolt and a castellated nut secured with a cotter pin, the other uses an undrilled bolt and a self-locking nut. The manufacturer reported finding a selector valve installation which had a castellated nut installed without a cotter pin on a new, yet to be delivered airplane. This condition, if not corrected, could result in additional partial gear-up or all gear-up landings.

The FAA has reviewed and approved Boeing Telegraphic Service Bulletin 747-32-2361, dated September 7, 1990, which describes the procedures for a one-time inspection of the nose/body and wing landing gear selector valve installations, and correction of any improper configurations, if necessary.

Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires a one-time inspection of the landing gear selector valve installations, and correction of any improper configurations, if necessary, in accordance with the service bulletin previously described. Additionally, operators are required to submit a report of their inspection findings to the FAA.

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

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 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 747 series airplanes, line position 002 through 803, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent partial gear-up or all gear-up landings, accomplish the following:

A. Within 30 days after the effective date of this Airworthiness Directive (AD), inspect the nose and body gear selector valve installation and the wing gear selector valve installation in accordance with the Accomplishment Instructions of Boeing Service Bulletin 747-32-2361, dated September 7, 1990. Correct any discrepancies found in the installation prior to further flight.

B. Within 10 days after completion of the inspection required by this AD, submit a report of findings of any improper configuration to the FAA, Seattle Manufacturing Inspection District Office, ANM-108S, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The report must include the line number of the airplane inspected, the number of cycles, and the inspection findings.

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

Note: The request should be forwarded through an FAA Principal Inspector (PI), who will either concur or comment, and then send it to the Manager, Seattle Aircraft Certification Office.

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

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

This amendment becomes effective October 5, 1990.

Issued in Renton, Washington, on September 7, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-21679 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 89-NM-273-AD; Amdt. 39-6726]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, which currently requires inspection and replacement, if necessary, of the wing outboard leading edge slat control rods. This amendment revises the AD applicability to require inspection of additional airplanes. Also, this amendment requires the replacement of the outboard leading edge slat control rod end bearings and attach bolt on certain wing outboard leading edge slat control rods. This amendment is prompted by the report of additional airplanes that could be operating with outboard wing leading edge slat control rods that are subject to cracking. There are also reports of the failure of the outboard leading edge slat control rod attach bolts caused by high friction in the bushings and control rod end bearings. This condition, if not corrected, could result in loss of ability to control the position of the affected slat, which could adversely affect the controllability of the airplane.

EFFECTIVE DATE: October 23, 1990.

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

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2772. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 89-16-01, Amendment 39-6782 (54 FR 31509, July 31, 1989), applicable to certain Boeing Model 767 series airplanes, to require the inspection and replacement, if necessary, of the wing outboard leading edge slat control rods, and to require replacement of the wing outboard leading edge slat control rod ends and attach bolt, was published in the **Federal Register** on January 26, 1990 (55 FR 2671).

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

One commenter requested that the compliance period for replacement be increased from 18 months to 24 months (or 2,500 landings) after the effective date of the proposed rule, whichever occurs first. This would permit modification during a scheduled main base visit. Because no further justification was given for the proposed extension, the FAA does not concur with this comment. The compliance time of 18 months for replacement was developed based on the data available to the FAA, and represents what was determined to be the maximum interval of time allowable wherein the replacement could reasonably be accomplished and an acceptable level of safety could be maintained.

Several commenters expressed concern about the availability of rod end assemblies and bolts. The FAA is currently unaware of any parts availability problems. Further, the manufacturer has advised the FAA that ample parts are available. Therefore, the final rule is not changed.

One commenter stated that the frozen rod end bearings probably caused the problem with the rods; therefore, the repetitive inspection times of the pre-June 1983 control rods should be increased. The FAA does not agree with this comment. The FAA has determined that the cracking of the rods has been attributed to manufacturing-induced stresses and not from failed rod end bearings.

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

Since issuance of the NPRM, the FAA has reviewed and approved Boeing Boeing Service Bulletin 767-57-0021, Revision 2, dated July 26, 1990. This revision to the service bulletin merely provides instructions for removing and installing the rod ends. It has no other impact upon compliance with this rule. Therefore, the final rule has been revised to reference Revision 2 to the service bulletin as an additional acceptable service information source.

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

There are approximately 271 Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 193 airplanes of U.S. registry will be affected by this AD, that it will take approximately 21 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Required parts costs are estimated to be $5,500 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,223,620.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39–6282 (54 FR 31509; July 31, 1989), AD 89–16–01, with the following new airworthiness directive:

Boeing: Applies to Model 767 series airplanes, listed in Boeing Service Bulletin 767–57–0021, Revision 1, dated September 14, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracks in the outboard wing leading edge slat control rods, accomplish the following:

A. For airplanes identified as Group 1: Within the next 1,200 landings or 9 months after the effective date of this AD, whichever occurs first, unless accomplished within the last 800 landings or 6 months, whichever occurs later, visually inspect the wing outboard leading edge slat control rods in accordance with the Accomplishment Instructions of Boeing Service Bulletin 767–57–0021, dated August 25, 1988, Revision 1, dated September 14, 1989, or Revision 2, dated July 26, 1990.

1. If the date of manufacture (stamped on the control rod) is June 1983 or later, no further inspection is required.

2. If the date of manufacture is illegible or is prior to June 1983, ultrasonically inspect the control rods for cracks in accordance with Figure 1. of Boeing Service Bulletin 767–57–0021, dated August 25, 1988, or later revisions through Revision 2, dated July 26, 1990. If cracks or fractures are detected, replace prior to further flight, in accordance with Figure 2. of the service bulletin. Repeat the ultrasonic inspection of the control rods manufactured prior to June 1983 at intervals not to exceed 2,000 landings or 15 months, whichever occurs first.

B. Installation of control rods manufactured June 1983, or later, constitutes terminating action for the inspection requirements of paragraph A.2. of this AD.

C. For airplanes identified as Group 1 and Group 2: Within the next 2,500 landings or 18 months, whichever occurs first, replace the outboard leading edge slat control rod ends and attach bolt in accordance with Figure 3 of Boeing Service Bulletin 767–57–0021, Revision 1, dated September 14, 1989, or Revision 2, dated July 26, 1990.

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

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

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

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

This amendment supersedes Amendment 39–6282, AD 89–16–01.

This amendment becomes effective October 23, 1990.

Issued in Renton, Washington, on September 5, 1990.

Leroy A. Keith,
Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–21686 Filed 9–13–90; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 90–NM–79–AD; Amdt. 39–6725]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires the inspection of the nacelle strut diagonal brace for cracking, and replacement, if necessary. This amendment is prompted by a recent report of fracture of a nacelle strut diagonal brace. This condition, if not corrected, could lead to engine separation.

EFFECTIVE DATE: October 23, 1990.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing 747 series airplanes, which requires the inspection of the nacelle strut diagonal brace for cracking, and replacement, if necessary, was published in the **Federal Register** on May 24, 1990 (55 FR 21388).

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

The Air Transport Association (ATA) of America, on behalf of its member operators, expressed no objection to adoption of the proposed rule.

A foreign operator of Boeing 747 airplanes suggested that the rule should be revised to allow credit for "touch-and-go" training flights. This suggestion is similar to the requirements of the Supplemental Structural Inspection Document (SSID) required by AD 84–21–02, Amendment 39–4936 (49 FR 44890, November 13, 1984). The FAA concurs and the final rule has been revised by adding a new paragraph D. to specify that two "touch-and-go" training flights may be considered equivalent to one flight cycle. The FAA has determined that this is appropriate since the landing load spectrum does not include thrust reverse.

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

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

There are approximately 783 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 174 airplanes of U.S. registry will be affected by this AD, that it will take approximately 36 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $250,560.

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 rules does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 13, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Boeing: Applies to Model 747 series airplanes, line numbers 1 through 783, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent engine separation, accomplish the following:

A. Prior to the accumulation of 10,000 total flight cycles or within the next 1,000 flight cycles after the effective date of this AD, whichever occurs later, perform either a detailed visual inspection or an ultrasonic inspection of the nacelle strut diagonal braces for cracks in accordance with Boeing Service Bulletin 747–54–2123, dated March 1, 1990. Repeat these inspections as follows:

1. If the immediately preceding inspection was accomplished visually, the next inspection must be conducted within 1,000 flight cycles.

2. If the immediately preceding inspection was accomplished ultrasonically, the next inspection must be conducted within 3,000 flight cycles.

B. If cracking is found, replace the nacelle strut diagonal brace with a serviceable brace prior to further flight.

C. Replacement of the nacelle strut diagonal brace with a new production diagonal brace, which has revised internal and external surface finish, in accordance with the method described in Boeing Service Bulletin 747–54–2123, dated March 1, 1990, constitutes terminating action for the inspections required by paragraph A. of this AD.

D. For the purposes of compliance with this rule, two "touch-and-go" training flights may be considered equivalent to one flight cycle.

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

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

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

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

This amendment becomes effective October 23, 1990.

Issued in Renton, Washington, on September 5, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–21688 Filed 9–13–90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 89-NM-47-AD; Amdt. 39-6732]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Boeing Model 757 series airplanes, which requires detailed visual inspection and replacement, if necessary, of the fixed trailing edge upper panel support beam clips. Eventual replacement of all clips with newly designed clips is also required. This amendment is prompted by reports of fractured support beam clips. This condition, if not corrected, could lead to the loss of an upper wing fixed trailing edge panel from the airplane with possible damage to the hydraulic lines and other structure.

EFFECTIVE DATE: October 23, 1990.

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

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Rodriguez, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227–2779. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601, Lind Avenue SW., Renton, Washington 98055–4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to Boeing Model 757 series airplanes, which requires a detailed visual inspection and replacement, if necessary, of the fixed trailing edge upper panel support beam clips and eventual replacement of all clips with newly designed clips, was published in the **Federal Register** on May 9, 1989 (54 FR 19905).

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

The Air Transport Association (ATA) of America submitted comments on behalf of its members:

One ATA member requested that the phrase "unless previously accomplished within the last 600 landings" be included as a condition of paragraph A. of the proposed rule. The FAA has determined that the phrase "unless previously accomplished" in the applicability statement clearly states the intent of the FAA's position. Nonetheless, this statement has been added so that the final rule is clearly understood.

Another ATA member reported that the clips described in Boeing Service Bulletin 757–57–0027 have a design deficiency affecting the fit. This member requested that the adoption of paragraph B. should, therefore, be contingent upon the completion of the development and availability of an effective design change. The FAA concurs. Since issuance of the NPRM, the FAA has reviewed and approved Boeing Bulletin 757–57–0027, Revision 1, dated March 15, 1990. This revision describes a new kit with redesigned clips and instructions to modify the clips in the original kit to eliminate the design deficiency affecting the fit. Paragraphs B. and C. of the final rule have been revised to cite this revision of the service bulletin as the appropriate service information source.

A third ATA member requested that a statement be added to paragraph B. which indicates that accomplishment of paragraph B. (replacement with newly designed clips) terminates the inspection requirements of paragraph A. The FAA concurs and paragraph B. of the final rule has been revised to reflect this change. A statement has also been added to paragraph C. to indicate that replacement of all affected clips with newly designed, or modified clips and spacers, constitutes terminating action for the inspections required by this AD.

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

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

There are approximately 141 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 122 airplanes of U.S. registry will be affected by this AD, that it will take approximately 9 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The cost of required parts is estimated to be $547 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $110,654.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Model 757 series airplanes listed in Boeing Service Bulletin 757-57-0027, dated April 28, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the fixed trailing edge upper panel support beam clips and consequent damage to airplane structure and hydraulic lines, accomplish the following:

A. Prior to the accumulation of 600 total landings, or within the next 30 days after the effective date of this AD, whichever occurs later, unless previously accomplished within the last 600 landings, and thereafter at intervals not to exceed 600 landings, perform a detailed visual inspection for cracks in the fixed trailing edge upper panel support beam clips, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990.

B. Replace cracked clips with the newly designed clips in kit number 012N8660-1 or clips in kit number 012N8546-1 after modifying, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990. Upon completion, this action terminates the inspections required by paragraph A. of this AD, for those clips replaced.

C. Within 3,000 landings after the effective date of this AD, replace all affected clips with newly designed or modified clips and spacers, in accordance with Boeing Service Bulletin 757-57-0027, Revision 1, dated March 15, 1990. Accomplishment of this replacement constitutes terminating action for the inspection requirements of this AD.

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

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

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

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

This amendment becomes effective October 23, 1990.

Issued in Renton, Washington, on September 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-21683 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-102-AD; Amdt. 39-6729]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Model BAC 1-11 200 and 400 series airplanes, which requires the installation of two pairs of temperature sensors in the auxiliary power unit (APU) air intake plenum. This amendment is prompted by a report of an internal in-flight fire in the APU which remained undetected until after the airplane had landed. This condition, if not corrected, could result in an undetected in-flight fire in the APU.

EFFECTIVE DATE: October 23, 1990.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all British Aerospace Model BAC 1-11 200 and 400 series airplanes, which requires the installation of two pairs of temperature sensors in the auxiliary power unit (APU) air intake plenum, was published in the **Federal Register** on June 15, 1990 (55 FR 24253).

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

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

It is estimated that 70 airplanes of U.S. registry will be affected by this AD, that it will take approximately 24 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. The estimated cost for required parts is $3,350. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $301,700.

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

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

List of Subjects in 14 CFR part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

British Aerospace: Applies to Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance is required within 30 days after the effective date of this AD, unless previously accomplished.

To provide auxiliary power unit (APU) air intake plenum overheat detection, accomplish the following:

A. Install temperature sensors in the APU air intake plenum, in accordance with British Aerospace Alert Service Bulletin 49-A-PM5955, Issue 1, dated April 13, 1988.

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

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

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

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

This amendment becomes effective October 23, 1990.

Issued in Renton, Washington, on September 5, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-21687 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-CE-22-AD; Amendment 39-6724]

Airworthiness Directives; FUJI Heavy Industries, Ltd., Model FA-200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to FUJI Heavy Industries, Ltd., Model FA-200 airplanes which require inspections and modifications, as applicable, of the control column tube and the rudder pedal system. Fracture of the control column during aerobatic flight, and possible jamming of the rudder pedals due to over travel have been reported. The proposed actions will preclude loss of control of the airplane.

EFFECTIVE DATE: October 22, 1990.

ADDRESSES: Service Bulletin (S/B) No. 200-002, Revision C, dated June 5, 1989, S/B No. 200-008, Revision B, dated May 30, 1989, Technical Bulletin (T/B) No. 200-020, dated May 30, 1989, and T/B No. 200.022, dated June 5, 1989, applicable to this AD, may be obtained from FUJI Heavy Industries, Ltd., Subaru Building, Shinjuku, Tokyo, Japan. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Donald Dirian, FAA, Small Transport Section, Los Angeles Aircraft Certification Office, 3229 E. Spring Street, Long Beach, California 90806-2425; Telephone (213) 988-5234.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring initial and repetitive inspections of the gust lock pin holes and adjacent area for cracks or burrs, and for proper rudder pedal travel stop clearance, correct brake master cylinder rod length, and sufficient brake link over-centering force on certain FUJI Model FA-200 airplanes was published in the **Federal Register** on June 8, 1990 (55 FR 23446).

The proposal resulted from reports that a section of the control column assembly on a FUJI Model FA-200 airplane fractured during an aerobatic flight. The fracture resulted from a fatigue crack, which emanated at the gust lock pin holes. There is also the possibility that the rudder control system on these model airplanes may jam due to improper adjustment of the rudder pedal stop, or incorrect brake master cylinder rod length and corresponding brake link over-centering force.

Consequently, FUJI Heavy Industries, Ltd., issued S/B No. 200–008, Revision B, dated May 30, 1989, which requires initial and repetitive inspections of the gust lock pin holes and adjacent area for cracks or burrs, and S/B No. 200–002, Revision C, dated June 5, 1989, which requires initial and repetitive inspections for proper rudder pedal travel stop clearance, correct brake master cylinder rod length, and sufficient brake link over-centering force.

The Japanese Civil Aviation Bureau (JCAB), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Japan, classified these service bulletins and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under Japanese registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the JCAB, combined with FAA review of pertinent documentation, in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of FUJI Heavy Industries, Ltd., S/B No. 200–008, Revision B, dated May 30, 1989, and S/B No. 200–002, Revision C, dated June 5, 1989, and the mandatory classification of these service bulletins by the JCAB, and concluded that the condition addressed by S/B No. 200–008, Revision B, and S/B No. 200–002, Revision C was an unsafe condition that may exist on other airplanes of this type certificated for operation in the United States.

Accordingly, the FAA proposed an amendment to part 39 of the Federal Aviation Regulations to include an AD on this subject. Interested persons were afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the amendment is adopted as proposed.

The FAA has determined that this regulation requires an approximate inspection cost of $80 per airplane, but there are no U.S. registered airplanes of this type at this time. Therefore, since the cost of compliance is zero at this time, there is no significant financial impact on any small entities.

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.

Therefore, 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 copy of the final evaluation prepared for this action is contained in the regulatory 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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

FUJI Heavy Industries Ltd: Applies to Model FA–200 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD after the effective date of this AD, unless already accomplished.

To preclude the loss of control of the airplane, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) and every 100 hours TIS thereafter:

(1) Inspect the gust lock pin holes in accordance with FUJI Service Bulletin (S/B) No. 200–008, Revision B, dated May 30, 1989, for burrs and cracks in and around the gust lock pin holes using a 10x magnifying glass. Before further flight:

(i) Remove burrs in accordance with the instructions of S/B No. 200–008, Revision B; and

(ii) If cracks are found, replace the control column with a serviceable airworthy unit.

(2) Inspect the rudder control system in accordance with S/B No. 200–002, Revision C, dated June 5, 1989. Before further flight:

(i) Adjust and/or modify rudder stop clearance if required in accordance with the instructions in S/B No. 200–002, Revision C.

(ii) Adjust the brake master cylinder rod length in accordance with the instructions in S/B No. 200–002, Revision C.

(iii) If the brake link over centers when a force of less than 44 lbs. (20 kg) is applied, replace the defective parts in accordance with the instructions in S/B No. 200–002, Revision C, and retest.

(b) Upon incorporating an improved control column in accordance with FUJI Technical Bulletin (T/B) No. 200–020, dated May 30, 1989, the repetitive inspections of the control column specified in paragraph (a)(1) of this AD may be discontinued.

(c) Upon incorporation of T/B No. 200–022, dated June 5, 1989:

(1) The inspection interval for verifying the cylinder rod length specified in paragraph (a)(2)(ii) of this AD may be increased to 1,000 hours TIS; and,

(2) The repetitive brake link over-centering test specified in paragraph (a)(2)(iii) of this AD may be discontinued.

(d) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(e) An alternate method of compliance or adjustment of the initial or repetitive compliance times, which provides an equivalent level of safety, may be approved by the Manager, Los Angeles Aircraft Certification Office, 3229 E. Spring St., Long Beach, California 90806–2425; Telephone (213) 988–5200.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to FUJI Heavy Industries, Ltd., Subaru Building, Shinjuku, Tokyo, Japan; or may examine these documents at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 22, 1990.

Issued in Kansas City, Missouri, on September 4, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–21680 Filed 9–13–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90-NM-25-AD; Amdt. 39-6730]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Boeing Model 727 series airplanes, which currently requires an internal or external inspection for cracks and repair, if necessary, of the forward cargo compartment sidewall frames. This amendment will eliminate the current option of an external inspection. This amendment is prompted by a reassessment of the external inspection procedure. This condition, if not corrected, could result in failure of the forward fuselage frames and depressurization of the airplane.

EFFECTIVE DATE: October 23, 1990.

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

FOR FURTHER INFORMATION CONTACT: Ms. Kathi N. Ishimaru, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2778. Mailing address: FAA, Transport Airplane Directorate, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington, 98055-4056.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 83-02-08, Amendment 39-4548, (48 FR 6955, February 17, 1983), applicable to Boeing Model 727 series airplanes, to require internal inspection for cracks, and repair, if necessary, was published in the Federal Register on March 22, 1990 (55 FR 10628).

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 requested that the post-modification inspections proposed by paragraph B. of the NPRM be deleted because there have not been any cases of post-modification cracking. The FAA concurs with this request. Since issuance of the Notice, the FAA has reevaluated this aspect and has determined that structural inspections currently being performed as a part of regular maintenance will adequately detect post-modification cracks in a timely manner. The final rule has been revised to eliminate these post-modification inspections.

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

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

There are approximately 479 Model 727 series airplanes of the affected design in the worldwide fleet. It is estimated that 387 airplanes of U.S. registry will be affected by this AD, that it will take approximately 76 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,176,480.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-4548 (48 FR 6955, February 17, 1983), AD 83-02-08, with the following new airworthiness directive:

Boeing: Applies to Model 727 series airplanes, listed in Boeing Service Bulletin 727-53-0068, Revision 4, dated September 14, 1989, certificated in any category. Compliance required as indicated, unless previously accomplished.

To detect cracks in the foward cargo compartment sidewall frames, accomplish the following:

A. Except as provided in paragraph B., below, within the next 2,000 flight cycles after the effective date of this AD, or prior to accumulating 15,600 total flight cycles, whichever occurs later, conduct a visual inspection of the forward cargo compartment sidewall frames for cracks, in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727-53-0068, Revision 4, dated September 14, 1989. Repeat the inspections at intervals not to exceed 9,000 flight cycles.

B. Repair cracked structure prior to further flight, in accordance with the Accomplishment Instructions of the Boeing Service Bulletin 727-53-0068, Revision 4, dated September 14, 1989, or earlier FAA-approved revisions.

C. Modification of the affected structure in accordance with the Accomplishment Instructions of Boeing Service Bulletin 727-53-0068, Revision 4, dated September 14, 1989, or earlier FAA-approved revisions, terminates the inspection requirements of paragraph A. of this AD.

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

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

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

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

This amendment becomes effective October 23, 1990.

Issued in Renton, Washington, on September 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-21684 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-ANE-16; Amdt. 39-6679]

Airworthiness Directives; CFM International (CFMI) CFM56-3B-2 and CFM56-3C-1 Model Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to CFMI CFM56-3B-2 and CFM56-3C-1 series engines, which requires installation of fan blade dampers and associated hardware into the fan module assembly. The amendment is prompted by four fan blade failure events caused by high cycle fatigue (HCF). The amendment is needed to prevent fan blade failure, inflight shutdown, an emergency diversion and single engine landing.

DATES: Effective October 14, 1990.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the **Federal Register** as of October 14, 1990.

ADDRESSES: The applicable service information may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215. This information may be examined at the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Marc Bouthiller, Engine Certification Branch, ANE-142, Engine Certification Office, Engine and Propeller Directorate, Aircraft Certification Service, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7085.

SUPPLEMENTARY INFORMATION: There have been four revenue service events where a fan blade has failed because of HCF. The high stress condition leading to fan blade failure is due to a high speed non-synchronous vibration mode (flutter) encountered during high altitude operation. It has also been determined that minor fan blade leading edge foreign object damage (FOD) in conjunction with the noted vibration stress mode, can further increase the possibility of blade failure.

The result of a fan blade failure is an engine inflight shutdown, potentially severe damage to the engine, and an emergency diversion and single engine landing. Due to the nature of the failure mode, the potential also exists for blade failures as a result of minor FOD, which is difficult to predict or effectively inspect for, and could occur on both engines of these two engine aircraft. The large affected fleet size and high cyclic usage compound the problem of blade FOD exposure.

The amendment requires installation of fan blade friction dampers and associated hardware into the fan module assembly. The noted dampers significantly reduce vibration stress levels in the fan blade, provide additional fan blade FOD tolerance, and therefore minimize the possibility of fan blade failure.

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

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

CFM International: Applies to CFM56-3B-2 and CFM56-3C-1 series turbofan engines equipped with fan blade Part Numbers (P/N's) 9527M99P08, 9527M99P09, 9527M99P10, 9527M99P11, and 1285M39P01. The above noted engine models are installed in, but not limited to, the Boeing 737-300/400/500 series aircraft. Compliance is required as indicated, unless previously accomplished.

To prevent fan blade failure, inflight shutdown, and severe engine damage, accomplish the following:

(a) Modify the fan module assembly by installing fan blade dampers P/N 335-105-305-0, axial stops P/N 335-105-201-0, and bolts P/N J815P056A, in accordance with the acomplishment instructions contained in CFM56 Service Bulletin 72-494, Revision 2, dated June 18, 1990, within 60 days from the effective date of this AD.

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

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

The installation of fan blade friction dampers and associated hardware into the fan module assembly shall be done in accordance with the following CFMI document:

Document: CFMI SB 72-494

Page: All
Revision: 2
Date: June 18, 1990

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, Ohio 45215. Copies may be inspected at the Regional Rules Docket, Office of the Assistant Chief Council, New England Region, 12 New England Executive Park, room 311, Burlington, Massachusetts 01803, or at the office of the Federal Register, 1100 L Street, NW., room 8301, Washington, DC 20591.

This amendment becomes effective October 14, 1990.

Issued in Burlington, Massachusetts, on August 14, 1990.

Jack A. Sain,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

CFM International CFM56 Service Bulletin No. 72-4944

Engine—Fan and Booster Assembly—Introduction of Fan Blades Dampers

June 18, 1990.

Effective Pages:

Page Number: All
Issue/Revision: 2
Date: June 18, 1990

[FR Doc. 90-21699 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-CE-16-AD; Amdt. 39-6723]

Airworthiness Directives; Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Models M18 and M18A (Dromader) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Models M18 and M18A airplanes. This action requires a visual inspection of all aileron hinges for cracks and deformation, immediate replacement of cracked aileron hinges, and repetitive inspections until all aileron hinges are replaced. The FAA has become aware of a failure due to cracks in the aileron control system. The actions specified in this AD will correct this condition and preclude loss of roll control.

EFFECTIVE DATE: October 17, 1990.

ADDRESSES: PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.132/89, approved September 7, 1989, revised April 4, 1990, may be obtained from Wytwornia Sprzetu Komunikacyjnego, PZL-Mielec, 39-301 Mielec, Poland. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Richard F. Yotter, Aerospace Engineer, Aircraft Certification Service, 601 E. 12th St., Kansas City, Missouri 64106; Telephone (816) 426-6932; Facsimile (816) 426-2169; or Mr. Carl Mittag, Aerospace Engineer, Brussels Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30; Facsimile (322) 230.05.34.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring visual inspection of all aileron hinges for cracks and deformation on certain Wytwornia Sprzetu Komunikacyjnego PZL-Mielec Model M18 and M18A airplanes was published in the Federal Register on June 4, 1990 (55 FR 22805). The proposal resulted from reports of failure due to cracks in the aileron control system. Consequently, PZL-Mielec issued PZL-Mielec MEB No. K/02.132/89, approved September 7, 1989, which specifies inspection and replacement of the aileron hinges.

The Central Administration of Civil Aviation (CACA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Poland, classified this MEB and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes certificated for operation in the United States. The FAA relies upon the certification of the CACA, combined with FAA review of pertinent documentation, in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design, certificated for operation in the United States.

The FAA examined the available information related to the issuance of PZL-Mielec MEB No. K/02.132/89, and the mandatory classification of this MEB by the CACA, and concluded that the condition addressed by PZL-Mielec MEB No. K/02.132/89 was an unsafe condition that may exist on other airplanes of this type, certificated for operation in the United States. Accordingly, the FAA proposes an amendment to part 39 of the Federal Aviation Regulations to include an AD on this subject.

Interested parties were afforded an opportunity to comment on the proposal. No comments were received on the notice. However, PZL-Mielec revised Service Bulletin No. K/02.132/89 on April 4, 1990, to specify repetitive inspections at 500 hours time-in-service in lieu of 100 hours previously recommended. The FAA was not aware of this revision at the time the proposal for this Ad was issued. The FAA has examined this revision to the repetitive inspection interval, and has determined that the increase is warranted and that additional notice would unnecessarily delay implementation of a safety rule where there is no additional burden on the public. Therefore, the AD is adopted as proposed except for this change in the repetitive inspection interval and other minor editorial changes.

The FAA has determined that this regulation involves 60 airplanes at an approximate annual cost of $360 for each airplane. The total one-time fleet cost is estimated to be $21,600. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes.

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.

Therefore, 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 copy of the final evaluation prepared for this action is contained in the regulatory 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.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Wytwornia Sprzetu Komunikacyjnego PZL-Mielec: Applies to Models M18 and M18A (Dromader) (Serial Numbers 1Z00-101 through 1Z021-07) airplanes, certificated in any category.

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD and thereafter at intervals of 500 hours TIS until the aileron hinge is replaced with improved parts, unless already accomplished.

To prevent failure of the aileron control system, accomplish the following:

(a) Visually inspect with a 5x magnifying glass, or with fluorescent penetrant or magnetic crack detection methods, as appropriate, all aileron control system hinges for cracks and deformation in accordance with the instructions in PZL-Mielec, Mandatory Engineering Bulletin (MEB) No.K/02.132/89, approved September 7, 1989; Revised April 4, 1990.

(1) If cracks or damage are found on any aileron hinge, prior to further flight remove the aileron and replace the aileron hinge with an aileron hinge having Engineering Change Notice (ECN) 9183 or ECN 9187, incorporated in accordance with the MEB referenced in paragraph (a) of this AD.

(2) If no cracks or damage are found to any aileron hinge, repeat the above inspection every 500 hours TIS until all aileron hinges are replaced with an aileron having ECN 9183 or ECN 9187, incorporated in accordance with the MEB referenced in paragraph (a) of this AD.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the initial or repetitive compliance times, which provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone (322) 513.38.30 extension 2710/2711; Facsimile (322) 230.05.34.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Wytwornia Sprzetu Komunikacyjnego PZL-Mielec 39-301 Mielec, Poland; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 17, 1990.

Issued in Kansas City, Missouri, on August 31, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-21677 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-CE-17-AD; Amdt. 39-6722]

Airworthiness Directives; Wytwornia Sprzetu Komunekacyjnego PZL-Mielec Models M18 and M18A (Dromader) Airplanes

AGENCY: Federal Aviation Administration (FFA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Wytwornia Sprzetu Komunekacyjnego PZL-Mielec Models M18 and M18A airplanes. This action requires replacement of the push-pull cables for the engine throttle and propeller governor with SKEWO cables. The manufacturer has advised that several cases of push-pull cable failures have occurred in service. The actions specified in this AD will preclude loss of pilot control of critical engine functions.

EFFECTIVE DATE: October 17, 1990.

ADDRESSES: PZL-Mielec Mandatory Engineering Bulletin (MEB) No. K/02.127/89, dated February 1990, applicable to this AD, may be obtained from Wytwornia Sprzetu Komunekacyjnego PZL-Mielec 39-301 Mielec, Poland. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Richard F. Yotter, Aerospace Engineer, Aircraft Certification Service, 601 E. 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-6932, or Mr. Carl Mittag, Aerospace Engineer, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000, Brussels, Belgium; Telephone 322 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD requiring the replacement of push-pull cables for the engine throttle and propeller governor with SKEWO cables on certain Wytwornia Sprzetu Komunekacyjnego PZL-Mielec Models M18 and M18A (Dromader) airplanes was published in the Federal Register on June 4, 1990 (55 FR 22806). The proposal resulted from several cases of powerplant control failures being reported to the manufacturer on PZL-Mielec Models M18 and M18A airplanes. Consequently, PZL-Mielec issued PZL-Mielec MEB K/02.127/89, dated February 1990, which specifies replacement of certain engine push-pull controls with improved parts.

The Central Administration of Civil Aviation (CACA), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Poland, classified this MEB and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes.

On airplanes operated under Polish registration, this action has the same effect as an AD on airplanes, certificated for operation in the United States. The FAA relies upon the certification of the CACA, combined with FAA review of pertinent documentation, in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design, certificated for operation in the United States.

The FAA examined the available information related to the issuance of PZL-Mielec MEB K/02.127/89, dated February 1990, and the mandatory classification of this MEB by the CACA, and concluded that the condition addressed by PZL-Mielec MEB No. K/02.127/89, dated February 1990, was an unsafe condition that may exist on other airplanes of this type, certificated for operation in the United States. Accordingly, the FAA proposed an amendment to part 39 of the Federal Aviation Regulations to include an AD on this subject.

Interested parties were afforded an opportunity to comment on the proposal. No comments were received on the proposal, therefore, the proposal is adopted as proposed except for minor editorial corrections.

The FAA has determined that this regulation involves 60 airplanes at an approximate $700 cost to replace the engine throttle and propeller governor push-pull cable for each airplane. The total cost is estimated to be $42,000. The cost of compliance with the proposed AD is so small that the expense of compliance will not have a significant financial impact on any small entities operating these airplanes. Also, the FAA has determined that most airplanes operated in this country comply with PZL-Mielec MEB No. K/02.127/89.

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.

Therefore, 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 copy of the final evaluation prepared for this action is contained in the regulatory 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.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

Wytwornia Sprzetu Komunekacyjnego PZL-Mielec: Applies to Models M18 and M18A (Dromader) (Serial Numbers 1Z001-01 through 1Z021-20) airplanes, certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent failure of the engine push-pull cables and loss of engine control, accomplish the following:

(a) Remove the engine throttle control and the propeller governor push-pull control and replace those cables in accordance with the instructions and part numbers referenced in PZL-Mielec Mandatory Engineering Bulletin No. K/02.127/89, dated February 1990.

(b) The airplane may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate method of compliance or adjustment of the compliance time, which provides an equivalent level of safety, may be approved by the Manager, Brussels Aircraft Certification Office, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone 322-513.38.30 extension 2710/2711.

Note: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Office.

All persons affected by this directive may obtain copies of the document referred to herein upon request to Wytwornia Sprzetu Komunekacyjnego PZL-Mielec 39-301 Mielec, Poland; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 17, 1990.

Issued in Kansas City, Missouri, on August 31, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-21678 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 82C-0399]

Listing of Color Additives for Coloring Contact Lenses; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of July 6, 1990, for the final rule that amended the color additive regulations to provide for the safe use of D&C Red No. 17 to color contact lenses.

DATES: Effective date confirmed: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 5, 1990 (55 FR 22895), FDA amended 21 CFR part 74 of the color additive regulations by adding a new regulation 21 CFR 74.3230 to provide for the use of D&C Red No. 17 for coloring contact lenses.

FDA gave interested persons until July 5, 1990, to file objections or requests for a hearing on the amendment. The agency received no objections or requests for a hearing. Therefore, FDA concludes that the final rule published in the **Federal Register** of June 5, 1990, should be confirmed.

List of Subjects in 21 CFR Part 74

Color additives, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sections 201, 401, 402, 403, 409, 501, 502, 505, 601, 602, 701, 706 (21 U.S.C. 321, 341, 342, 343, 348, 351, 352, 355, 361, 362, 371, 376)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the June 5, 1990, final rule. Accordingly, the amendment promulgated thereby became effective July 6, 1990.

Dated: September 7, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-21692 Filed 9-13-90; 8:45 am]

BILLING CODE 4160-01-M

THE OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

25 CFR Part 700

New Lands Grazing Regulations

AGENCY: Office of Navajo and Hopi Indian Relocation.

ACTION: Interim final rule with comment period.

SUMMARY: These rules amend grazing regulations for the lands which have been acquired puruant to Public Law 96-305 for the use of Navajo families required to relocate under Public Law 93-531. The rule reflects changes in statutory authority and policy which resulted from the passage of Public Law 100-666.

DATES: Interim final rule effective September 14, 1990. Comments on this rule must be submitted on or before October 29, 1990.

ADDRESSES: Comments may be mailed to the Executive Director, Office of Navajo and Hopi Indian Relocation, P.O. Box KK, Flagstaff, Arizona 86002.

FOR FURTHER INFORMATION CONTACT: Norman Lowe (Range Supervisor) or Paul Tessler (Attorney), Office of Navajo and Hopi Indian Relocation, at (602) 779-2721.

SUPPLEMENTARY INFORMATION: On June 24, 1986, the Navajo and Hopi Indian Relocation Commission published grazing regulations for lands which were acquired for the use of Navajo families who are required to relocate pursuant to Public Law 93-331 (25 U.S.C. 640d).

The supplementary information published with the regulation stated in part "25 U.S.C. 640d-10(h) of Public Law 96-305 provides that the lands that have been acquired for resettlement purposes shall be administered by the Commission until relocation is complete. The 1986 Interior Appropriations Bill (Pub. L. 99-190) provided construction funds to the Bureau of Indian Affairs for the purpose of building replacement homes on the resettlement lands. The Commission and the BIA have been working closely together to plan for the actual resettlement of those families who are physically residing on the Hopi Partitioned Lands to the New Lands. The grazing regulations which are the subject of this rule have been developed jointly by the BIA and the Commission pursuant to the Secretary's authority to protect Indian lands against waste and the Commission's authority to administer the New Lands. Under 25 U.S.C. 640d-11(i), the Commission is authorized to call upon any department to assist in the completion of the relocation program. Since the BIA has an established grazing program and available personnel to administer grazing the Commission has called upon the BIA to assist in this effort." (Federal Register, Vol. 51, No. 121 at p. 22933).

Since the publication of the regulation, there have been significant changes to Public Law 93-531 as amended. On November 16, 1988, Public Law 100-6665, the "Navajo and Hopi Indian Relocation Amendments of 1988"was signed into law. Among other things, Public Law 100-666 created the Office of Navajo and Hopi Indian Relocation under the direction of the Commissioner on Navajo and Hopi Relocation. The law also transferred to the Commissioner, on January 31, 1989, all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that related to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and all funds appropriated for activities relating to such relocation pursuant to Public Law 99-190, provided that such funds are to be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs. Public Law 100-666 also expanded the population for whose benefit the New Lands can be used by providing that the lands shall be used "solely for the benefit of Navajo families residing on the Hopi partitioned lands as of the date of enactment of this Act" (enacted December 22, 1974).

Finally, Public Law 100-666 bolstered the Commissioner's authority to administer the New Lands by providing "That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this Act shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this Act". With the Bureau of Indian Affairs having a mininal role in relocation activities, the Commissioner has sole administrative authority over the New Lands.

Since the publication and implementation of the current grazing regulations, 100 families have been relocated to New Lands Range Clusters. Of these, 30 have received grazing permits for a total of 1,865 sheep units yearlong (SUYL) or 466 animal units (AU).

The Commissioner has reviewed and analyzed the grazing activities which have been going on pursuant to the current regulations. Range conditions, and permit levels, and grazing conditions have been monitored to determine if the current regulations needed revision. This review has led to the following determinations:

1. The priority system for allocation of grazing privileges, under current regulation, is not workable and is best replaced with a list of qualified applicants.

2. Basing grazing permit size on the 1975 Project Officers' Livestock Inventory as done under current regulations allows such small permits as to result in continued economic and management problems on the New Lands. These small and irregular sized permits challenge effective involvement of permittees in management, and make it difficult for the Office to detemine when a units' livestock carrying capacity is filled. Basing permit size on a ratio of qualified applicants to the animal units of grazing capacity on the New Lands allows a base permit of 80 sheep units yearlong. Grazing permits will be issued to permittees on a range unit until the stocking capacity of that unit is filled, at which time the unit will be closed to any additional permittees.

3. Effective Range Management Plan grazing systems must allow for increases in the stocking rate, to achieve uniform grazing distribution, and as an incentive to permittees in practicing conservation management. Issuance of 80 sheep unit yearlong base grazing permits, determined conservatively at 65% of range livestock carrying capacity, will allow the Commission to issue each permittee an additional temporary, seasonal grazing permit to stock the range at full capacity when all permittees sign and follow a rotation grazing system plan providing conservation management. The 80 SUYL term permits may be increased as monitoring validates a higher long term stocking rate for a range unit under conservation management.

4. To demonstrate continued, active involvement in the common management of each range unit, maintenance of a permanent residency and active livestock grazing on the range unit is needed to maintain a New Lands grazing permit.

The Commissioner has also established the following goals for the New Lands range program; 1. To resettle those Navajos residing on the Hopi-Partitioned Lands, 2. To preserve the forage, the land and the water resources on the New Lands, 3. To provide grazing permits large enough to substantially contribute to the support of a family, and 4. To provide incentives to ensure conscientious range management.

Redesignation of Sections

To provide a clear presentation of these regulations, in the logical order presented by the grazing regulations of other Federal agencies, the organization of the outline of the regulations is amended as follows:

Section 700.709 "Carrying capacities" is redesignated as § 700.717 and renamed "Stocking rate" to correspond to the definitions section of the regulations.

Section 700.711 "Grazing privileges" is redesignated as § 700.709.

Section 700.715 "Tenure of grazing" is redesignated as § 700.713.

Section 700.717 "Livestock trespass" is redesignated as § 700.725.

Section 700.719 "Control of livestock disease and parasites" is redesignated as § 700.723.

Section 700.721 "Impoundment and disposal of unauthorized livestock" is redesignated as § 700.727.

Section 700.722 "Grazing Associations" is added.

Section 700.723 "Range management plans" is redesignated as § 700.721.
Section 700.725 "Assignment, modification, and cancellation of grazing permits" is redesignated as § 700.715.
Section 700.727 "Establishment of grazing fees" is redesignated as § 700.719.

Revision of Sections

The major change made in these regulations is changing the allocation of grazing permits procedure to establish a base grazing permit of 80 sheep units for all permit holders on the New Lands. This change establishes the total number of permits available on the New Lands as 162. This allows the Office to provide an incentive program, as required in the range management plan section of the regulations, by issuing seasonal permits to permittees above the conservatively set 80 SUYL for conservation management practices which improve the land, while allowing higher stocking rates on the range. This also allows closing range units to further permittee entry when the stocking capacity is reached at 80 sheep units per permittee; thus allowing the Office to better schedule the settlement of future range units by qualified applicants.

Section 700.701 Definitions

In subsection (b) the figure of 250,000 acres is changed to 215,000 acres to indicate the true acreage of the five ranches purchased as part of the new Lands acquisition.

A new subsection (c) adds the definition of *Commissioner* to define the Office and responsibility of the Commissioner.

In subsection (g) the definition of *range management plan* is amended to mean a land use plan, instead of a range plan, to define what a range plan is.

In subsection (h) the definition of *stocking rate* is amended to say stocking rate is determined by the Commissioner, instead of the Secretary, in line with the authority of these regulations.

Section 700.703 Authority

The first sentence stating the authority of the Secretary is removed, as these regulations are under the authority of the Commissioner on Navajo and Hopi Indian Relocation.

Section 700.709 Carrying Capacities

(Redesignated § 700.717 and renamed Stocking rate)

This section is renamed to match the definition in § 700.701. Stocking rate is the proper term to denote authorized grazing levels. "Area Director" is replaced with "Commissioner" to reflect the management authority of these regulations.

Section 700.711 Grazing Privileges

(Redesignated § 700.709)

This section is removed and replaced with a list of eligible permittees which is available at the Office of Navajo and Hopi Indian Relocation in Flagstaff. Individuals are eligible to be included on this list if they have not yet received relocation benefits under Public Law 93-531 and; (1) have a current HPL grazing permit, or (2) have had an HPL grazing permit issued in their name since 1980, or (3) being a current, full-time HPL resident and being able to show documentation of a past grazing permit issued in their name for a grazing area which is now on the HPL.

Section 700.711 is removed and replaced in whole because: Under subsection (a)(i), physical residency on July 8, 1980 could not be verified; under subsection (a)(iii) the sheep units determined by the 1975 Project Officers' Livestock Inventory do not provide an economic permit level for many of the permittees, and there is no clear means for the Office to close range units in the interest of incentive mangement, unless standard size permits are issued; also the three priority system of permit allocation, subsection (a)(iii)(1-3), is removed because it has not worked in practice. People move when the many stages of preparation are complete, and it is not the position of the Commissioner to have people who are ready to move wait until their priority class for a grazing permit comes available. All those on the Commissioner's list are eligible to move when ready.

Section 700.713 Grazing Permits

(Redesignated § 700.711)

This section is further clarified to insure better permit regulation. In line with the authority of these regulations, grazing permits are authorized by the Commissioner. Subsection (b) is added to insure permit holders and recipients of transferred permits, will be resident adults who will be able to cooperate with the other permittees in managing livestock under the required range management plans. Subsection (c) is added to stipulate that base permits will be issued for 80 SUYL. This is to give all permittees a substantial size permit and given them equal responsibility in management. Subsection (d) is added to provide the needed flexibility in livestock permitting to meet the needs of the individual range unit management plans. The base permit of 80 SUYL is based on conservative stocking under continuous yearlong grazing. As these regulations require management for the preservation of forage, soil, and water resources, and require that a range management plan be developed for each range unit, including management incentives, there must be provisions for additional livestock permitting to current permit holders. This new subsection provides for the issuance of temporary permits, for up to one year, to fill the permitted carrying capacity of a range unit according to the requirements of the range management plan. Range monitoring, as required in the range management plan, will ensure proper stocking levels for the continued issuance of the temporary seasonal permits until such time as range use monitoring documents the proper level of increase in term permits based on actual management.

Section 700.715 Tenure of Grazing

(Redesignated § 700.713)

Reference to an October 31st to October 30th annual grazing season is removed, as there is no basis for a set grazing season on the New Lands, and replaced with "Permits will be issued to terminate on October 31, of the fifth year following the date of initial issuance". The sentence on amendments to grazing permits resulting from amendments to the grazing regulations becoming effective on the next October 31 is removed as the October 31 date is only relevant to 5 year permit termination and reissuance. The wording of the amendment will indicate the required timing for implementation.

The sentence "a grazing permit may be passed on through inheritance" is removed and wording is added to explain the procedure for designating an heir. A permit is a privilege given by the Commissioner. Grazing use of the land is not to be tied up in probate proceedings.

Section 700.717 Livestock Trespass

(Redesignated § 700.725)

This section has been reordered to list the prohibited actions before the penalties, and "Area Director" has been replaced with "Commissioner" to reflect the authority of these regulations. Subsection (b) is removed as this prohibited act is already included under subsection (a). Subsection (c) is redesignated subsection (b) and wording changed to clarify that grazing on an area specifically rested from grazing according to the range unit management plan is prohibited.

Section 700.721 Impoundment and Disposal of Unauthorized Livestock

(Redesignated § 700.727)

The practical administrative procedure of allowing written notice and a ten day period for the Commissioner to settle the trespass before written notice of intent to impound is issued is added to this section. This procedure is preferred on communal lands, often requiring the need for group meetings to resolve issues. "Area Director" has been replaced with "Commissioner" to reflect the authority of these regulations.

Section 700.722 Grazing Associations

This section is added to outline the procedure for the voluntary formation of range unit livestock grazing associations. Grazing associations are the widely accepted means for cooperative management of communally managed lands. Inclusion of this section is to show the Commissioner's support for responsible local management, and to specify a clear and orderly procedure for association formation, recognition by the Office, and cooperative management.

Section 700.723 Range Management Plans

(Redesignated § 700.721)

In line with the authority of these regulations the Commissioner will approve all management plans, and develop them in cooperation with individual range unit permittees. A new subsection (e) "Range monitoring schedule" is added to reflect the vital need for monitoring for range plans to accomplish intended long range goals.

Section 700.725 Assignment, Modification, and Cancellation of Grazing Permits

(Redesignated § 700.715)

Section (a) has been changed to indicate assignment, sub-permitting, or transfer is done by written consent and written notification. A new subsection (b) is added to specify that temporary grazing permits are transferred with the term permit. A new subsection (c) is added to provide for passing of a grazing permit by a permittee to a designated heir who meets requirements for holding a permit. A new subsection (d) is added to specify that permits must be transferred in whole to a single transferee, thus ensuring against permits becoming too small for economic return or responsible management.

Section 700.727 Establishment of Grazing Fees

(Redesignated § 700.719)

Most of this section, explaining the procedure for collection and use of fees, is removed as it is not under the authority of these regulations to determine the BIA or Navajo Tribe's management of such funds.

Section 700.729 Amendments

The sentence on amendments becoming effective on the next October 31 is removed as the October 31 date is only relevant to 5 year permit termination and reissuance. The wording of the new amendment will indicate the required timing for implementation.

Preamble

The primary author of this document is Norman S. Lowe, Range Supervisor, Office of Navajo and Hopi Indian Relocation, Flagstaff, Arizona.

It has been determined that this final rule is not a major rule as that term is defined in Executive Order 12291, because it will have a limited economic impact on a small number of people, and does not require a regulatory analysis. It has been determined that the final rule will not have significant economic impact on a substantial number of small entities with the meaning of Regulatory Flexibility Act, 5 U.S.C., 601 *et seq.*

This rule does not constitute a major federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969.

This rule does not contain information collection requirements which require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

These regulations are being published as an Interim Final Rule because of the timeframe involved in the movement of eligible individuals to the New Lands. Although the Commission's originally constructed deadline of July 7, 1986 for the completion of relocation passed, there is considerable urgency to continue to move at least those individuals who are physically residing on the HPL as soon as possible. The majority of those families are dependent in some fashion on grazing and must be assured that a grazing permit will be issued prior to their moving to the New Lands. It is, therefore, necessary for these regulations to become effective immediately so that grazing permits can be issued to those families.

List of Subjects in 25 CFR Part 700

Administrative practice and procedure, Conflict of interest, Freedom of Information, Grant program—Indians, Indian-claims, Privacy, Real property acquisition, Relocation assistance, New lands administration.

PART 700—[AMENDED]

Accordingly, the Commission is amending 25 CFR part 700.

Subpart Q is revised to read as follows:

Subpart Q—New Lands Grazing

§ 700.701 Definitions.

(a) *Act* means Public Law 93–531 (88 Stat. 1712, 25 U.S.C. 640 *et. seq.*) as amended by Public Law 96–305 and Public Law 100–666.

(b) *New lands* means the land acquired for the use of relocatees under the authority of Public Laws 96–305, 25 U.S.C. 640d–10. These lands include the 215,000 acres of lands acquired by the Navajo and Hopi Indian Relocation Commission and added to the Navajo Reservation and 150,000 acres of private lands previously owned by the Navajo Nation in fee and taken in trust by the United States pursuant to 25 U.S.C. 640d–10.

(c) *Commissioner* means the Commissioner of The Office of Navajo and Hopi Indian Relocation in Flagstaff, AZ. Reference to approval or other action by the Commissioner will also include approval or other action by another Federal Officer under delegated authority from the Commissioner.

(d) *Secretary* means the Secretary of the Interior. Reference to approval or other action by the Secretary will also include approval or other action by another Federal officer under delegated authority from the Secretary.

(e) *Tribe* means the Navajo Nation.

(f) *Range unit* means a tract of range land designated as a management unit for administration of grazing.

(g) *Range management plan* means a land use plan for a specific range unit that will provide for a sustained forage production consistent with soil, watershed, wildlife and other values.

(h) *Stocking rate* means the authorized stocking rate by range unit as determined by the Commissioner. The stocking rate shall be based on forage production, range utilization, land management applications being applied, and range improvements in place to achieve uniformity of grazing under sustained yield management principles.

(i) *Grazing permit* means a revocable privilege granted in writing, limited to entering on and utilizing forage by domestic livestock on a specified tract of land. The term as used herein shall include written authorization issued to enable the crossing or trailing of domestic livestock across specified tracts or range.

(j) *Animal unit* (AU) means one audit cow with unweaned calf by her side or equivalent thereof based on comparative forage consumption. Accepted coversion factors are: Sheep and Goats—one ewe, doe, buck, or ram equals 0.25 A.U.: Horses and Mules—one horse, mule, donkey or burro equals 1.25 A.U.

(k) *Sheep unit* means one ewe with lamb at side or a doe goat with kid.

(l) *S.U.Y.L.* means one sheep unit grazed yearlong.

(m) *HPL* means the area partitioned to the Hopi Tribe pursuant to Public Law 93–531 known as the Hopi Partitioned Land.

§ 700.703 Authority.

It is within the authority of the Commissioner on Navajo and Hopi Indian Relocation Commission to administer the New Lands added to the Navajo Reservation pursuant to 25 U.S.C. 6–10(d)–10.

§ 700.705 Objectives.

It is the purpose of the regulations in this part to aid the Navajo Indians in achievement of the following objectives:

(a) The preservation of the forage, the land, and the water resources on the New Lands.

(b) The resettlement of Navajo Indians physically residing on the Hopi Partitioned Lands to the New Lands.

§ 700.707 Regulations; scope.

The grazing regulations in this part apply to the New Lands within the boundaries of the Navajo Reservation held in trust by the United States for the Navajo Tribe which lands were added to the Navajo Reservation pursuant to 25 U.S.C. 640(d)–10. 25 CFR parts 166 and 167 are not applicable to the New Lands.

§ 700.709 Grazing privileges.

A list of permittees eligible to receive grazing permits is kept at the Office of Navajo and Hopi Indian Relocation in Flagstaff, Arizona. This list is composed of individuals eligible for New Lands grazing permits who:

(a) have a current HPL grazing permit, or have had an HPL permit issued since 1980, or are current HPL residents and can show documentation of a past grazing permit issued in their name for grazing on an area now on the HPL, and

(b) who have not received relocation benefits under Public Law 93–531, and who relocate from the HPL on to a New Lands range unit.

§ 700.711 Grazing permits.

(a) All livestock grazed on the New Lands must be covered by a grazing permit authorized and issued by the Commissioner on Navajo and Hopi Indian Relocation.

(b) Permit holders must:

(1) be enrolled Navajo Tribal members,

(2) be over 18 years of age,

(3) maintain a permanent residency on the New Lands Range Unit of permit issue, and

(4) own livestock which graze on the range unit of permit issue.

(c) Permits will be issued for a base size of 80 SUYL (20 AU), and may not be divided or transferred for less than 80 SUYL.

(d)(1) Temporary seasonal grazing permits for periods not to exceed one year may be issued to permittees:

(i) To use extra forage made available under rotation grazing management as regulated by a range unit management plan,

(ii) To use forage created by unusually favorable climatic conditions,

(iii) To allow use of range while term permits are held in suspension under § 700.715(d).

(2) These temporary permits may be reissued prior to termination provided:

(i) The permittee is managing grazing in compliance with grazing regulations,

(ii) Livestock grazing is in compliance with the cooperative range unit range management plan, and

(iii) Forage is available on the range to sustain the livestock authorized under the temporary unit.

§ 700.713 Tenure of grazing permits.

All active regular grazing permits shall be for five years and shall be automatically reissued for another five year period provided the permittee is not in violation of §§ 700.711, 700.715, 700.719, 700.723, and 700.725 of the regulations. Permits will initially be issued with an ending date of October 31 of the fifth year following the date of initial issuance.

Amendments to these regulations extending or limiting the tenure of grazing permits are applicable and become a condition of all previously granted permits.

§ 700.715 Assignment, modification, and cancellation of grazing permits.

(a) Grazing permits may be assigned, sub-permitted, or transferred with the written consent of the contracting parties. The Commissioner will issue a new permit provided the transferee meets qualifications under § 700.711(b).

(b) Temporary permits issued under § 700.711(d) are directly tied to the term permit and may be transferred with the term permit if the transferee signs the range unit management plan which provides the management for continuation of the temporary grazing permit. Temporary permits will not be transferred and shall cease to exist, if the term permit transferee does not sign the management plan agreeing to practice conservation management.

(c) Grazing permits may be assigned for transfer, though a notarized document, to an heir who meets the qualifications for a grazing permit under § 700.711.

(d) Grazing permits must be transferred in whole to a single transferee, the transferor relinquishing all grazing privileges at the time of transfer.

(e) The Commissioner may revoke or withdraw all or any part of a grazing permit by cancellation or modification on 30 days' written notice for violation of the permit or of the management plan, non-payment of grazing fees, violation of these regulations, or because of the termination of the trust status of the permitted land.

§ 700.717 Stocking rate.

The Commissioner will determine livestock carrying capacity for each range unit and set the stocking rate and adjust that rate as conditions warrant.

§ 700.719 Establishment of grazing fees.

The Commissioner may establish a minimum acceptable grazing fee per SUYL.

§ 700.721 Range management plans.

The Commissioner or his designee and the permittees of each Range unit will meet as a group and develop a range management plan for the common use of the range unit. The plan will include but not be limited to the following:

(a) Goals for improving vegetative productivity.

(b) Incentives for carrying out the goals.

(c) Stocking rate.

(d) Grazing plan and schedule.

(e) Range monitoring schedule.

(f) Wildlife management.

(g) Needs assessment for range and livestock improvements.

(h) Scheduling for operation and maintenance of existing range improvements.

§ 700.722 Grazing associations.

(a) The Commissioner may recognize, cooperate with, and assist range unit livestock associations in the management of livestock and range resources.

(b) These associations will provide the means for the members to:

(1) Jointly manage their permitted livestock and the range resources.

(2) Meet jointly with the Office of Navajo and Hopi Indian Relocation range staff to discuss and formulate range management plans.

(3) Express their wishes through designated officers or committees.

(4) Share costs for handling livestock, construction of range improvements, fence and livestock facilities maintenance, and other land or livestock improvement projects agreed on.

(5) Formulate association special rules needed to assure proper cooperation and resource management.

(c) The requirements for receiving recognition by the Commissioner are:

(1) The members of the association must constitute a majority of the grazing permittees on the range unit involved.

(2) The officers of the association must be elected by a majority of the association members or of a quorum as specified by the association's constitution and bylaws.

(3) The officers other than secretary and treasurer must be grazing permittees on the range unit involved.

(4) The association's activities must be governed by a constitution and bylaws acceptable to the Commissioner and signed by him.

(5) The association's constitution and bylaws must recognize conservation management goals and the need to follow a range unit management plan.

(d) The Commissioner may withdraw his recognition of the association whenever:

(1) The majority of the grazing permittees request that the association be dissolved.

(2) The association becomes inactive, and does not meet in annual or special meetings during a consecutive 2-year period.

(e) A recognized association may hold a grazing permit to benefit its members according to the rules of the association constitution and bylaws. All association's livestock will be run under an association brand properly registered with the Navajo Tribe.

(f) Associations may acquire permits from consenting permittees on the range unit in accordance with § 700.711, and may assign, subpermit, or transfer these permittees on the range unit in accordance with § 700.711, and may assign, such permit, or transfer these permits in accordance with § 700.715.

§ 700.723 Control of Livestock Disease and Parasites.

Whenever livestock within the New Lands become infected with contagious or infectious disease or parasites or have been exposed thereto, such livestock must be treated and the movement thereof restricted in accordance with applicable laws.

§ 700.725 Livestock trespass.

The following acts are prohibited:

(a) The grazing of livestock upon, or driving of livestock across any of the New Lands without a current approved grazing or crossing permit;

(b) The grazing of livestock upon an area specifically rested from the grazing of livestock according to the range unit Range Management Plan;

(c) The grazing of livestock upon any land withdrawn from use for grazing to protect it from damage, after receipt of appropriate notice from the Commissioner; and

(d) The grazing of livestock in excess of those numbers authorized on the livestock grazing permit approved by the Commissioner.

The owner of any livestock grazing in trespass on the New Lands is liable to a civil penalty of $1 per head per day for each animal in trespass, together with the replacement value of the forage consumed and a reasonable value for damages to property injured or destroyed. The Commissioner may take appropriate action to collect all such penalties and damages and seek injunctive relief when appropriate. All payments for such penalties and damages shall be paid to the Commissioner for use as a range improvement fund.

§ 700.727 Impoundment and disposal of unauthorized livestock.

Unauthorized livestock within any range unit of the New Lands which are not removed therefrom within the periods prescribed by the regulation will be impounded and disposed of by the Commissioner as provided herein.

(a) When the Commissioner determines that unauthorized livestock use is occurring and has definite knowledge of the kind of unauthorized livestock, and knows the name and address of the owners, the owner shall be given written notice and a ten day period shall be allowed for the Commissioner to solve the unauthorized use without penalty to the owner of the livestock. If after this 10 day period said unauthorized use is not resolved, such livestock may be impounded any time after five days after written notice of intent to impound unauthorized livestock is mailed by certified mail or personally delivered to such owners or their agent.

(b) When the Commissioner determines that unauthorized livestock use is occurring but does not have complete knowledge of the number and class of livestock or if the name and address of the owner thereof are unknown, such livestock may be impounded anytime after 15 days after the date a General Notice of intent to impound unauthorized livestock is first published in a local newspaper, posted at the nearest chapter house, and in one or more local trading posts.

(c) Unauthorized livestock on the New Lands which are owned by persons given notice under paragraph (a) of this section, and any unauthorized livestock in areas for which notice has been posted and published under paragraph (b) of this section, will be impounded without further notice anytime within the twelve month period immediately following the effective date of the notice.

(d) Following the impoundment of unauthorized livestock, a notice of sale of impounded livestock or unauthorized livestock will be published in a local newspaper, posted at the nearest chapter house, and in one or more local trading posts. The notice will describe the livestock and specify the date, time, and place of sale. The date set shall be at least 5 days after the publication and posting of such notice.

(e) The owners or their agent may redeem the livestock anytime before the time set for the sale by submitting proof of ownership and paying for all expenses incurred in gathering, impounding, and feeding or pasturing the livestock and any trespass fees and/or damages caused by the animals.

(f) Livestock erroneously impounded shall be returned to the rightful owner, and all expenses accruing thereto shall be waived.

(g) If the livestock are not redeemed before the time fixed for their sale, they shall be sold at public sale to the highest bidder. When livestock are sold pursuant to this regulation, the Commissioner shall furnish the buyer a bill of sale or other written instrument evidencing the sale.

(h) The proceeds of any sale of impounded livestock shall be applied as follows:

(1) To the payment of all expenses incurred by the United States in gathering, impounding, and feeding or pasturing the livestock;

(2) Trespass penalties assessed pursuant to § 700.725 shall be paid to a separate account to be administered by the Commissioner for use as a range improvement fund for the New Lands;

(3) Any remaining amount shall be paid over to the owner of said livestock upon his submitting proof of ownership.

Any proceeds remaining after payment of the first and second items noted above not claimed within one year from the date of sale, will be credited to the United States.

§ 700.729 Amendments.

These regulations may be amended or superseded as needed.

Dated: September 7, 1990.

Carl J. Kunasek,

Commissioner on Navajo and Hopi Indian Relocation.

[FR Doc. 90-21666 Filed 9-13-90; 8:45 am]

BILLING CODE 7560-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

Temporary Employment Tax Regulations Under the Interest and Dividend Tax Compliance Act of 1983

CFR Correction

In title 26 of the Code of Federal Regulations, parts 30 to 39, revised as of April 1, 1990, in § 35a.3406-1 the old text of paragraph (f) was inadvertently printed. The old text beginning with the first complete paragraph in column one, line 9, on page 339, and ending with column one, line 17, on page 341 should be removed.

BILLING CODE 1505-01-D

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules

AGENCY: National Labor Relations Board.

ACTION: Final rules.

SUMMARY: The National Labor Relations Board is revising its rules that govern service of papers by parties to permit, under certain circumstances, transmissions of documents to the Agency's facsimile machines. The revisions are being adopted in order to accommodate the use by parties of this rapidly growing form of technology while taking into account the limited number of facsimile machine presently available throughout the Agency. The intended effect of the revisions is to establish some measure of uniformity in the practices for accepting facsimile transmissions.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue NW., room 701, Washington, DC 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION: The National Labor Relations Board recognizes that the use of facsimile systems is becoming more prevalent in both the private and public sectors. Yet, at the present time, the Board has no rule setting forth the circumstances under which it will accept facsimile transmissions from parties. Therefore, determinations whether to accept particular documents that have been transmitted by a facsimile system have been made on a case-by-case basis by the receiving office.

The Board is revising § 102.114 of its rules in order to establish some measure of uniformity in the practices for accepting facsimile transmissions while taking into account the limited number of facsimile machines presently available throughout the Agency. The overall approach is to permit facsimile transmissions of requests for extensions of time, prohibit facsimile transmissions of most other formal documents, and permit facsimile transmissions of all other documents subject to advance approval, in each instance, by the receiving office.

The title of § 102.114 is changed to include specific reference to the subject of facsimile transmissions. Subsections (a) and (b) of § 102.114, dealing generally with service of papers and proof of service, are retained without modification. Subsections (c), (d), and (e) of this section are new.

Subsections (c) and (d) of § 102.114 set forth the documents that will or will not be permitted to be filed by facsimile transmission, and the procedures to be followed in filing documents by facsimile and in securing permission to file those documents whose receipt is left to the discretion of the receiving office.

Subsection (e) of § 102.114 sets forth the requirements for service of copies on other parties when a document is served upon the Board by facsimile transmission.

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the NLRB certifies that this rule will not have a significant impact on a substantial number of small businesses.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

Accordingly, 29 CFR part 102 is amended as follows:

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Section 102.114 is revised to read as follows:

§ 102.114 Service of papers by parties; proof of service; filing and serving documents and papers by facsimile transmission.

(a) Service of papers by a party on the other parties shall be made by registered mail, or by certified mail, or in any manner provided for the service of papers in a civil action by the law of the State in which the hearing is pending. Except for charges, petitions, exceptions, briefs, and other papers for which a time for both filing and response has been otherwise established, service on all parties shall be made in the same manner as that utilized in filing the paper with the Board, or in a more expeditious manner; however, when filing with the Board is accomplished by personal service the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegraph. When service is made by registered mail, or by certified mail, the return post office receipt shall be proof of service. When service is made in any manner provided by the law of a State, proof of service shall be made in accordance with such law. Failure to comply with the requirements of this section relating to timeliness of service on other parties shall be a basis for either:

(1) A rejection of the document or

(2) withholding or reconsidering any ruling on the subject matter raised by the document until after service has been made and the served party has had reasonable opportunity to respond.

(b) The person or party serving the papers or process on other parties in conformance with sections 102.113 and 102.114(a) shall submit a written statement of service thereof to the Board stating the names of the parties served and the date and manner of service. Proof of service as defined in section 102.114(a) shall be required by the Board only if subsequent to the receipt of the statement of service a question is raised with respect to proper service. Failure to make proof of service does not affect the validity of the service.

(c) Requests for extensions of time for filing documents will be accepted if transmitted to the facsimile machine of the office designated to receive such requests. Other documents, except those specifically prohibited in paragraph (d) of this section, will be accepted if transmitted to the facsimile machine of the office designated to receive them only with advance permission from the receiving office which may be obtained by telephone. Advance permission must be obtained for each such filing. At the discretion of the receiving office, the person submitting a document by facsimile may be required simultaneously to serve the original and any required copies on the office by overnight delivery service.

(d) Facsimile transmissions of the following documents will not be accepted: Unfair Labor Practice Charges; Representation Petitions, including Decertification Petitions; Showing of Interest in Support of Representation Petitions, including Decertification Petitions; Answers to Complaints; Exceptions or Cross-Exceptions; Briefs; Requests for Review of Regional Director Decisions; Administrative Appeals from Dismissal of Petitions or Unfair Labor Practice Charges; Objections to Elections; Objections to Settlements; EAJA Applications; Motions for Summary Judgment; Motions to Dismiss; Motions for Reconsideration; Motions to Clarify; Motions to Reopen the Record; Motions to Intervene; Motions to Transfer, Consolidate or Sever; or Petitions for Advisory Opinions. Facsimile transmissions in contravention of this rule will not be filed.

(e) Documents and other papers filed through facsimile transmission shall be served on all parties in the same or faster way as used to serve the office, where filed, in conformance with § 102.114(a). Thus, facsimile transmission shall be used for this purpose whenever possible. When a party cannot be served by this method, the party shall be notified personally or by telephone of the substance of the transmitted document and a copy of the document shall be served by personal service or overnight delivery service.

Dated, Washington, DC, September 10, 1990.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 90-21631 Filed 9-13-90; 8:45 am]

BILLING CODE 7545-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional PBGC Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning October 1, 1990. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after October 1, 1990 and will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Senior Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006, 202-778-8850 (202-778-8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation of Valuation of Plan Benefits in Single-Employer Plans (29 CFR Part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4041(c), all plans wishing to terminate in a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in Part 2619. Plans terminating in a standard termination may, for purposes of the Standard Termination Notice filed with PBGC, use these formulas to value benefit liabilities, although this is not required. (Such plans may value benefit liabilities that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since September 1, 1990. This amendment adds to appendix B a new set of interest rates and factors for valuing benefits in plans that terminate on or after October 1, 1990, which set reflects an increase of ¼ percent in the immediate interest rate from 7¼ to 7½ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the **Federal Register** by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after October 1, 1990, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on the economy of $100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, part 2619 of chapter XXVI, title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 is revised to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, and 1362 (1988).

2. Rate Set 86 of appendix B is revised and Rate Set 87 of appendix B is added to read as follows: The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Gy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities, k_1, k_2, k_3, n_1, and n_2 are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (%)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
*	*	*	*	*	*	*		
86	9-1-90	10-1-90	7.25	1.0650	1.0525	1.0400	7	8
87	10-1-90		7.50	1.0675	1.0550	1.0400	7	8

James B. Lockhart III,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 90-21703 Filed 9-13-90; 8:45 am]

BILLING CODE 7708-01-M

---

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of October 1990.

EFFECTIVE DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and Pensions.

In consideration of the foregoing, part 2676 of subchapter H of chapter XXVI of title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest Rates.*

For valuation dates occurring in the month:	The values for i_k are:															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_{16}
* * * * * * *																
October 1990..	.08875	.08625	.08375	.08	.07625	.07125	.07125	.07125	.07125	.07125	.065	.065	.065.	.065	.065	.05875

Issued at Washington, DC., on this 10th day of September 1990.

James B. Lockhart III,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 90-21702 Filed 9-13-90; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05-90-70]

Special Local Regulations for Marine Events; Portsmouth Power Boat Regatta; Western Branch, Elizabeth River, Portsmouth, VA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Portsmouth Power Boat Regatta to be held on the Western Branch of the Elizabeth River, Portsmouth, Virginia on October 20–21, 1990. The special local regulations will govern vessel activities during the powerboat races. the regulations are necessary due to the potential danger to waterway users, the confined nature of the waterway, and the spectator craft congestion expected during the event.

EFFECTIVE DATE: These regulations are effective for the following periods:

10 a.m. to 7 p.m., October 20, 1990.
10 a.m. to 7 p.m., October 21, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen L. Phillips, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004, (804) 398-6204.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for these regulations and good cause exists for making them effective less than 30 days from the date of publication. Following normal rulemaking procedures would be impracticable since all of the information required for this application was not received by this office until August 27, 1990, and there was insufficient time to publish proposed rules in advance of the event.

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Captain Machael K. Cain, project attorney, Fifth Coast Guard District Legal Staff.

Discussion of Regulations

The Portsmouth Power Boat Association submitted an application on July 3, 1990 to hold the Portsmouth Power Boat Regatta on October 20–21, 1990. The event will be held on the Western Branch of the Elizabeth River and will consist of approximately 50 powerboats, ranging from 13 to 19 feet in length, racing on a designated course within the regulated area. The races will consist of a series of heats. A portion of the Western Branch of the Elizabeth River, approximately 700 yards southwest of the Churchland Bridge, will be closed during the actual racing. The Coast Guard Patrol Commander may allow vessel traffic to transit the area between heats. Since the waterway will not be closed for extended periods, waterborne traffic should not be severely disrupted.

Economic Assessment and Certification

These regulations are not considered either major under Executive Order 12291 on Federal Regulation or significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary. Because of this minimal impact, the Coast Guard certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

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

Environmental Impact

This final rule has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and has been placed in the rulemaking docket.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary § 100.35-0570 is added to read as follows:

§ 100.35-0570 Western Branch, Elizabeth River, Portsmouth, Virginia.

(a) *Definitions*—(1) *Regulated area.* The waters of the Western Branch, Elizabeth River bounded by a line connecting the following points:

Latitude	*Longitude*
36°50'17.0" N	76°21'44.5" W
36°50'17.0" N	76°22'31.0" W
36°50'11.0" N	76°22'31.0" W
36°50'11.0" N	76°21'44.0" W

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer who has been designated by the Commander, Coast Guard Group Hampton Roads.

(b) *Special local regulations*. (1) Except for participants in the Portsmouth Power Boat Regatta and vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the immediate vicinity of this area shall:

(i) Stop vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by an commissioned, warrant or petty officer on board a vessel displaying a Coast Guard ensign.

(3) Any spectator vessel may anchor outside of the regulated area specified in paragraph (a)(1) of this section, but may not block a navigable channel.

(c) *Effective date*. These regulations are effective for the following periods:

10 a.m. to 7 p.m. October 20, 1990.

10 a.m. to 7 p.m. October 21, 1990.

Dated: September 6, 1990.

P.A. Welling,

Rear Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 90-21770 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6997

[WY-930-00-4214-10; WYW 109115]

Withdrawal of Public Mineral Estate for Whiskey Mountain Bighorn Sheep Winter Range; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 9,609.74 acres of public mineral estate from mining for a period of 20 years to protect the bighorn sheep winter range and capital investments in the area. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Tamara J. Gertsch, BLM, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-775-6115.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public mineral estate is hereby withdrawn from location or entry under the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect the Whiskey Mountain Bighorn Sheep population:

Sixth Principal Meridian

T. 39 N., R. 105 W.,
Sec. 4, all, unsurveyed.
T. 40 N., R. 105 W.,
Sec. 17, W½SW¼, SE¼SW¼;
Sec. 18, S½NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 19, all;
Sec. 20. W½NE¼, W½, SE¼;
Sec. 21, SW¼SW¼;
Sec. 28, NW¼, N½SW¼, SW¼SW¼;
Sec. 29, all;
Sec. 33, lots 1 through 4, inclusive, W½.
T. 41 N., R. 106 W.,
Sec. 2, lots 3 and 4;
Sec. 3 lots 1 and 4;
Sec. 10, N½NE¼, SE¼NE¼;
Sec. 11, lots 3, 4, 5, 9, NE¼SW¼;
Sec. 14, lot 2, W½NW¼, SE¼NW¼, N½SW¼;
Sec. 15, NE¼NE¼, S½NE¼, S½;
Sec. 22, SE¼NE¼, S½.
T. 41 N., R. 106 W.,
Sec. 19, lots 2, 3, 4, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 20, N½, SW¼, W½SE¼;
Sec. 29, S½NE¼, E½NW¼, S½;
Sec. 30, lots 1 through 4, inclusive, S½NE¼, E½W½, SE¼;
Sec. 31, lots 5 through 20, inclusive;
Sec. 32, lots 1 through 16, inclusive;
Sec. 33, W½NE¼, W½NW¼, SE¼NW¼, S½;
Sec. 34, SW¼SW¼.
T. 41 N., R. 107 W.,
Sec. 23, S½SW¼, SE¼;
Sec. 24, S½;
Sec. 25, E½E½, NW¼NE¼, SW¼SE¼.

The areas described aggregate 9,609.74 acres in Fremont County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: September 11, 1990.

Dave O'Neal,

Assistant Secretary of the Interior

[FR Doc. 90-21742 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-22-M

43 CFR Public Land Order 6799

[ID-943-90-4214-10; IDI-26913]

Withdrawal of Public Land for a Ponderosa Pine Seed Orchard; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws 10 acres of public land from surface entry and mining for a period of 20 years for use as a ponderosa pine seed orchard for the U.S. Forest Service. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievasay, BLM Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1735.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect a U.S. Forest Service ponderosa pine seed orchard:

Boise Meridian

T. 37 N., R. 1 W.,
Sec. 32, N½S½NW¼SW¼.

The area described contains 10.00 acres in Nez Perce County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1764(f), the Secretary determines that the withdrawal shall be extended.

Dated: September 11, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-21741 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-GG-M

43 CFR Public Land Order 6798

[AZ-930-00-4214-10; A-13010]

Partial Revocation of Secretarial Order Dated June 30, 1908; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Secretarial Order of June 30, 1908, insofar as it affects 7.50 acres of National Forest System land withdrawn for use as a part of the Payson Ranger Station Administrative Site. This parcel is no longer needed for administrative site purposes and has been identified as suitable for disposal by exchange under the General Exchange Act of 1922. This action will open the land to such forms of disposition as may by law be made of National Forest System land but will remain closed to operations under the mining laws by a Forest Service exchange proposal. The land is not available for mineral leasing as it is located within the town limits of Payson (43 CFR 3100.0-3(a)(2)(iii)).

EFFECTIVE DATE: October 15, 1990.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, 602-640-5509.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Secretarial Order dated June 30, 1908, which withdrew National Forest System land for the Payson Ranger Station Administrative Site is hereby revoked insofar as it affects the following described land:

Gila and Salt River Meridian

T. 10 N., R. 10 E.,

Sec. 4, N½NW¼SW¼SW¼, N½S½NW¼SW¼SW¼.

The area described contains 7.50 acres in Gila County.

2. At 10 a.m. on October 15, 1990, the land shall be opened to such forms of disposition as may by law be made of National Forest System land, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

3. The land will not be available for mineral leasing as it is located within the town limits of Payson (43 CFR 3100.0-3(a)(2)(iii)).

Dated: September 11, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-21740 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-32-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 509, 522 and 525

[APD 2800.12A, CHGE 11]

General Services Administration Acquisition Regulation; Sanctions (Toshiba/Kongsberg), Debarment and Suspension, Service Contract Act

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), chapter 5 (APD 2800.12A), is amended to revise section 501.707, Table 501-1, to make editorial changes and add a paragraph which designates the head of the contracting activity (HCA) or a designee as the signatory authority for determinations to grant an exception to sanctions imposed against Toshiba Corporation and Kongsberg; to revise section 509.405 to delete references to the "list of contractors proposed for debarment by GSA" in paragraphs (a) and (b) because proposed debarments now have Governmentwide effect and are included on the "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" in the section entitled "Parties Excluded from Procurement Programs;" to add section 522.1003-3 to clarify the applicability of the exemption of FAR 22.1003-3(c) to local office relocation contracts; to revise section 522.1003-4 to require legal counsel coordination for all requests for limitations, variations, tolerances, and exemptions from the Service Contract Act; to add section 522.1014 to permit contracting officers to contact the Department of Labor, Wage and Hour Division, directly to determine the currency of wage determinations, and to make other miscellaneous changes in part 522; to add subpart 525.10 to permit the HCA or a designee to make the determinations required by FAR 25.1003(b) and to prescribe the format for determinations required by FAR 25.1003.

EFFECTIVE DATE: September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Shirley Scott, Office of GSA Acquisition Policy, (202) 501-1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

This rule was not published in the **Federal Register** for public comment because it merely revises the GSAR to conform with the Federal Acquisition Regulation as amended by FAC 84-46 which had already undergone the public comment process.

B. Background

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The rule is not expected to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. The rule amends the GSAR as necessary to conform with FAR (FAC 84-46) by providing internal operating procedures to GSA contracting activities. The rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act 44 U.S.C. 3501 et seq.).

List of Subjects in 48 CFR parts 501, 509, 522 and 525

Government procurement.

1. The authority citation for 48 CFR parts 501, 509, 522 and 525 continues to read as follows:

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

PART 501—[AMENDED]

2. Section 501.707, Table 501-1, is amended by revising paragraphs j through n to read as follows:

501.707 Signatory authority.

* * * * *

TABLE 501-1—SIGNATORY AUTHORITY

D&F requirement	Signatory authority
* * *	* *
j. Determinations regarding the exceptions to the restrictions of the Buy American Act. (See FAR 25.102(a)(4), 25.202(a)(3) and GSAR 525.108-70.)	Individual D&Fs may be signed by the HCA or a designee.
k. Determinations under the Balance of Payments program. (See FAR subpart 25.3)	Individual D&Fs may be signed by the HCA or a designee.
l. Determinations under section 302(b)(2) of the Trade Agreements Act. (See FAR subpart 25.4 and GSAR subpart 525.4)	Individual D&Fs must be signed by the HCA in accordance with 525.402-70.
m. Determinations to grant an exception to the sanctions imposed against Toshiba Corporation and Kongsberg. (See FAR 25.1003(b) and GSAR 525.1003)	Individual D&Fs may be signed by the HCA or a designee.
n. Determinations to proceed with an award or to continue contract performance pending a GAO decision on a protest. (See FAR 33.104 (b) and (c).)	Individual D&Fs must be signed by the HCA. Class D&Fs are not permitted.

PART 509—[AMENDED]

3. Section 509.405 is revised to read as follows:

509.405 Effect of listing.

(a) Before initiating a pre-award survey or any procurement or disposal action, the contracting officer shall review the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs. Any contractor listed in the section entitled "Parties Excluded from Procurement Programs" must receive the treatment specified therein. The contracting officer shall also review the "Parties Excluded from Nonprocurement Programs" section of the list and, if appropriate, contact the listing agency for further information in order to determine whether the listed party is responsible.

(b) Bids received from any contractor listed in the "Parties Excluded from Procurement Programs" section will be opened, entered on the Abstract of Bids, and rejected, unless the debarring or suspending official determines in writing that there is a compelling reason to consider the bid. Proposals, quotations or offers received from any such contractor must not be evaluated for award or included in the competitive range, and discussions must not be conducted with such offeror, unless the debarring or suspending official determines, in writing, that there is a compelling reason to do so.

PART 522—[AMENDED]

4. Section 522.1001 is revised to read as follows:

522.1001 Definitions.

Agency labor advisor means the contracting office's assigned legal counsel

5. Section 522.1003–3 is added to read as follows:

522.1003-3 Statutory exemptions.

The statutory exemption in FAR 22.1003–3(c) does not apply to local office relocation moves when the transportation is incidental to the services being acquired. The Service Contract Act applies in such situations and formal contracting procedures must be used.

6. Section 522.1003–4 is revised to read as follows:

522.1003-4 Administrative limitations, variations, tolerances, and exemptions.

Requests for limitations, variations, tolerances, and exemptions from the Service Contract Act under FAR 22.1003–4(a) must be submitted to the Administrator, Wage and Hour Division by the contracting director after coordination with assigned legal counsel.

7. Section 522.1003–7 is revised to read as follows:

522.1003-7 Questions concerning applicability of the Act.

Requests for determination of Service Contract Act applicability under FAR 22.1003–7 must be submitted to the Administrator, Wage and Hour Division, by the contracting director after coordination with assigned legal counsel.

8. Section 522.1011–2 is revised to read as follows:

522.1011-2 Requests for status or expediting of response.

Requests to expedite wage determinations or to check the status of a request may be made by the contracting officer directly to the Administrator, Wage and Hour Division.

9. Section 522.1021 is revised to read as follows:

522.1021 Substantial variance hearings.

Requests for hearings under FAR 22.1021 will be made by the contracting officer through the HCA after coordination with assigned legal counsel.

10. Section 522.1403 is revised to read as follows:

522.1403 Waivers.

Requests for waivers under FAR 22.1403(c) must be submitted to the Administrator through the HCA.

PART 525—[AMENDED]

11. Subpart 525.10 is added to read as follows:

Subpart 525.10—Sanctions for Violations of Export Controls

Subpart 525.10—Sanctions for Violations of Export Controls

525.1003 Exceptions.

The determinations required by FAR 25.1003(b) may be made by the HCA or a designee.

525.1004 Procedures.

The determinations must be in a format similar to those illustrated at 501.704–70 and include the information required by FAR 25.1004.

Dated: September 6, 1990.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 90–21576 Filed 9–13–90; 8:45 am]

BILLING CODE 6820–61–M

Proposed Rules

Federal Register
Vol. 55, No. 179
Friday, September 14, 1990

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 531

Eligibility of District of Columbia Government Employees for Superior Qualifications Appointments

AGENCY: Office of Personnel Management.

ACTION: Proposed regulations.

SUMMARY: The Office of Personnel Management (OPM) is proposing to revise the regulations under which agencies may appoint candidates who possess superior qualifications to positions at grades GS-11 and above at rates above the base of the grade. The regulations would permit agencies to appoint employees of the Government of the District of Columbia at advanced rates under the same conditions as other candidates, provided the appointees began their DC Government service on or after October 1, 1987. Currently, the regulations prohibit appointment of any DC Government employees at advanced rates unless the appointees have a break in service of at least 90 days following their DC Government employment.

DATES: Comments must be received on or before November 13, 1990.

ADDRESSES: Written comments may be sent to Leonard R. Klein, Associate Director for Career Entry and Employee Development, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Tracy E. Spencer, (202) 606-0960.

SUPPLEMENTARY INFORMATION: Section 5333 of title 5, United States Code, requires that most new appointments to positions under the General Schedule be made at the base of the grade. However, under 5 U.S.C. 5333(a), new appointments to positions at grades GS-11 and above may be made at rates above the base of the grade when the higher salary rates are justified by appointees' superior qualifications and existing pay or by a special need of the Government for the appointees' services. Appointments made under this provision are commonly called superior qualifications appointments.

The statutory authority is intended to afford a recruiting incentive to attract superior candidates into the Federal service. Once employees enter the Federal service, their pay upon movement from one position to another is governed by 5 U.S.C. 5334, under which pay is based on salary previously earned in Federal employment. To carry out the statutory intent, OPM's regulations state that superior qualifications appointments must be either new appointments or reappointments of individuals who have had a break in service of at least 90 days since their last Federal or DC Government employment.

Until implementation of the Home Rule Act, the pay systems established for positions in the Federal Government also covered positions in the District of Columbia Government. Salaries earned with the DC Government were considered in accordance with 5 U.S.C. 5334, when setting pay for DC Government employees who moved into the Federal service. Therefore, the regulatory prohibition against giving superior qualifications appointments to current DC Government employees merely applied the same conditions to the DC employees as to Federal employees covered by the same pay system.

The Home Rule Act, however, authorized the DC Government to establish a separate personnel system. Using this authority, the DC Government implemented a separate compensation system, which applies to all employees who were first employed by the DC Government on or after October 1, 1987. Because this compensation system is not a Federal system, OPM issued final regulations on April 19, 1990 (55 FR 14827) providing that salaries of DC Government employees first employed on or after October 1, 1987, may not be used as a basis for setting pay under 5 U.S.C. 5334. The situation of DC employees hired since October 1, 1987, is now comparable to that of State and local government employees, who must usually enter Federal service at the base of the appropriate General Schedule grade.

Federal agencies may, however, use the superior qualifications appointment authority to match the salaries of State and local employees who possess unusually high or unique qualifications for positions at GS-11 and above and whose pay exceeds the base salary rate. The same authority should be available to assist Federal agencies in recruiting top quality DC Government employees.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain appointees to positions in Federal agencies.

List of Subjects in 5 CFR Part 531

Government employees, Wages, Administrative practice and procedure.

Office of Personnel Management.
Constance Berry Newman,
Director.

Accordingly, OPM proposes to amend 5 CFR part 531 as follows:

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

Authority: 5 U.S.C. 5115, 5338, and chapter 54; subpart B also issued under 5 U.S.C. 5305(q), 5333(a), 5334(a), 5402, and section 203 of E.O. 11721, as amended; subpart C also issued under 5 U.S.C. 5333(b) and section 404 of E.O. 11721, as amended; subpart D also issued under 5 U.S.C. 5301, 5335, and section 402 of E.O. 11721, as amended; subpart E also issued under 5 U.S.C. 5336 and section 403 of E.O. 11721, as amended.

2. In § 531.203, paragraph (b)(2) is revised to read as follows:

§ 531.203 General provisions.

* * * * *

(b) *Superior qualifications appointments.* * * *

(2) An agency may make a superior qualifications appointment by new appointment or by reappointment except that when made by reappointment, the candidate must have a break in service of at least 90 calendar days from his or her last period of Federal employment or employment with the Government of the District of Columbia (other than appointment as (i) employment under an

appointment as an expert or consultant under section 3109 of title 5, United States Code; (ii) employment under a temporary appointment effected primarily in furtherance of a postdoctoral research program, or effected as part of a predoctoral training program during which the employee receives a stipend, or employment under a temporary appointment of a graduate student when the work performed by the student is the basis for completing certain academic requirements for an advanced degree; (iii) employment as a member of the Commissioned Corps of the National Oceanic and Atmospheric Administration or the Commissioned Corps of the Public Health Service; (iv) employment which is neither full-time employment nor the principal employment of the candidate; (v) appointment under the Intergovernmental Personnel Act; or (vi) employment with the Government of the District of Columbia when the candidate was first appointed by the DC Government on or after October 1, 1987.

[FR Doc 90-21695 Filed 9-13-90; 8:45 am]

BILLING CODE 6325-01-M

---

5 CFR Part 581

Processing Garnishment Orders for Child Support and/or Alimony

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: In response to an opinion issued on December 19, 1989, by the Office of Legal Counsel of the United States Department of Justice, the Office of Personnel Management proposes a revision to its regulations in 5 CFR part 581 concerning the processing of garnishment orders for child support and/or alimony. The proposed amendment broadens the conditions under which compensation received from the Department of Veterans Affairs will be subject to garnishment. OPM is also amending the regulations to clarify the fact that Supplemental Security Income (SSI) benefits under the Social Security Act are not remuneration and are, therefore, not subject to garnishment. OPM has been advised by the Department of Health and Human Services that state courts in Tennessee have held that SSI benefits are subject to garnishment, notwithstanding the fact that these benefits are not remuneration for employment.

DATES: Comments should be received by October 15, 1990.

ADDRESSES: Send or deliver comments and/or designated agent information, including new WITS telephone number(s), to Jaime Ramon, General Counsel, Office of Personnel Management, Room 7355, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Murray M. Meeker, (202) 606-1980.

SUPPLEMENTARY INFORMATION: Governmental entities are urged to review the current list of designated agents, appendix A to part 581 (55 FR 1354, January 16, 1990), to ensure that their listing is correct. All entities that have joined the Washington Interagency Telecommunications System (WITS) will need to advise OPM of their new telephone number(s).

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because their effects are limited primarily to Federal employees.

List of Subjects in 5 CFR Part 581

Alimony, Child welfare, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

Accordingly, OPM is amending 5 CFR part 581 as follows:

PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

1. The authority citation for part 581 continues to read as follows:

Authority: 42 U.S.C. 659, 661-662; 15 U.S.C. 1673; 5 U.S.C. 8437; E.O. 12105.

2. Section 581.103 is amended by revising paragraph (c)(6)(iv) as follows:

§ 581.103 Moneys which are subject to garnishment.

* * * * *

(c) * * *

(6) * * *

(iv) Any payment by the Department of Veterans Affairs as compensation for a service-connected disability or death, except any compensation paid by the Department of Veterans Affairs to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived either the entire amount or a portion of his/her retired pay in order to receive such compensation. In this case, only that part of the Department of Veterans Affairs payment that is in lieu of the waived retired/retainer pay is subject to garnishment.

3. Section 581.104 is amended by adding paragraph (j) to read as follows:

§ 581.104 Moneys which are not subject to garnishment.

* * * * *

(j) Supplemental Security Income (SSI) payments made pursuant to sections 1381 *et seq.*, of title 42 of the United States Code (title XVI of the Social Security Act).

[FR Doc. 90-21697 Filed 9-13-90; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants and Children (WIC); Review of Nutritional Risk Criteria

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice of intent to conduct a review and solicit comments.

SUMMARY: In accordance with the mandate of section 123(b) of the Child Nutrition and WIC Reauthorization Act of 1989 (Pub. L. 101-147), the Department announces its intent to conduct a review of the relationship between nutritional risk criteria and the participant priority system in the Special Supplemental Food Program for Women, Infants and Children (WIC). Directors of WIC State and local agencies and other individuals with expertise in the fields of nutrition and public health, as well as other interested parties, are encouraged to comment on issues proposed for consideration by the Department and to suggest additional issues for consideration within the scope of this review.

DATES: To be assured of consideration, comments and suggestions must be received on or before November 13, 1990.

ADDRESSES: Comments should be sent to Ronald J. Vogel, Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 1017, Alexandria, Virginia 22302, (703) 756-3746. Comments on this notice should be clearly labeled "Nutritional Risk Review Notice" and should identify the specific issue(s) addressed. All written comments will be available for public inspection during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at the office of the Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302.

FOR FURTHER INFORMATION CONTACT: Philip K. Cohen, Supplemental Food Programs Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, room 1017, Alexandria, Virginia 22302, (703) 756–3730.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under Executive Order 12291 and has been classified not major. This Notice will not have an annual effect on the economy of $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have 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.

The Notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.557 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule-related notice published June 24, 1983 (48 FR 29114)).

Background

The authorizing legislation for the WIC Program, section 17 of the Child Nutrition Act (CNA) of 1966, as amended (42 U.S.C. 1786), established the program to provide supplemental foods and nutrition education to low-income pregnant, breastfeeding and post partum women, infants and children up to age 5 who are at nutritional risk. The Program also serves as an adjunct to health care during critical times of growth and development to prevent the occurrence of health problems and to improve the health status of participants.

The CNA limits program participation to categorically eligible persons from low-income families who are determined by a competent professional authority to be at nutritional risk. Section 17(b)(8) of the CNA defines "nutritional risk" as "(A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measures, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction." WIC Program regulations (7 CFR part 246) incorporate the legislative definition of nutritional risk and provide examples of criteria for each broad category. However, State agencies have considerable latitude in defining specific criteria within these broad parameters. State agencies must incorporate the nutritional risk criteria they intend to use for WIC eligibility determinations into their annual State Plans of Program Operations and Administration.

Congress appropriates a fixed amount of funds for the program each year, and the Department formulaically allocates funds among State agencies. Because States cannot always serve all eligible applicants, regulations provide for a priority system to ensure that program benefits are directed to those persons at greatest nutritional risk when the demand for program benefits exceeds available resources. When a local agency has filled all available caseload slots, it places some or all applicants on a waiting list. As slots are vacated, the local agency certifies eligible applicants on the waiting list in accordance with this priority system:

Priority I—Pregnant and breastfeeding women and infants at nutritional risk as demonstrated by documented nutritionally related medical conditions.

Priority II—Except those infants in Priority I, infants up to 6 months of age born of women who were program participants during pregnancy or who were at nutritional risk during pregnancy due to documented nutritionally related medical conditions.

Priority III—Children at nutritional risk as demonstrated by documented nutritionally related medical conditions.

Priority IV—Pregnant and breastfeeding women and infants at nutritional risk due to an inadequate diet.

Priority V—Children at nutritional risk due to an inadequate diet.

Priority VI—Postpartum women at nutritional risk. (State agencies have the option of defining "high-risk" postpartum women and placing them in Priorities III, IV, and/or V.)

Priority VII—(State agency option) Previously certified participants who might regress in nutritional status without continued provision of supplemental foods.

During recent years, increasing emphasis has been placed on using the priority system as a means of directing the ongoing delivery of program resources to persons at highest risk, i.e., targeting benefits. The principle of benefit targeting recognizes that pregnant and breastfeeding women and infants with documented nutritionally related medical conditions are the highest-risk, most vulnerable groups of the WIC population. Effective targeting to high priority participants depends upon the proper placement of reasonable nutritional risk criteria within the priority system and, thus, has generated growing interest in the appropriateness of the varying nutritional risk standards used by States.

Organizations outside of the Department have long been concerned about WIC nutritional risk criteria. The General Accounting Office (GAO) in a 1979 report (CED-79-55, February 27, 1979), noted significant variation in nutritional risk criteria among States, creating the potential for unequal program access based on geographic residence. In a subsequent report, (RCED–85–105, September 27, 1985), the GAO recommended that the Department develop uniform nutritional risk standards in order to direct program resources more effectively. The National Advisory Council on Maternal, Infant and Fetal Nutrition included in its 1986 report to Congress the recommendation that, in order to address the concern of equitable risk criteria between States, the Department issue guidance to State agencies for use in the development and evaluation of criteria. The Department has also received written comments from members of the public expressing various concerns about WIC nutritional risk standards.

These events focused Departmental attention on the issue of WIC nutritional risk criteria and the potential impact of inappropriate criteria on the overall effectiveness and integrity of the Program. First, it is questionable whether some State agency criteria (e.g., child of a physically handicapped parent or foster child) fall within a reasonable interpretation of the legislative definition of nutritional risk. The use of criteria for which the link to a health risk is dubious also contradicts the legislative purpose of the program. In addition, the variation among State agencies in criteria and the variation in the numerical values in which criteria are expressed result in unequal program access depending on an applicant's State of residence. Finally, the use of criteria based on varying numerical values and the inappropriate placement of criteria within the priority system (such as the placement of dietary criteria in the top priorities) could render the priority system and the targeting of benefits ineffective. This concern took on added significance with the implementation of WIC funding formulae which award incremental program funds to State agencies based on participation levels in the higher priorities.

The Department raised some of these issues at the 1985 meeting of the National Association of WIC Directors, and the topic has received considerable attention since then. In November 1987 the Department announced to State agencies its intention to review nutritional risk criteria in Fiscal Year 1990 State Plans, and to determine what, if any, Federal action was appropriate. In 1989, the Department undertook a comparison of values for widely used criteria in Fiscal Year 1986 and 1989 State Plans. The Department also issued as guidance a set of standards for use in evaluating the reasonableness of nutritional risk criteria. These actions were intended to focus attention on the importance of appropriate criteria and numerical values for criteria and to encourage States to examine their nutritional risk standards.

The appropriateness of nutritional risk criteria continues to be an issue of major interest to the WIC community and great significance to the future direction of the program. Accordingly, Congress mandated, in section 123(b) of Public Law 101–147, that the Department, in consultation with State and local agency directors and other nutrition experts, conduct a review of the relationship between nutritional risk criteria and the participant priority system in the WIC Program. The legislation directs the Department to consider the preventive nature of the program and to examine risks to categorically eligible persons, especially pregnant women, from conditions such as homelessness, mental illness and conditions that pose barriers to the receipt of prenatal care and that may increase the probability of adverse pregnancy outcomes or other adverse effects on health.

The Department believes that its consideration of these important and complex issues will benefit greatly from public participation and welcomes the opportunity to obtain input from all segments of the WIC community, as well as other informed, concerned members of the public. Further, the Department wishes to ensure that the review provides for the open and equitable consideration of these issues. The procedure which the Department has established for conducting this review is designed to provide the broadest possible base for public input, to include access to technical expertise from independent, credible entities, and to permit consideration of pertinent issues by a knowledgeable forum which is broadly representative of the WIC community.

Review Procedure

Specifically, the Department plans to enlist independent, technical experts to review comments submitted in response to this Notice and to develop technical papers summarizing and assessing this input. These papers will be presented for consideration to the National Advisory Council on Maternal, Infant and Fetal Nutrition (NAC), established by section 14 of Public Law 94–105 (section 17(k)(1) of the CNA) to consider issues relevant to the WIC Program and to make recommendations to the President and Congress. The NAC consists of 24 members (including State and local health officials and WIC Program administrators from a variety of agencies, physicians and program participants) who share a common interest in and knowledge of the WIC Program. The Council's consideration of these issues will be included in the Department's report to Congress. This report, in turn, may influence future legislative action by Congress with regard to the WIC Program and/or regulatory action by the Department. Any program regulations issued by the Department as a result of this review would be published as proposals for public comment prior to the promulgation of a final rulemaking.

In keeping with the directives of Public Law 101–147, the Department is publishing this notice to solicit comments from interested members of the public, especially State and local agency WIC directors and nutrition experts, on issues proposed for consideration. Commenters are encouraged to propose additional issues for consideration within the scope of this review.

Review Parameters/Considerations

Commenters should understand that unless it is amended by Congress, the current definition of "nutritional risk" established by the CNA sets the legislative parameters within which all nutritional risk criteria for WIC Program eligibility must fall. Although the legislative mandate for this review does not expressly address a reconsideration of this legislative definition, it does direct the Department to examine the possibility of risks from conditions (such as homelessness and mental illness) which, in the Department's judgement, fall outside these parameters. In response to this directive, the Department wishes to clarify that, for the purposes of this review, commenters need not restrict their responses to positions that are fully and unequivocally in accord with the legislative definition of nutritional risk in order to be considered. However, commenters are asked to indicate whether they believe that specific criteria they address are encompassd by the legislative definition and, if not, whether and how the definition should be amended to include them.

In developing responses to this notice, commenters should also consider the practicality of their recommendations with regard to the WIC clinic setting. For example, criteria should be readily implementable in the WIC clinic in a limited period of time and without the need for prohibitively expensive laboratory testing or equipment. Given the critical impact of nutritional risk criteria on WIC Program eligibility and local agency procedures, commenters should weigh carefully the potential effects of their recommendations on the overall administration of the program and the delivery of benefits. In addition, the Department encourages commenters to submit responses with the following specific considerations (discussed elsewhere in this Notice) in mind: (1) The potential impact on the priority system and the targeting of benefits to those at greatest risk; (2) the program's role as an adjunct to health care; and (3) the equitable delivery of benefits to program applicants.

Review Issues

The Department carefully considered how best to present the issues in this Notice. Attempts to provide background information specific to each issue inevitably resulted in issue descriptions which could bias responses. The Department believes that Congress intended this review to benefit from the broadest possible scope of public input with minimal Departmental direction. Therefore, the issues proposed for consideration are broadly stated without Departmental comment. Within the context of these broad issues, commenters are encouraged to state their responses as specifically as possible, including justifications in terms of scientific validity and appropriateness for implementation in the WIC clinic setting. Simple expressions of opinion or statements of position, without benefit of a clearly stated rationale based on scientific evidence, would be of little use to the Department in the consideration of such critical issues.

Each of the issues presented below is numbered. In order to ensure that comments receive full and appropriate consideration, commeters are asked to precede each comment with the number of the issue to which it pertains, and to clearly define issues they have chosen to address which are not listed in this Notice.

1. Criteria representing detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements or other documented nutritionally related medical conditions vary among State agencies. For example, virtually all State agencies recognize iron-deficiency anemia as a nutritional risk criterion; however, the hematocrit levels at which anemia is established vary among States. What information should the Department consider relative to the issue of variation among States' criteria and values?

2. What type and extent of documentation should be required in support of appropriateness of nutritional risk criteria which represents nutritionally related medical conditions?

3. Nutritional risks may be demonstrated by dieatry deficiencies that impair or endanger health. How, if at all, should regulations be revised to more specifically describe the methodology to be used for assessing dietary risk? What method(s) is most appropriate and why?

4. What limitation, if any, would be appropriate for the number of times that inadequate diet may be used consecutively as the basis for certification?

5. What are the implications for WIC Program services of (a) limiting Priorities IV and V to dietary deficiencies or (b) including non-dietary criteria in Priorities IV and V that do not merit inclusion as criteria in Priorities I and III? In non-dietary criteria should be included in the lower priorities, which criteria should be considered?

6. Certain conditions, though not in and of themselves manifestations of nutritionally related medical conditions, may predispose persons to inadequate nutritional patterns or nutritionally related medical conditions. What scientific documentation established the validity of a criterion as a predisposing condition?

7. What is the appropriate priority level(s) for predisposing conditions and why?

8. What evidence exists to support or contraindicate limiting criteria for predisposing conditions to those conditions that have a direct casual *link* to inadequate nutritional patterns or nutritionally related medical conditions?

9. What evidence exists to support or contraindicate the inclusion of conditions which may co-occur with, but are not casually related to, inadequate nutritional patterns or nutritionally related medical conditions as criteria for predisposing conditions?

10. How, if at all, should regulations be revised to more clearly define WIC's role in preventing the occurence of health problems?

11. What evidence demonstrates that criteria which fall within the current legislative definition of "nutritional risk" are inadequate for assessing nutritional risk among persons who are subject to certain sociodemographic conditions such as homelessness?

12. What evidence demonstrates that criteria which fall within the current legislative definition of "nutritional risk" are inadequate for assessing nutritional risk among persons with conditions such as mental illness or blindness?

13. What special accommodations, if any, would be appropriate in terms of determination of nutritional risk for pregnant applicants?

Dated: September 10, 1990.

Betty Jo Nelsen,

Administrator.

[FR Doc. 90-21716 Filed 9-13-90; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-156-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9 Series and Model DC-9-80 Series Airplanes Equipped With BFGoodrich, Aircraft Evaluation Systems (Formerly Sargent Industries, Pico Division; Formerly Pico, Inc.) Evacuation Slides, P/N 11331

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9 series and DC-9-80 series airplanes equipped with certain BFGoodrich evacuation slides, which would require installation of a new girt bar flap and firing line, and modification of the valise. This proposal is prompted by reports of incidents of in-flight inflations. This condition, if not corrected, could obstruct and hinder the emergency evacuation of the airplane, and could result in injuries to passengers and crew.

DATES: Comments must be received no later than November 5, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-156-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from the BFGoodrich Company, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew Gfrerer, Aerospace Engineer, Los Angeles Aircraft Certification Office, Systems and Equipment Branch, ANM-131L, FAA, Transport Airplane Directorate, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5338.

SUPPLEMENTARY INFORMATION: 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 should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator 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 post card on which the following statement is made: "Comments to Docket Number 90–NM–156–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The manufacturer and four operators of McDonnell Douglas Model DC–9 series airplanes have reported six incidents of BFGoodrich P/N 11331–( ) evacuation slides inflating during flight. These incidents were caused by the galley service cart inadvertently snagging the firing line of the service door evacuation slide. This condition, if not corrected, can result in injuries to the passengers and crew near the area where the slide inflated, cause an obstruction of the aircraft aisle, and hinder an emergency evacuation should the slide be needed during an emergency evacuation of the airplane.

Since these same evacuation slides may be installed on Model DC–9–80 series airplanes, this problem may exist on those airplane models as well.

The FAA has reviewed and approved BFGoodrich, Aircraft Evacuation Systems Service Bulletin 11331–25–226, Revision 1, dated July 16, 1990, which describes procedures for installing a new girt bar flap and firing line, and modifying the valise. The firing line is routed between the girt layers and the excess firing line is stowed inside a modified valise by use of a velcro retainer.

Since this condition is likely to exist on other airplanes of this same type design, an AD is proposed which would require modification of the BFGoodrich slides in accordance with the service bulletin previously described.

There are approximately 3,150 slides of the affected design installed on McDonnell Douglas Model DC–9 series and DC–9–80 series airplanes in the worldwide fleet. It is estimated that 1,600 slides installed on airplanes of U.S. registry would be affected by this AD, that it would take approximately 2.65 manhours per slide to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of parts to accomplish this modification is estimated to be $354 per slide. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $736,000.

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 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 evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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—[AMENDED]

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

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

§ 39.13 [Amended]

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

McDonnell Douglas Corporation: Applies to Model DC–9 series and DC–9–80 series airplanes, equipped with BFGoodrich, Aircraft Evacuation Systems (formerly Sargent Industries, Pico Division; formerly Pico Inc.) evacuation slides, P/N 11331, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent obstruction and hindrance with the emergency evacuation of the aircraft and possible injuries to the passengers and the crew, accomplish the following:

A. Within 18 months after the effective date of this AD, accomplish the modification of the evacuation slides in accordance with Section 2, Accomplishment Instructions, of BFGoodrich Service Bulletin 11331–25–226, Revision 1, dated July 16, 1990.

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

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

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to The BFGoodrich Company, Aircraft Evacuation Systems, 3414 South 5th Street, Phoenix, Arizona 85040. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

Issued in Renton, Washington, on September 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–21681 Filed 9–13–90; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 90–NM–155–AD]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 757 series airplanes, which would require modification of the number 3 left and right emergency exit doors. This proposal is prompted by reports of doors becoming jammed during attempted operation. This condition, if not corrected, could result in a reduced passenger evacuation capability during an emergency.

DATES: Comments must be received no later than November 5, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–155–AD, 1601 Lind Avenue SW., Renton Washington 98055–4056. The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport

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

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

SUPPLEMENTARY INFORMATION: 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 should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator 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 post card on which the following statement is made: "Comments to Docket Number 90-NM-155-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

There have been two in-service reports of the number 3 emergency exit doors on Boeing Model 757 series airplanes jamming during attempted operation for maintenance or testing. The jams are due to design and installation problems associated with the interfacing of the door catch assembly and panel assembly. This condition, if not corrected, could result in reduced passenger evacuation capability during an emergency.

The FAA has reviewed and approved Boeing Service Bulletin 757-25-0061, Revision 1, dated June 9, 1988, and Revision 2, dated June 29, 1989, both of which describe procedures for replacing the door catch assembly support with redesigned parts that eliminate the potential interference.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification of the affected emergency exit doors in accordance with the service bulletin previously described.

There are approximately 113 Model 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 59 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. The cost of required parts is estimated to be $95.20 per airplane (two modification kits per airplane at $47.60 per kit). Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $12,696.80.

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 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 evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

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—[AMENDED]

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

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

§ 39.13 [Amended]

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

Boeing: Applies to Boeing Model 757 series airplanes, as listed in Boeing Service Bulletin 757-25-0061, Revision 2, dated June 29, 1989, certificated in any category. Compliance required within 60 days after the effective date of this AD, unless previously accomplished.

To reduce the potential for jamming of the number 3 left and right emergency exit doors, accomplish the following:

A. Modify emergency exit doors by replacing the door catch assembly support in accordance with Boeing Service Bulletin 757-25-0061, Revision 1, dated June 9, 1988, or Revision 2, dated June 29, 1989.

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

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

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

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

Issued in Renton, Washington, on September 5, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-21682 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 286

RIN 1076-AA55

Indian Business Development Program

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: Since 1983, the Bureau of Indian Affairs has been requiring applicants for Indian business development grants to provide matching funds amounting to not less than 75 percent of the cost of an economic enterprise. This requirement has never been included in regulations. 25 CFR part 286 is being revised to correct this omission.

DATES: Comments must be received on or before October 15, 1990.

ADDRESSES: Mail or hand deliver comments to the Deputy to the Assistant Secretary—Indian Affairs (Trust and Economic Development). Attention: Division of Financial Assistance, Room 4060 MIB, Bureau of Indian Affairs, Department of the Interior, 18th & C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Richard K. Nephew, Division of Financial Assistance, Bureau of Indian Affairs, telephone (202) 208-3657.

SUPPLEMENTARY INFORMATION: This proposed revision is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The policy of the Department of the Interior is, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments regarding this proposed revision to the locations identified in the **ADDRESSES** section of this preamble. Proposed amendments to 25 CFR part 286, regulating the Indian Business Development Program (IBDP), were published June 26, 1989, for public comment.

The Bureau of Indian Affairs (BIA) has required applicants to provide at least 75 percent of necessary financing since appropriations for IBDP were reauthorized in 1984. From 1983 to 1985, the BIA administered a similar business development grant program called Special Grants for Econmic Development (25 CFR part 278) under authority of the Snyder Act. The IBDP supplants that program. Part 278 required 75 percent of project costs from non-Federal sources. Since 1983, we have been requiring 75 percent matching funds and this revision is to reflect that requirement.

This revision does not constitute a major Federal action since it is estimated the program regulated by this part will have no more than a $50 million gross annual effect on the National economy. It will not significantly affect the quality of the environment and no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The collections of information contained in this rule have been approved by the Office of Management and Budget as required by 44 U.S.C. 3501 *et seq.* The OMB clearance number assigned is 1076-0093. Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Information Collection Clearance Officer, Bureau of Indian Affairs, Mailstop 337-SIB, 1849 C Street, NW., Washington, DC 20245; and the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The primary author of this document is Richard K. Nephew, Division of Financial Assistance, Bureau of Indian Affairs, telephone (202) 308-3657.

List of Subjects in 25 CFR Part 286

Grant programs—business; Indian—business and finance.

For the reasons set out in the Preamble, part 286 of title 25, chapter I of the Code of Federal Regulation is proposed to be amended as set forth below.

PART 286—[AMENDED]

1. The authority citation for part 286 continues to read as follows:

Authority: 25 U.S.C. 1524.

2. Section 286.17(b) is revised to read as follows:

§ 286.17 Grant limitations and requirements.

* * * * *

(b) A grant may be made only to an applicant who is able to obtain at least 75 percent of the necessary financing from other sources.

* * * * *

Dated: July 24, 1990.

Patrick A. Hayes,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 90-21572 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-49-90]

RIN 1545-A056

Nondiscrimination Requirements for Qualified Plans; Application of Average Benefit Percentage Test to ESOPs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains amendments to two sets of previously proposed regulations. The amendments to the first set revise and amplify certain rules under the nondiscrimination requirements for qualified retirement plans under section 401(a)(4) of the Internal Revenue Code. The amendments to the second set change the rules governing the application of the average benefit percentage test under section 410(b) of the Code to employee stock ownership plans. In addition to reflecting changes made by the Tax Reform Act of 1986 (TRA '86), these proposed regulations interpret the section 401(a)(4) requirement that contributions or benefits provided under a tax-qualified retirement plan not discriminate in favor of highly compensated employees and the related section 410(b) minimum coverage requirements. These regulations will provide the public with guidance necessary to comply with the law and will affect sponsors of and participants in tax-qualified retirement plans.

DATES: Written comments must be received by November 13, 1990.

ADDRESSES: Send comments to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R (EE-49-90), Room 4429, Washington, DC 20044. In the alternative, to ensure timely receipt by the Service, comments can be hand-delivered to: Internal Revenue Service, Attn: CC:CORP:T:R (EE-49-90), Room 4429, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Rebecca Wilson and David Munroe at 202-377-9372 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Statutory Authority

This document contains amendments of previously proposed regulations under sections 401(a)(4), 401(a)(5), 401(l), and 410(b) of the Internal Revenue Code. These regulations and amendments are proposed to conform the regulations to sections 1111, 1112(a), and 1114 of TRA '86. These regulations are to be issued under the authority contained in sections 401(a)(4), 401(l), 410(b), and 7805 of the Code.

Amendments to Certain Nondiscrimination Rules

On May 14, 1990, the Treasury Department and the Internal Revenue Service published proposed comprehensive nondiscrimination regulations for qualified plans under section 401(a)(4) and certain other related Code sections. Since publication, the Treasury and the Service have received many comments and have continued to analyze the proposed regulations to ensure that they function as intended. In the course of this ongoing review, the Treasury and the Service have become aware of certain issues on which immediate guidance would be helpful. This document therefore amends proposed §§ 1.401(a)(4)-2, 1.401(a)(4)-3, and 1.401(a)(4)-9 published on May 14, 1990 (55 FR 19987), and proposed § 1.401(l)-3 published on November 15, 1988 (54 FR 45917), and amended on May 14, 1990 (55 FR 19947), to clarify and amplify certain nondiscrimination rules under those sections of the proposed regulations. The Treasury and the Service are still evaluating comments received on additional aspects of the proposed regulations. Therefore, no inference should be drawn from the fact that an issue is not addressed in this document or from the fact that only certain aspects of an issue are addressed.

1. Use of safe harbors not precluded by certain plan provisions

The proposed regulations published May 14, 1990, provide two safe harbors for defined contribution plans with uniform formulas and three safe harbors for defined benefit plans with uniform formulas. These safe harbors can be used to establish nondiscrimination with respect to the amount of contributions or benefits. In response to numerous inquiries, this document clarifies that many common plan provisions, such as limits on compensation or service taken into account, do not prevent use of the safe harbors.

2. Safe harbor for defined contribution plans with a uniform formula weighted for age or service

Proposed regulations § 1.401(a)(4)-2(b)(3) provides a safe harbor for defined contribution plans with a uniform allocation formula weighted for age or service. Under the safe harbor, the dollar amount of allocations may vary solely on account of compensation, age, years of service, or years of plan participation. This document makes clear that a common feature of such plans—weighing allocations by whole increments of compensation—is permissible under the safe harbor. In line with the traditional design of these plans, compensation can be taken into account in uniform increments of up to $200, with the same weight assigned to every increment. Of course, an employee's actual compensation must be used to determine average allocation rates under the second prong of the safe harbor.

3. Safe harbor for unit credit formula using fractional rule accrual

A number of commentators suggested amending proposed § 1.401(a)(4)-3(b)(2)(iv) which provides a safe harbor for defined benefit plans with uniform unit credit formulas under which benefits accrue under the fractional accrual rule. Under the safe harbor, no employee can accrue in any 1 year more than 133⅓ percent of the benefit that any other employee can accrue, disregarding employees with projected service in excess of 40 years. Because an employee who accrues the maximum benefit over 40 years accrues it at a rate of 2.5 percent annually, no other employee can accrue the maximum benefit at a rate of more than 3.33 percent annually (133⅓ percent of 2.5 percent) over 30 years. In contrast, under the flat benefit plan safe harbor, the maximum benefit can be accrued over 25 years. Commentators suggested that these two safe harbors be made parallel. In response to these comments, the proposed regulations have been amended to permit an employer to disregard employees with years of projected service in excess of 33 years in determining whether the plan satisfies this requirement of the safe harbor. This permits the maximum benefit for plans using the unit credit fractional rule safe harbor to be accrued over no less than 25 years, as is the case with plans using the flat benefit safe harbor.

Of course, an integrated plan that uses the unit credit fractional rule safe harbor must still satisfy section 401(1) in form, including the uniformity requirement under section 401(l). A unit credit fractional accrual plan, like a flat benefit fractional accrual plan, would violate the uniformity requirement under section 401(l) unless the maximum benefit is accrued over a period of at least 35 years.

4. Grouping of allocation or accrual rates

In response to a number of inquiries, this document clarifies the operation of the grouping rules for allocation and accrual rates under proposed §§ 1.401(a)(4)-2(c)(5) and 1.401(a)(4)-3(c)(3)(v). The effect of the amendments is to clarify the intended flexibility available to employers applying the grouping rules.

5. Compensation for the plan year

Under the proposed regulations, compensation for the entire plan year is taken into account in determining whether a defined contribution plan satisfies section 401(a)(4) with respect to the amount of contributions. A number of commentators have suggested that, in the case of defined contribution plans, it is consistent with the principle of nondiscrimination to measure compensation by reference to the portion of the plan year during which an employee is a plan participant. The Treasury and the Service agree. This document therefore amends the proposed regulations to implement this suggestion.

Under the proposed regulations, in determining whether a defined benefit plan satisfies section 401(a)(4) with respect to the amount of benefits, compensation must generally be based on the plan year. Alternatively, compensation can be based on any consecutive period of at least 12 months (36 months in the case of a plan using the special compensation rule in § 1.401(a)(4)-3(f)(2)), provided the period over which compensation is determined ends within the plan year being tested. A number of commentators have asked whether the requirement that the period end within the plan year precludes the use of a final average pay formula that determines an employee's accrual based on the employee's highest compensation over a specified number of years if those years do not end within the plan year being tested. This document clarifies the proposed regulations to provide specifically that a final average pay plan may use an employee's highest average compensation for a specified period even if that period does not end within the current plan year. This rule for final average pay plans is only available if the specified period in which the highest compensation is determined includes at least 36 consecutive months and compensation for a period ending within the current plan year is considered in determining the employee's highest paid period.

This document also modifies § 1.401(a)(4)-3(f)(2) to provide that a career average plan that bases an employee's total benefit on compensation for a period of at least 36 consecutive months (or the employee's period of employment, if shorter) will satisfy the requirements of that section even if the plan determines an employee's benefit based on each year of service separately, using compensation separately calculated for each year, and sums the benefit for each year to determine the total retirement benefit.

6. Calculating, restructuring, and testing most valuable accrual rates

In order to establish nondiscrimination in the amount of benefits, the proposed regulations require a defined benefit plan not using a safe harbor to demonstrate that no highly compensated employee has a most valuable accrual rate that exceeds that of any nonhighly compensated employee in the plan. Many commentators have pointed out the difficulty some plans have in satisfying this requirement.

A number of factors contribute to this difficulty. First, in contrast to normal accrual rates, most valuable accrual rates are especially sensitive to differences in the demographic characteristics of individual employees. Second, the manner in which most valuable accrual rates are calculated—particularly under the annual method—tends to accentuate these differences. Third, under the proposed regulations, a plan cannot be restructured on the basis of most valuable accrual rates. Finally, if the plan is also tested for normal accrual rates and is restructured under the rate segment method, difficulties may be experienced when segments of the most valuable accrual rate are allocated to corresponding segments of the normal accrual rate.

Some of these difficulties stem from the use in the proposed regulations of the actuarial methods employed in Rev. Rul. 81-202, 1981-2 C.B. 93, and from the interaction of those actuarial methods with aspects of the proposed regulations that are entirely new. These issues are under active review by the Treasury and the Service, and both agencies are committed to their prompt resolution.

This document contains several changes that affect the calculation, restructuring, and testing of most valuable accrual rates. First, the proposed regulations are amended to permit a plan to freeze an employee's highest most valuable accrual rate for testing purposes. This modification is designed to prevent the decrease in an employee's most valuable accrual rate that otherwise occurs after the employee passes the age at which the maximum subsidy is provided under the plan. Second, the annual method is amended to prevent decreases in the most valuable accrual rate from resulting in negative rates of accrual. Third, as discussed in greater detail below, the restructuring rules are amended to permit restructuring on the basis of most valuable accrual rates and to permit sequential restructuring of normal and most valuable accrual rates.

The Treasury and the Service acknowledge that these amendments may not provide a complete solution to the difficulties described above. The agencies are therefore considering more comprehensive approaches to resolving these issues. Comments from interested taxpayers on these issues are welcomed.

7. Restructuring generally

The proposed regulations permit plans to be restructured into component plans that separately satisfy sections 401(a)(4) and 410(b). These rules are intended to permit employers to provide benefits under one plan that previously could have been provided only under multiple plans. The Treasury and the Service have determined that certain limitations in the proposed regulations on the use of restructuring are not necessary to accomplish this purpose and have therefore amended the proposed regulations to permit greater flexibility in restructuring in the manner described below. These amendments generally allow plans to be restructured under either of the two rate-based methods by reference to employees' most valuable retirement benefits (while retaining the existing restructuring alternatives based on normal retirement benefits), and to allow sequential restructuring using the same or, in certain cases, a different method. They do not permit inconsistent restructuring, under which different component plans are created depending on which benefits are being tested. Although some commentators have requested this rule, it is not compatible with the purposes of restructuring noted above.

The first amendment permits plans to be restructured on the basis of either normal or most valuable accrual or allocation rates under the total rates and rate segments methods. As originally issued, the proposed regulations require that the total rates and rate segments methods be applied only on the basis of normal accrual or allocation rates. This limitation may present a problem in those cases where the restructured plan must satisfy section 401(a)(4) with respect to both normal and most valuable accrual or allocation rates. Under defined benefit plans with features such as subsidized early retirement, a variety of most valuable accrual rates is generally associated with each level of normal accrual rates. The first amendment therefore lifts the prohibition on applying the total rates and rate segments methods on the basis of most valuable accrual or allocation rates. This amendment also has the effect of permitting defined benefit plans with uniform formulas that are subject to testing only on the basis of most valuable accrual rates to be restructured and tested on that same basis.

The second amendment permits sequential restructuring of plans. As originally issued, the proposed regulations prohibited more than one method of restructuring from being applied to a plan in any one plan year and also prohibited any one of these methods from being applied more than once in that year. This restriction made it difficult to restructure plans with complex benefit structures into component plans satisfying section 401(a)(4), even in cases where the same benefits could have been provided through separate plans that individually satisfied that section.

For example, an employer could have two defined benefit plans, one covering employees at plant X under a safe harbor formula (Plan X), and the other covering employees at plant Y under a formula that does not satisfy any of the safe harbors (Plan Y). Under the proposed regulations the employer could test Plan X under the applicable safe harbor and at the same time apply the total rate method of restructuring to test Plan Y under the general rules. If the two plans were combined, however, the employer would be forced to apply a single method of restructuring to the entire plan and to apply it only once. Thus, if the employer used the employee group method to restructure the plan into two component plans, one covering employees at plant X and the other covering employees at plant Y, the employer could take advantage of the safe harbor for the first component plan, but would not be able to test the second component plan using total rate restructuring. On the other hand, if the total rate method were used, the employer would have to apply that method to the whole plan and could not restructure out the first component plan under the employee group method to take advantage of the safe harbor.

The second amendment therefore generally permits component plans to be further restructured to the same extent as plans or aggregated plans. The requirements of sections 401(a)(4) and 410(b) are then applied to the smallest resulting component plans. For example, the plan described above could first be restructured into two component plans covering employees at plants X and Y respectively using the employee group method. The first component plan could then be tested under a safe harbor, while the second component plan could be further restructured using the total rate method. Furthermore, the total rate method could be applied more than once to the second component plan, so that, if the second component plan provided two levels of normal retirement benefits and two levels of most valuable benefits, the plan could be restructured first on the basis of employees' normal accrual rates into two new component plans providing the same normal retirement benefits. It could then be restructured further on the basis of employees' most valuable accrual rates into a total of four new component plans, each providing the same normal and most valuable benefits to employees in that component and each satisfying the requirements of section 410(b).

As noted above, a number of commentators have also suggested that employers be permitted to use different component plans to satisfy section 401(a)(4) with respect to normal and most valuable accrual or allocation rates. Similarly, still different component plans could be used to test benefits, rights, and features. The proposed regulations do not permit inconsistent restructuring of this type because it would conflict with the objective of allowing a plan to be restructured only into components that would satisfy section 401(a)(4) if they were separate plans.

In addition to these amendments, the Treasury and the Service are considering a number of other amendments to the restructuring rules to make them simpler and easier to apply. For example, some commentators have suggested that the rules for allocating most valuable accrual rates among rate segments under the rate segments method need to be clarified. Another amendment that has been suggested to lessen complexity in the rate-based restructuring methods is the elimination of these methods altogether while, at the same time, significantly expanding the employee group method by eliminating certain limitations that currently apply to it, for example, the commonality requirement described in section 8 of this preamble and the reasonableness prong of the nondiscriminatory classification test under section 410(b). Comments are requested on these and other possible ways to simplify the restructuring rules.

8. Restructuring plans subject to section 401(k) and (m)

Although the proposed regulations permit plans subject to section 401 (k) and (m) to be restructured on the basis of employee groups, these plans may not use the total rate or rate segment methods of restructuring. While the proposed regulations do not impose explicit requirements for determining permissible restructured employee groups, they do, by necessary inference, require that restructured employee groups share some common attribute other than that of a similar accrual or allocation rate. The restriction on the use of total rate or rate segment restructuring would be meaningless if the only common attributes shared by the employee group were similar accrual or allocation rates. Other elements of the restructuring rules also reflect the fact that the employee groups used under the employee groups methods differ from groups of employees with similar accrual or allocation rates. For example, although different definitions of compensation may be used to determine allocation or accrual rates within each employee group, the same definition of compensation must be used for all employees under the total rates and rate segments methods. Similarly, accrual or allocation rates may be grouped within separate employee groups, but must be grouped for all employees before creating component plans based on total rates or rate segments.

Common attributes that provide a basis for employee group restructuring include, for example, employment at the same work site or in the same job classification. Similarly, permissible common attributes arise where employees work for the same division or subsidiary, work for a unit acquired in a specific merger or acquisition, or have been hired during a specified period. Restructuring may also be done on the basis of employee groups whose common attribute is coverage under the same contribution or benefit formula. In contrast, employee classifications that are based on total rates or rate segments or are created solely because they produce results similar to the total rate or rate segment methods do not constitute employee groups. Thus, for example, the proposed regulations therefore do not allow plans subject to section 401 (k) or (m) to be restructured into two component plans, one of which consists of employees deferring 5 percent or more of their compensation and the other consisting of all other employees. Similarly, plans cannot be restructured into components on the basis of whether employees made elective deferrals in the current or prior plan years.

A number of comments have requested clarification of the requirement that an employee group share common attributes. These comments have led the Treasury and the Service to consider whether the employee groups method may contain inherent uncertainties and may therefore be difficult to apply. Any such uncertainties would cause particular problems for plans subject to section 401 (k) and (m), which cannot benefit from the restructuring rules unless they satisfy the commonality requirement. The comments also indicate that, without objective standards, the employee groups method may provide a means to circumvent the actual deferral and actual contribution percentage tests and may therefore be inconsistent with the statutory requirements applicable to these plans.

As a result of these comments, the Treasury and the Service believe that it may be appropriate to develop more objective limits on the ability to restructure plans subject to section 401 (k) and (m). A number of options are under consideration, including the following: (1) Prohibiting restructuring for plans subject to section 401 (k) or (m); (2) prohibiting restructuring, but permitting an employer to disregard nonhighly compensated employees not needed to satisfy the 70 percent ratio test of section 410(b)(1)(B), or some higher level of coverage, in applying the actual deferral and actual contribution percentage tests; (3) requiring that employee groups be designated in advance in the plan document; and (4) defining more precisely the employee groups that can serve as the basis of component plans. It is anticipated that any such changes would also apply to plans that are restructured to satisfy the special age and service safe harbor in proposed § 1.401(a)(4)-2(b)(3) or the alternative flat benefit safe harbor in proposed § 1.401(a)(4)-3(b)(4). Comments are specifically requested on these and other possible limitations on plan restructuring.

In accordance with the preamble to the proposed regulations, any new limitations on restructuring of plans subject to section 401 (k) and (m) or using the safe harbors cited above will apply only to plan years beginning after the date of publication of future regulations. Pending publication of future regulations, plans subject to section 401 (k) and (m) and plans using the cited safe harbors may therefore continue to be restructured in the manner provided in the proposed regulations.

9. Transitional rules for defined benefit plans

Commentators have expressed interest in amending plans to satisfy the requirements of the defined benefit safe harbors in situations where plan benefits previously accrued under a nonuniform formula. In addition, commentators have requested rules permitting use of the defined benefit safe harbors in appropriate situations by plans with potentially nonuniform current accruals representing updates of pre-effective date accrued benefits to reflect compensation increases.

In response to these concerns, and in order to facilitate access to the defined benefit safe harbors, this document amends the proposed regulations to provide employers that wish to use safe harbor testing for existing defined benefit plans with several transition rule alternatives. These options, which are provided in § 1.401 (a)(4)-13(c), include approaches that freeze pre-effective date accrued benefits as well as approaches that disregard potentially nonuniform current accruals that result from the wear-away of benefits accrued under a prior formula or from compensation increases with respect to such prior accrued benefits. These transition rules focus on the immediate transition issues faced by plans with respect to the 1989, 1990 and 1991 plan years. Consideration is being given to the extent to which similar ongoing transition rules should be provided for subsequent plan amendments.

The same transition rules also apply for purposes of applying the annual method of determining accrual rates under § 1.401(a)(4)-3(c)(3)(ii), as proposed on May 14, 1990. This modification makes it clear that an existing defined benefit plan may not use the annual method to disguise compensation updates of benefits accrued in prior years under a now frozen formula in a manner that discriminates in favor of highly compensated employees.

Amendments to Minimum Coverage Requirements

This document also amends proposed § 1.410(b)-7 published on May 18, 1989 (54 FR 21457), and § 1.410(b)-5 published on May 14, 1990 (55 FR 19897), to require that employee stock ownership plans ("ESOPs") be aggregated with other qualified plans of an employer in applying the average benefit percentage test of section 410(b)(2)(A)(ii) (the "average benefit percentage test"). At the same time, this document reaffirms the separate testing requirement for ESOPs for all other purposes under section 410(b) as well as for purposes of section 401(a) (4) and (5). In addition, this document clarifies the operation of the disaggregation rules under proposed § 1.410(b)-7 generally.

1. Separate Testing of ESOPs

An ESOP is a qualified stock bonus plan, or a combination of a qualified stock bonus plan and a qualified money purchase pension plan, that is designed to invest primarily in employer securities and that meets the other requirements prescribed in the Code and regulations for recognition as an ESOP. The regulatory requirements applicable to recognition of a plan as an ESOP are set forth in final regulations under § 54.4975-11. These regulations were proposed in 1976 and finalized in 1977 and 1978.

Section 54.4975-11(e)(1) of the regulations prohibits an ESOP from being considered together with any other plan for purposes of applying section 410(b) or section 401(a) (4) and (5). This separate testing requirement is intended to prevent an ESOP, except in very limited circumstances, from being aggregated with another plan to determine whether the employees covered under the ESOP (or the other plan) constitute a minimum coverage group under section 410(b), or to determine whether the ESOP (or the other plan) satisfies the nondiscrimination requirements of section 401(a) (4) and (5). Together with the other rules applicable to ESOPs (including the prohibition on integration with social security), the separate testing requirement furthers the Congressional purpose of encouraging widespread employee stock ownership through ESOPs. See H.R. Rep. No. 1280, 93d Cong., 2d Sess. 313 (1974) (Conference Report to the Employee Retirement Income Security Act of 1974). In the context of section 410(b), the separate testing requirement ensures that an ESOP covers a minimum coverage group without relying on any other plan and that other plans cover minimum coverage groups without relying on the ESOP. Congress explicitly endorsed the separate testing requirement for ESOPs in the Conference Report to the Tax Reform Act of 1976. H.R. Rep. No. 1515, 94th Cong., 2d Sess. 541 (1976).

The prohibition on considering an ESOP (including a tax credit employee stock ownership plan described in section 409 of the Code) with another plan for purposes of the minimum coverage rules is reflected in the proposed regulations under section 410(b) that were published on May 18, 1989. Section 1.410(b)-7(c)(2) provides that the portion of a plan that is an ESOP and the portion of the plan that is not an ESOP are treated as separate plans for purposes of section 410(b). Section 1.410(b)-7(e) specifically provides that ESOPs must separately satisfy the average benefit percentage test. Comments received on the proposed regulations under section 410(b) have questioned whether the separate testing requirement should apply under the average benefit percentage test in particular and under section 410(b) in general.

a. Average Benefit Percentage Test

The Treasury and the Service have reexamined the application of the separate testing requirement under the average benefit percentage test in light of the requirement's purpose as well as the statutory language and legislative history of the average benefit percentage test. Based on this review, the Treasury and the Service have determined that existing law is best read as requiring the aggregation of ESOPs with all other qualified plans of the employer in performing the average benefit percentage test.

Under the law in effect prior to TRA '86, section 410(b) required a qualified plan to cover a group of employees described in former section 410(b)(1) (A) or (B). The tests set forth in those provisions were known respectively as the "percentage" test and the "nondiscriminatory classification" test. In TRA '86, Congress amended section 410(b) to replace the existing percentage tests with the percentage and ratio tests of current section 410(b)(1) (A) and (B) respectively. The 410(b) regulations published May 18, 1989, incorporate these two tests into the ratio percentage test of proposed § 1.410(b)-2(b)(2). In addition, Congress required that the average benefit percentage test be satisfied in order for a plan to be tested under the nondiscriminatory classification test in periods following the effective date of TRA '86. This latter requirement is reflected in current section 410(b)(2).

The ratio percentage test and the nondiscriminatory classification test focus on the group of employees covered under a plan and establish minimum criteria that the group must satisfy. In contrast, the average benefit percentage test does not describe a minimum group of employees that must be covered under a plan and imposes no direct restrictions on the group's composition. Instead, the test focuses on the relative level of contributions or benefits provided to highly and nonhighly compensated employees under all qualified plans of the employer. Under the test, all nonexcludable employees of the employer are taken into account, regardless of which plan they are covered under or, indeed, whether they are covered under any plan at all.

In this sense, the average benefit percentage test is not a minimum coverage test. Rather, as described above, it is more properly viewed as a precondition to use of the nondiscriminatory classification test in periods following the effective date of TRA '86. Because the average benefit percentage test is not a minimum coverage test, the policy behind the separate testing requirement for ESOPs does not compel extending that requirement to the average benefit percentage test.

Furthermore, the statutory language and the legislative history to TRA '86 are best read as requiring the aggregation of ESOPs with all other qualified plans of the employer for purposes of the average benefit percentage test. Section 410(b)(2)(C) defines the benefit percentage used in the average benefit percentage test as the employer-derived contribution or benefit of an employee under "all qualified plans maintained by the employer." Section 410(b)(2)(E) in turn provides that the term "qualified plan" includes any plan that meets the requirements of section 401(a). In explaining how benefit percentages are calculated under the average benefit percentage test, the TRA '86 Conference Report states, "In no case may an employer disregard any qualified plan in determining benefit percentages." H.R. Rep. No. 841, 99th Cong., 2d Sess. II-414 (1986).

For the reasons set forth above, the Treasury and the Service have decided to reverse the position taken in the regulations proposed on May 18, 1989, and to eliminate the separate testing requirement for ESOPs for purposes of the average benefit percentage test. These proposed regulations therefore amend proposed § 1.410(b)-7 to provide that ESOPs must be aggregated with all other plans of the employer for purposes of the average benefit percentage test. A conforming amendment is also made to the average benefit percentage test regulations under proposed § 1.410(b)-5.

b. Sections 401(a)(4), 401(a)(5), and Other Provisions of Section 410(b)

After carefully reviewing the relevant provisions in the statute, legislative history, and regulations, the Treasury and the Service have determined that Congress intended the separate testing requirement to continue to apply for all purposes under sections 410(b) and 401(a) (4) and (5) other than the average benefit percentage test. The Conference Report to TRA '86 indicates that Congress was well aware of the regulatory prohibition on considering an ESOP together with another plan for purposes of the nondiscrimination rules under sections 410(b) and 401(a) (4) and (5). See H.R. Rep. No. 841, 99th Cong., 2d Sess. II-411 n.1 (1986). Further, nowhere in the legislative history did Congress indicate any dissatisfaction with the separate testing requirement in § 54.4975-11(e). Given the earlier explicit endorsement of the separate testing requirement in the Conference Report to the Tax Reform Act of 1976 and the explicit recognition of the requirement in the Conference Report to TRA '86, the Treasury and the Service have concluded that, for purposes other than the average benefit percentage test, it would be inconsistent with Congressional intent to permit an ESOP to be tested together with another plan except in the limited circumstances permitted under § 54.4975-11(e). Thus, the proposed regulations under section 410(b) have not been amended to eliminate the separate testing requirement for ESOPs under the ratio percentage and nondiscriminatory classification tests.

2. Clarification of Disaggregation Rules Generally

The Treasury and the Service have received inquiries about how the mandatory disaggregation rules of proposed § 1.410(b)-7(c) apply to separate plans. This document clarifies that the rules apply not only to portions of the same plan but also to separate plans. Thus, two or more separate plans that would be subject to disaggregation if they were portions of the same plan cannot be aggregated. An analogous rule is provided under the mandatory aggregation rule of proposed § 1.410(b)-7(e) for purposes of the average benefit percentage test.

This document also clarifies that the transition rule in proposed § 1.410(b)-7 (c)(2) provided for an ESOP that is a portion of a larger plan does not apply to an ESOP that is a separate plan. The transition rule was provided solely because some taxpayers had interpreted the regulations under § 54.4975-11(e)(1) as not requiring the disaggregation of an ESOP that was a portion of a larger plan from other portions of the same plan. In contrast, no similar ambiguity existed regarding application of the separate testing requirement under § 54.4975-11(e)(1) in the case of an ESOP that is a separate plan. Therefore, no transitional rule was needed for ESOPs that are separate plans.

Effective Date

The amended portions of the section 401(a)(4), 401(l), and 410(b) regulations are proposed to be effective as previously set forth in the prior notices of proposed rulemaking to which they relate. Solely for purposes of the mandatory aggregation of ESOPs with other plans of an employer for purposes of the average benefit percentage test, employers may choose to test ESOPs separately under that test for plan years beginning before January 1, 1991, in conformity with proposed § 1.410(b)-7(e) prior to its amendment by this document.

Consistent with the statement in the preamble to the proposed regulations that future regulations that are more restrictive will be applied prospectively, employers that meet the reasonable, good faith requirement of § 1.401(a)(4)-13 for the 1989 and 1990 plan year by operating their plans in accordance with the proposed regulations as published on May 14, 1990, need not take into account for those years the transitional rules provided in proposed § 1.401(a)(4)-13(c). However, the provisions of § 1.401(a)(4)-13(c) are proposed to be effective for those plans for the first plan year beginning on or after January 1, 1991.

Reliance on These Proposed Regulations

Taxpayers may rely on these proposed regulations for guidance pending issuance of final regulations. If future regulations are more restrictive, such guidance will be applied without retroactive effect.

Special Analyses

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

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably a signed original and eight copies) to the Internal Revenue Service. Written comments must be received by November 13, 1990. All comments will be available for public inspection and copying in their entirety.

These regulations can be discussed at the public hearing concerning Nondiscrimination Requirements for Qualified Plans (EE-61-88), Miscellaneous Regulations for Qualified Plans (EE-2290), Minimum Participation (EE-44-87), and Definition of Compensation (EE-129-86) proposed regulations that were published on May 14, 1990. The public hearing is scheduled for Wednesday, September 26, 1990, at 10 a.m., and continuing at 10 a.m. each day, if necessary, on Thursday, September 27, 1990, and Friday, September 28, 1990, in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. Individuals who have requested to speak at that hearing do not need to submit a separate request, nor do they need to amend any previously submitted outline of oral comments in order to speak on this document at the hearing. If necessary, a separate additional hearing may be held on issues addressed in this document. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Comments on Previously Proposed Regulations

Although the preamble to the regulations proposed on May 14, 1990, requested that comments be submitted by July 13, 1990, the Treasury and the Service welcome additional comments. Individuals who have previously submitted comments are specifically encouraged to submit additional comments on the modifications contained in this document or to modify the comments they have already submitted. Comments submitted on these regulations, or on the regulations proposed on May 14, 1990, will be considered if they are received by November 13, 1990. The Treasury and the Service will also attempt to consider comments submitted after that date.

Drafting Information

The principal authors of these proposed regulations are Rebecca Wilson and David Munroe of the Office of the Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR 1.401-0 Through 1.425-1

Employee benefit plans, Employee stock ownership plans, Income taxes, Individual retirement accounts, Pensions, Stock options.

Proposed Amendments to the Regulations

The notices of proposed rulemaking (to amend 26 CFR part I) that were published on May 18, 1989 (54 FR 21437), and May 14, 1990 (55 FR 19897 and 55 FR 19947), are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

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

Authority: 26 U.S.C. 7805. * * * §§ 1.401(a) (4)-2, 1.401(a) (4)-3, and 1.40(a) (4)-9 also issued under 26 U.S.C. 401(a) (4), § 1.401(l)-3 also issued under 26 U.S.C. 401(l) and§§ 1.410(b)-5 and 1.410(b)-7 also issued under 26 U.S.C. 410(b).

Par. 2. Section 1.401(a) (4)-2 as proposed on May 14, 1990 (55 FR 19911), is amended as follows:

1. Paragraphs (b)(2), (b)(3)(i), and (b)(3)(ii) are revised to read as set forth below.
2. Paragraph (b)(4) is added as set forth below.
3. Paragraphs (c)(2), (c)(5), (e)(1), and (f) are revised to read as set forth below.

§ 1.401(a) (4)-2 Nondiscrimination in amount of contributions.

* * * * *

(b) *Safe harbors for defined contribution plans* * * *

(2) *Safe harbor for defined contribution plans with a uniform allocation formula.* A defined contribution plan satisfies this safe harbor if the plan allocates all amounts taken into account under paragraph (c)(2) of this section for the plan year under a single uniform formula that allocates the same percentage of compensation or the same dollar amount to every employee under the plan.

(3) *Safe harbor for defined contribution plans with a uniform allocation formula weighted for age or service.* * * *

(i) The plan allocates all amounts taken into account under paragraph (c)(2) of this section for the plan year under a single uniform formula weighted for age or service. A single uniform formula weighted for age or service is one that would allocate to each employee in the plan the same percentage of compensation or the same dollar amount, if every employee in the plan had the same age and the same number of years of service or plan participation. Solely for purposes of this paragraph (b)(3)(i), a formula is deemed to allocate the same percentage of compensation to each employee in the plan if the formula determines allocations under a weighing system that takes into account compensation in uniform increments no greater than $200 and that assigns the same weight to every increment. Thus, the dollar amount of allocations under a single uniform formula weighted for age or service may vary solely on account of compensation, age, years of service, or years of plan participation. The factors used to produce these variations must apply uniformly to all employees in the plan and must meet the effective availability requirement of § 1.401(a)(4)-4.

(ii) The average of the allocation rates for highly compensated employees in the plan does not exceed the average of the allocation rates for nonhighly compensated employees in the plan. For this purpose, allocation rates are determined in accordance with paragraph (c) of this section, without taking into account the disparity permitted under paragraph (c)(4) of this section and § 1.401(a)(4)-7, and without grouping allocation rates under paragraph (c)(5) of this section.

(4) *Use of safe harbors not precluded by certain plan provisions*—(i) *In general.* A plan does not fail to satisfy the requirements of paragraph (b)(2) or (b)(3) of this section merely because the plan contains a provision described in this paragraph (b)(4). Unless otherwise provided, the provision must apply uniformly to all employees in the plan.

(ii) *Section 409(n) limits.* The formula limits allocations to employees in accordance with section 409(n) (or section 1042(b)(3) of the Internal Revenue Code of 1954 as in effect immediately prior to the Tax Reform Act of 1986).

(iii) *Section 415 limits.* The formula limits allocations to employees in accordance with section 415.

(iv) *Certain other limits on allocations.* The formula limits allocations otherwise provided under the formula to a maximum dollar amount or a maximum percentage of compensation, or limits the amount of compensation or the number of years of service or plan participation taken into account in determining the amount of allocations. These limits must apply uniformly to all employees in the plan or, alternatively, to all highly compensated employees in the plan.

(v) *Certain conditions on allocations.* The formula provides that allocations to an employee for the plan year are conditioned on the employee's employment on the last day of the plan year or on the employee's completion of a minimum number of hours of service during the plan year (not to exceed 1,000).

(vi) *Section 401(l) permitted disparity.* The formula takes permitted disparity into account in a manner allowed under section 401(l), provided that every employee in the plan has the same integration level, the same base contribution percentage, and the same excess contribution percentage. For definitions of these terms, see § 1.401(l)-1 (b)(5), (b)(10), and (b)(11). This paragraph (b)(4)(vi) applies solely for purposes of paragraph (b)(2) of this section.

(vii) *Entry dates.* The plan provides one or more entry dates during the plan year in accordance with section 410(a)(4).

(viii) *Dollar allocation per hour of service.* Rather than determining allocations based on the same percentage of compensation or the same dollar amount, the formula determines allocations based on the same dollar amount per hour of service performed by each employee under the plan during the plan year.

(c) *General test for nondiscrimination in amount of contributions provided* * * *

(2) *Allocations taken into account.* The amounts taken into account in determining allocation rates include all employer contributions and forfeitures that are treated as allocated to the account of an employee for the plan year, other than amounts listed in paragraph (c)(3) of this section. In the case of a defined contribution plan subject to section 412, the amount of employer contributions taken into account is the amount of employer contributions required to be allocated under the plan to the employee's account for the plan year, even if all or part of the required contribution is not actually made. For purposes of this paragraph (c)(3), amounts that would be treated as allocated to the account of an employee for the plan year but for the limits of section 409(n) (or section 1042(b)(3) of the Internal Revenue Code of 1954 as in effect immediately prior to the Tax Reform Act of 1986) are treated as allocated to the account of the employee.

* * * * *

(5) *Grouping of allocation rates.* An employer may treat all employees who have allocation rates within a range of no more than 5 percent (not 5 percentage points) above or below a midpoint rate chosen by the employer as having an allocation rate equal to that midpoint rate. If allocation rates are determined as a percentage of compensation, an employer may, as an alternative, treat all employees who have allocation rates within a range of no more than one-quarter of a percentage point above or below a midpoint rate chosen by the employer as having an allocation rate equal to that midpoint rate. Allocation rates within a given range may be grouped under this paragraph (c)(5) only if the allocation rates of highly and nonhighly compensated employees are dispersed throughout the range in a reasonably comparable manner and the range does not overlap with any other range chosen by the employer. An employer may choose to group the allocation rates of some employees into ranges and not to group the allocation rates of other employees into ranges, provided that the allocation rates of all employees within each range chosen by the employer are grouped within that range. If allocation rates are determined as a percentage of compensation, an employer may apply either grouping method described in this paragraph (c)(5) and, in addition, may apply one method with respect to one group of employees and the other method with respect to another group of employees, provided that only one method is applied with respect to any given employee or group of employees.

* * * * *

(e) *Alternative methods for satisfying this section*—(1) *In general.* A plan that is not subject to section 401 (k) or (m) and that does not satisfy any of the tests in paragraph (b) or (c) of this section satisfies the requirements of this section if it does so using one or more of the alternative testing methods set forth in paragraphs (e) (2) through (4) of this section.

* * * * *

(f) *Period for determining compensation with respect to a plan year*—(1) *In general.* For purposes of this section, compensation for a plan year is determined by measuring compensation during any one of the periods described in paragraph (f) (2) through (4) of this section. Whichever period is selected must be applied uniformly to determine the compensation of every employee in the plan.

(2) *Plan year.* This period consists of the plan year.

(3) *Calendar year ending in plan year.* This period consists of the calendar year ending within the plan year.

(4) *Period of plan participation during the plan year.* This period consists of the portion of the plan year during which the employee is a participant in the plan. This rule may be used to determine compensation for the plan year in which participation begins, the plan year in which participation ends, or both. Selection of this period must be made on a reasonably consistent basis from plan year to plan year in a manner that does not discriminate in favor of highly compensated employees. Discrimination might arise, for example, where this period is selected in all plan years except a plan year in which a highly compensated employee enters the plan at midyear.

Par. 3. Section 1. 401(a)(4)-3 as proposed on May 14, 1990 (55 FR 19912), is amended as follows:

1. Paragraphs (b)(2)(ii)(B), (b)(2)(iv), (b)(2)(v), Examples 3, 4, and 5, and (b)(3)(ii)(A) are revised to read as set forth below.
2. Paragraph (b)(3)(iii) is removed and paragraph (b)(3)(iv) is redesignated as (b)(3)(iii).
3. The last sentence of (b)(4) is revised to read as set forth below.
4. A new paragraph (b)(5) is added as set forth below.
5. Paragraphs (c)(3)(ii) and (c)(3)(v) are revised to read as set forth below.
6. A new paragraph (c)(3)(vii) is added as set forth below.
7. Paragraphs (e)(1), (f)(2)(i)(A), (f)(2)(ii) Introductory text, and (f)(7) are revised and in paragraph (f)(2)(ii) the current example is designated Example 1 and new Example 2 is added to read as set forth below.

§ 1.401(a)(4)-3 Nondiscrimination in amount of benefits.

* * * * *

(b) *Safe harbors for defined benefit plans with uniform formulas* * * *

(2) *Safe harbor for unit credit plans* * * *

(ii) *Uniform unit credit formula* * * *

(B) The benefit formula provides that the same dollar amount or the same percentage of compensation will be accrued for the current and subsequent plan years by all employees in the plan who have the same number of years of service credited under the plan for purposes of benefit accruals. In making this determination, the effect of the limits under section 415 is disregarded.

* * * * *

(iv) *Unit credit formula using fractional rule accrual.* A unit credit plan that provides that benefits are accrued under the fractional accrual rule of section 411(b)(1)(C) satisfies the requirements of this paragraph (b)(2) only if under the formula no employee in the plan can accrue, in any one year, more than 133⅓ percent of the benefit (expressed as a percentage of compensation or a dollar amount) that any other employee in the plan can accrue, disregarding employees with projected service in excess of 33 years. (Of course, employees with projected service in excess of 33 years are still taken into account for all other purposes, including the determination of whether all employees in the plan are subject to the same benefit formula.) Such a plan need not satisfy section 411(b)(1)(B) or paragraph (b)(2)(ii)(B) of this section. For purposes of the rule in this paragraph (b)(2)(iv), if a plan provides a disparity that by its terms satisfies section 401(l), an employee can be treated as accruing benefits either at the excess benefit percentage rate in the case of an excess plan or at the rate prior to reduction by the offset in the case of an offset plan. Section 1.401(l)-1(b) defines "excess plan," "offset plan," and "excess benefit percentage."

(v) Examples. * * *

Example 3. Plan C provides for a benefit equal to 1.6 percent of compensation times each year of service up to 25. Plan C further provides that an employee's accrued benefit as of a given year equals the benefit projected as of normal retirement age multiplied by the ratio of the employee's years of service as of the year to the employee's projected years of service as of normal retirement age (i.e., the plan benefits accrue under the fractional rule of section 411(b)(1)(C)). The greatest benefit that an employee can earn in any one year is 1.6 percent of compensation (this is the case for any employee in the plan who will have 25 or fewer years of projected service at normal retirement age). The lowest benefit that will accrue for an employee in the plan with no more than 33 projected years of service is 1.212 percent (this is the case for any employee in the plan with 33 years of projected service under the formula). Since 1.6 percent is not more than 133⅓ percent of 1.212 percent, Plan C satisfies the rule in paragraph (b)(2)(iv) of this section.

Example 4. Plan D satisfies section 401(l) and provides for a benefit equal to 1.0 percent of compensation up to the integration level, and 1.6 percent of compensation over the integration level, times each year of service up to 35. Plan D further provides that an employee's accrued benefit as of a given year equals the benefit projected as of normal retirement age multiplied by the ratio of the employee's years of service as of the year to the employee's projected years of service as of normal retirement age (i.e., the plan benefits accrue under the fractional rule of section 411(b)(1)(C)). For purposes of satisfying the 133⅓ percent rule in paragraph (b)(2)(iv) of this section, all employees in the plan can be assumed to accrue benefits at the excess rate of 1.6 percent. Thus, the greatest benefit that an employee can earn in any one year is 1.6 percent of pay (this is the case for any employee in the plan who will have 35 or fewer years of projected service at normal retirement age). The lowest benefit that will accrue for an employee under the plan with no more than 33 projected years of service is 1.6 percent (this is the case of an employee in the plan with 33 years of projected service under the formula). Since 1.6 percent is not more than 133⅓ percent of 1.6 percent, Plan D satisfies the rule in paragraph (b)(2)(iv) of this section.

Example 5. Plan E provides for a benefit equal to 4 percent of compensation times each year of service up to 10 and 1 percent of compensation times each year of service in excess of 10 and not in excess of 30. Plan E further provides that an employee's accrued benefit as of a given year equals the benefit projected as of normal retirement age multiplied by the ratio of the employee's years of service as of the year to the employee's projected years of service as of normal retirement age (i.e., the plan benefits accrue under the fractional rule of section 411(b)(1)(C)). The greatest benefit that an employee can earn in any one year is 4 percent of compensation (this is the case for any employee who will have 10 or fewer years of projected service at normal retirement age). The lowest benefit that will accrue for an employee with no more than 33 projected years of service is 1.82 percent (this is the case of an employee with 33 years of projected service under the formula). Since 4 percent is more than 133⅓ percent of 1.82 percent, Plan E fails to satisfy the rule in paragraph (b)(2)(iv) of this section.

(3) *Safe harbor for flat benefit plans* * * *

(ii) *Uniform flat benefit formula.* * * *

(A) All employees in the plan are subject to the same benefit formula providing the same flat benefit.

* * * * *

(4) *Alternative safe harbor for flat benefit plans.* * * * For purposes of this paragraph (b)(4), the normal accrual rate is determined in the same manner as under paragraph (c)(3)(ii) of this section, except that accrual rates may not be grouped under paragraph (c)(3)(v) of this section.

(5) *Use of safe harbors not precluded by certain plan provisions*—(i) *In general.* A plan does not fail to satisfy the requirements of paragraph (b)(2), (b)(3), or (b)(4) of this section merely because the plan contains a provision described in this paragraph (b)(5). Unless otherwise provided, the provision must apply uniformly to all employees in the plan.

(ii) *Pre-effective date accrued benefits.* The plan provides for benefits that were accrued in plan years beginning before the effective date applicable to the plan under § 1.401(a)(4)-13 (a) or (b) and that were accrued under a formula that does not satisfy any of the safe harbors in this paragraph (b). This paragraph (b)(5)(ii) applies solely to plans that satisfy the transitional rules of § 1.401(a)(4)-13(c).

(iii) *Section 415 limits.* The formula limits accruals in accordance with section 415 or provides for increases in accrued benefits based solely on adjustments under section 415(d)(1) in the maximum benefit permitted under section 415(b)(1).

(iv) *Certain other limits on accruals.* The formula limits accruals to a maximum dollar amount or a maximum percentage of compensation, or limits the amount of compensation or the number of years of service or plan participation taken into account in determining the amount of accruals. The formula must apply these limits uniformly to all employees in the plan or, alternatively, all highly compensated employees in the plan.

(v) *Certain conditions on accruals.* The formula provides that accruals by an employee for the plan year are less than a full accrual (including a zero accrual) because of a plan provision permitted by section 411(b)(4) for employees who do not complete a full year of service.

(vi) *Section 401(l) permitted disparity.* The formula takes permitted disparity into account in a manner allowed under section 401(l).

(vii) *Entry dates.* The plan provides one or more entry dates during the plan year in accordance with section 410(a)(4).

(viii) *Dollar accrual per hour of service.* Rather than accruing the same percentage of compensation or the same dollar amount, each employee with the same number of years of service accrues the same dollar amount per hour of service performed by the employee during the plan year. This rule applies solely for purposes of paragraph (b)(2) of this section and solely with respect to a plan that satisfies the accrual rule of section 411(b)(1)(B) (the 133½ percent rule).

(c) *General test for nondiscrimination in amount of benefits provided* * * *

* * * * *

(3) *Determining accrual rates* * * *

(ii) *Annual accrual method*—(A) *In general.* Under the annual accrual method of determining the normal and most valuable accrual rates, the accrual rate for an employee in the plan for a plan year is the percentage amount (not less than zero) determined by subtracting:

(*1*) The employee's relevant benefit (i.e., normal retirement benefit or most valuable annuity) accrued as of the close of the prior plan year, expressed as a percentage of the employee's compensation as of the close of that prior year, from

(*2*) The employee's relevant benefit accrued as of the close of the plan year, expressed as a percentage of the employee's compensation as of the close of that year.

(B) *Requirements for plans with pre-effective date accrued benefits.* If a plan provides benefits that were accrued in plan years beginning before the effective date applicable to the plan under § 1.401(a)(4)-13 (a) and (b) and that were accrued under a formula that differs from the formula used to determine benefit accruals in the current plan year, the plan can determine an employee's accrual rate under paragraph (c)(3)(ii)(A) of this section only if the plan satisfies the transitional rules of § 1.401(a)(4)-13(c). A plan described in the preceding sentence that does not satisfy those transitional rules can only determine the normal and most valuable annual accrual rate for an employee in the plan for the plan year as the percentage amount (not less than zero) determined by:

(*1*) Subtracting the employee's relevant benefit accrued as of the close of the prior plan year from the employee's relevant benefit accrued as of the close of the plan year, and

(*2*) Dividing this difference by the employee's compensation for the plan year.

(C) *Effect of past service credit.* In calculating the relevant accrued benefit as of the close of the plan year, amounts attributable to a past service credit described in § 1.401(a)(4)-5 (b)(1) are not taken into account. Of course, the past service credit must satisfy the requirements of § 1.401(a)(4)-5.

* * * * *

(v) *Grouping of accrual rates.* An employer may treat all employees who have accrual rates within a range of no more than 5 percent (not 5 percentage points) above or below a midpoint rate chosen by the employer as having an accrual rate equal to that midpoint rate. If accrual rates are determined as a percentage of compensation, an employer may, as an alternative, treat all employees who have accrual rates within a range of no more than one-twentieth of a percentage point above or below a midpoint rate chosen by the employer as having an accrual rate equal to that midpoint rate. Accrual rates within a given range may be grouped under this paragraph (c)(3)(v) only if the accrual rates of highly and nonhighly compensated employees are dispersed throughout the range in a reasonably comparable manner and the range does not overlap with any other range chosen by the employer. An employer may choose to group the accrual rates of some employees into ranges and not to group the accrual rates of other employees into ranges, provided that the accrual rates of all employees within each range chosen by the employer are grouped within that range. If accrual rates are determined as a percentage of compensation, an employer may use either grouping method described in this paragraph (c)(3)(v) and, in addition, may use one method with respect to one group of employees and the other method with respect to another group of employees, provided that only one method is used with respect to any given employee or group of employees.

* * * * *

(vii) *Floor on most valuable accrual rate.* The most valuable accrual rate of an employee calculated under the three methods in this paragraph (c)(3) may, at the option of the employer, be calculated for all employees under the plan using the rule described in this paragraph (c)(3)(vii). An employee's most valuable accrual rate for any year is not less than the highest most valuable accrual rate for that employee in any prior year, provided that the decrease in the employee's most valuable accrual rate in years subsequent to that prior year results merely from an increase in the employee's age. This paragraph (c)(3)(vii) is illustrated by the following example:

Example. Plan X provides normal retirement benefits of 1 percent per year of service at age 65 and unreduced retirement benefits for employees who attain age 55 with 30 years of service. The plan determines accrual rates under the accrued to date method. Employee A was hired at age 25, and Employee B was hired at age 26. Employee A's and Employee B's most valuable accrual rate would therefore be determined at ages 55 and 56, respectively. Under the rule in this paragraph (c)(3)(vii), Plan X may treat Employee A's most valuable accrual rate determined in the year when A is age 55 as A's most valuable accrual rate in subsequent years. Similarly, Employee B's most valuable accrual rate determined when B is age 56 may be used in subsequent years.

* * * * *

(e) *Alternative methods for satisfying this section*—(1) *In general.* A plan that does not satisfy any of the tests in paragraph (b) or (c) of this section satisfies the requirements of this section if it does so using one or more of the alternative testing methods set forth in paragraphs (e) (2) through (5) of this section.

* * * * *

(f) *Special rules* * * *

(2) *Compensation formulas*—(i) *Special rule.* In general, a compensation formula satisfies the requirements of this paragraph (f)(2) if:

(A) The formula bases benefits on compensation for a period of at least 3 consecutive years or 3 consecutive 12-month periods (or the employee's period of employment, if shorter), or the formula determines an employee's benefit based on each year of service separately, using compensation separately calculated for each year, and sums the benefit for all years to determine the total retirement benefit.

* * * * *

(ii) *Examples.* The special rule of this paragraph (f)(2) is illustrated by the following examples:

Example 1. * * *

Example 2. Plan B is a career average pay plan that bases an employee's benefit for each plan year on compensation earned within that plan year. Thus, an employee's total accrued benefit under the plan is equal to the sum of the benefits accrued in each individual plan year that the employee is a participant in the plan. Because the employee's total accrued benefit under the plan equals the sum of benefits computed separately for each plan year based on compensation for that year, the plan satisfies the requirements of paragraph (f)(2) of this section.

* * * * *

(7) *Computation of compensation on other than plan year basis*—(i) *In general.* For purposes of this section, compensation is generally determined based on the plan year, except as otherwise provided in paragraph (f)(7)(ii) of this section. Nevertheless, an employer may, but need not, determine compensation on the basis of any consecutive period ending within the plan year as long as it is at least 12 months in duration and is used uniformly for all employees in the plan for that plan year. Any 12 month period permitted under the rules of this paragraph (f)(7) can be used for purposes of satisfying the requirements of paragraph (f)(2) of this section provided the formula bases benefits on a total period of compensation that satisfies the duration requirements of paragraph (f)(2) of this section.

(ii) *Special rule for highest average pay plans.* A definition of compensation will satisfy the requirements of paragraphs (f)(2)(i)(A) and (f)(7) of this section if it provides that the accruals for all employees are based on an employee's highest compensation determined over a specified period (e.g., a final average pay plan that bases benefits for an employee on the average of the employee's highest 3 consecutive years' compensation), even though the period of highest compensation does not end within the plan year. This rule may be used only if the highest paid period includes at least 36 consecutive months (or the employee's period of employment, if shorter) and, in determining an employee's highest years of compensation, the 12-month period ending within the plan year is taken into account. The rules in this paragraph (f)(7)(ii) are illustrated by the following example:

Example. Plan M is a final average pay plan that bases benefits for all employees on the average of each employee's high 3 consecutive calendar years' compensation. The plan year is a fiscal year from July 1 to June 30. In determining an employee's high 3-years, the plan takes into account compensation earned in all calendar years including the calendar year ending within the plan year. Employee A, who was hired on January 1, 1990, has compensation for calendar years 1990 through 1994 of $100,000, $130,000, $100,000, $90,000 and $90,000, respectively. Therefore, for the plan year beginning July 1, 1994, Employee A's high 3-year average is the average of the compensation earned in 1990, 1991 and 1992 ($110,000). The definition of compensation satisfies the requirements of paragraph (f)(7)(i) of this section because, even though Employee A's benefit accrual is based on compensation for a period not ending within the plan year, the plan formula took into account compensation ending within the plan year in determining A's 3 highest years of compensation.

Par. 4. Section 1.401(a)(4)-9, as proposed on May 14, 1990 (55 FR 46 19926) is amended as follows:

1. Paragraphs (d)(2)(i)(B) and (d)(2)(i)(C) are revised to read as set forth below.

2. Paragraphs (d)(2)(ii) through (d)(2)(v) are redesignated as paragraph (d)(2)(iii) through (d)(2)(vi).

3. A new paragraph (d)(2)(ii) is added to read as set forth below.

4. Redesignated paragraphs (d)(2)(iii), (d)(2)(iv) and (d)(2) (v) are revised to read as set forth below.

5. Paragraph (d)(3) is revised to read as set forth below.

1.401(a)(4)-9 Definition of a plan, plan aggregation, and restructuring.

* * * * *

(d) *Plan restructuring* * * *

(2) *Identification of component plans*—(i) *Permissible bases for restructuring* * * *

* * * * *

(B) *Total rates.* A plan or aggregated plan (other than a plan subject to section 401 (k) or (m)) may be restructured into component plans, each consisting of normal accrual or allocation rates equal to a different specified rate (or within a different specified range), and all benefits, rights, and features provided under the plan or aggregated plan to employees having normal accrual or allocation rates equal to the specified rate (or within the specified range) Alternatively, a plan or aggregated plan (other than a plan subject to section 401 (k) or (m)) may be restructured into component plans, each consisting of most valuable accrual or allocation rates equal to a different specified rate (or within a different specified range) and all normal retirement benefits and other benefits, rights and features provided under the plan or aggregated plan to employees having most valuable accrual or allocation rates equal to the specified rate (or within the specified range). An employee can be included in only one such component plan. Further, a component plan consisting of rates equal to a specified rate (or within a specified range) must include all the rates equal to the specified rate (or all rates within the specified range) under the plan or aggregated plan. Thus, for example, a plan benefiting employees A and B, both of whom have 1 percent normal accrual rates, cannot be restructured under this method into one component plan containing A's 1 percent rate and another containing B's 1 percent rate.

(C) *Rate segments.* A plan or aggregated plan (other than a plan subject to section 401 (k) or (m)) may be restructured into component plans, each consisting of a different incremental segment of employees' normal accrual or allocation rates, the associated most valuable accrual or allocation rates, and all associated benefits, rights, and features. Alternatively, a plan or aggregated plan may be restructured into component plans, each consisting of a different incremental segment of employees' most valuable accrual or allocation rates, the associated normal accrual or allocation rates, and all associated benefits, rights and features. An employee can be included in more than one such component plan, but only with respect to different incremental segments of the employee's total rate under the plan or aggregated plan. Incremental segments are not permitted to overlap, and a component plan consisting of a specified incremental segment of employees' accrual or allocation rates must include this segment of all employees' rates. Thus, for example, a plan under which employees A, B, and G have normal accrual rates of 1, 1, and 2 percent, respectively, may not be restructured under this method into one component plan containing A's 1 percent rate and the first 1 percent of G's rate, and another competent plan containing B's 1 percent rate and the remaining 1 percent of G's rate.

* * * * *

(ii) *Sequential restructuring.* A component plan identified under one of the methods in paragraph (d)(2)(i) of this section may be further restructured into smaller component plans, to the same extent as a plan or aggregated plan, using the same method. In addition, one or more component plans created using the employee group method (other than a plan subject to section 401 (k) or (m)) may be further restructured using the total rate or rate segment methods. If component plans are restructured in this manner, the requirements of section 401(a)(4) are applied, pursuant to paragraph (d)(1) of this section, to the smallest resulting component plans rather than to any intermediate component plans.

(iii) *Consistency rules.* A portion of a plan that is treated as part of one component plan for a plan year may not be treated as part of another component plan for the same plan year. For purposes of this paragraph (d)(2)(iii), only the ultimate component plans into which a plan or aggregated plan is restructured are taken into account. Thus, intermediate component plans that are further restructured into smaller component plans pursuant to paragraph (d)(2)(ii) are ignored.

(iv) *Application of grouping rules.* If the grouping rules in § 1.401(a)(4)-2(c)(5) or 1.401(a)(4)-3(c)(3)(v) are used in combination with the employee group method in paragraph (d)(2)(i)(A) of this section, the grouping rules can be applied only after restructuring. If the grouping rules are used in combination with the total rate or rate segment method in paragraph (d)(2)(i) (B) or (C) of this section, the grouping rules can be applied only before restructuring. In no event may the grouping rules be applied more than once to any portion of a plan or aggregated plan restructured under this paragraph (d).

(v) *Application of uniformity requirement for definitions of compensation.* The uniformity requirement applicable to the definition of compensation under § 1.401(a)(4)–12(a) and to a compensation formula under §§ 1.401(a)(4)–2(f), 1.401(a)(4)–3(f)(2)(i)(B), and 1.401(a)(4)–3(f)(7) is applied only after restructuring in the case of a plan or aggregated plan that uses the employee group method of paragraph (d)(2)(i)(A) of this section, and only before restructuring in the case of a plan or aggregated plan that uses the total rate or rate segment method of paragraph (d)(2)(i) (B) or (C) of this section. The same rule applies for purposes of the consistency rule of § 1.414(s)–1T(b).

* * * * *

(3) *Satisfaction of section 401(a)(4) by a component plan.* The rules applicable in determining whether a component plan satisfies section 401(a)(4) are the same as those applicable to a plan or aggregated plan, except as provided in paragraph (d)(2) of this section. Thus, for example, in the case of a defined benefit plan, the normal and most valuable benefits tested under § 1.401(a)(4)–3 must generally be separately identified with respect to each component plan. However, if a defined benefit plan has a uniform formula, as described in § 1.401(a)(4)–3(c)(1)(ii), only the most valuable benefits tested under § 1.401(a)(4)–3(c)(1)(ii) need be separately identified with respect to each component plan. Similarly, a component plan that consists of a uniform formula under a defined benefit plan that satisfies one of the safe harbors in § 1.401(a)(4)–3(b) may be tested under the safe harbor, even if the other component plans are tested under the general test of § 1.401(a)(4)–3(c). Further, if a component plan includes portions of two plans, the special rules for aggregated plans in paragraph (c) of this section must be satisfied.

* * * * *

Par. 5. Section 1.401(a)(4)–13, as proposed on May 14, 1990 (55 FR 19930), is amended by adding new paragraph (c) to read as follows:

§ 1.401(a)(4)–13 Effective dates.

* * * * *

(c) *Transitional rules for certain defined benefit plans*—(1) *In general.* For purposes of the defined benefit safe harbors and the annual accrual method referred to in § 1.401(a)(4)–3(b)(5)(ii) and (c)(3)(ii)(B), respectively, a defined benefit plan satisfies the transitional rules of this paragraph (c) if it satisfies either paragraph (c)(2), (c)(3), or (c)(4) of this section with respect to the treatment of pre-effective date accrued benefits. Certain definitions applicable for purposes of this paragraph (c) are provided in paragraph (c)(6) of this section.

(2) *Section 401(l) plans.* A defined benefit plan satisfies this paragraph (c)(2) if the plan satisfies section 401(l), including the effective date and transition rules of § 1.401(l)–3(l). In addition, if the plan is adjusting accrued benefits under § 1.401(l)–3(l)(7), then the plan must provide meaningful coverage as of the close of the freeze year and meaningful benefit accruals in the current plan year.

(3) *Non-section 401(l) plans that freeze all pre-effective date accrued benefits.* A defined benefit plan not satisfying section 401(l) satisfies this paragraph (c)(3) if the plan freezes all pre-effective date accrued benefits in accordance with one of the formulas set forth in paragraph (c)(5) of this section.

(4) *Non-section 401(l) plans that provide current accruals with respect to pre-effective date accrued benefits.* A defined benefit plan not satisfying section 401(l) satisfies this paragraph (c)(4) if:

(i) The plan provides meaningful coverage as of the close of the freeze year;

(ii) The plan provides meaningful benefit accruals in the current plan year;

(iii) The plan provides current accruals with respect to pre-effective date accrued benefits solely in accordance with one of the formulas set forth in paragraph (c)(5) of this section;

(iv) As of May 9, 1990 (or an earlier date selected by the employer but not before December 13, 1988), and without regard to any amendments to the plan adopted after that date, the plan contained a benefit formula under which increases in an employee's pre-effective date accrued benefits would have been determined by reference to the employee's compensation in plan years beginning after the close of the freeze year;

(v) For purposes of § 1.401(a)(4)–3(b), if applicable, the formula used to determine benefit accruals in the current plan year does not take into account the disparity permitted under section 401(l); and

(vi) For purposes of determining accrual rates under § 1.401(a)(4)–3(c)(3)(ii), if applicable, the plan does not take into account the disparity permitted under § 1.401(a)(4)–7 unless the plan makes the minimum benefit adjustment set forth in paragraph (c)(6)(ii) of this section.

(5) *Formulas for plans that do not satisfy section 401(l)*—(i) *In general.* For purposes of paragraph (c)(3) and (c)(4) of this section, an employee's accrued benefit under the plan must be determined as of the first plan year beginning after the freeze year under one of the formulas set forth in paragraph (c)(5) (ii), (iii), or (iv) of this section. The same formula must be adopted in accordance with paragraph (c)(3) or (c)(4) of this section and must be applied with respect to all employees who have pre-effective date accrued benefits under the plan and who have at least one hour of service with the employer in a plan year beginning after the freeze year. For this purpose, two or more plans are treated as a single plan if they are aggregated and treated as a single plan for purposes of sections 401(a)(4) and 410(b). Solely for purposes of paragraph (c)(4) of this section, these formulas are applied by substituting the employee's "adjusted accrued benefit" for the employee's "frozen accrued benefit."

(ii) *Formula without wear-away.* An employee's accrued benefit under the plan is equal to the sum of:

(A) The employee's frozen accrued benefit, and

(B) The employee's accrued benefit determined under the formula applicable to benefit accruals in the current plan year as applied to years of credited service after the freeze year.

(iii) *Formula with wear-away.* An employee's accrued benefit under the plan is equal to the greater of:

(A) The employee's frozen accrued benefit, or

(B) The employee's accrued benefit determined under the formula applicable to benefit accruals in the current plan year as applied to the employee's total years of credited service for the employer.

(iv) *Formula with extended wear-away.* An employee's accrued benefit under the plan is equal to the greater of:

(A) The sum determined under paragraph (c)(5)(ii) of this section, or

(B) The employee's accrued benefit determined under the formula applicable to benefit accruals in the current plan year as applied to the employee's total years of credited service for the employer.

(6) *Definitions*—(i) *In general.* In addition to the definitions set forth in § 1.401(a)(4)–12, the following definitions apply for purposes of this paragraph (c) and § 1.401(a)(4)–3(b)(5)(ii) and (c)(3)(ii)(B).

(ii) *Adjusted accrued benefit*—(A) *General rule.* The term "adjusted accrued benefit" means an employee's frozen accrued benefit multiplied by a fraction (not less than 1) determined under one of the following methods that is the same for every employee in the plan:

(*1*) The numerator is the employee's compensation for the current plan year determined under the compensation definition used to determine the frozen accrued benefit (subject to section 401(a)(17)), and the denominator is the employee's compensation for the freeze year determined under the same compensation definition used for the numerator;

(*2*) The numerator is the employee's compensation for the current plan year determined under a compensation definition that satisfies § 1.401(a)(4)-3(f)(2), and the denominator is the employee's compensation for the freeze year determined under the same compensation definition used for the numerator; or

(*3*) The numerator is the employee's compensation for the current plan year determined under a compensation definition that satisfies § 1.401(a)(4)-3(f)(2), and the denominator is the employee's reconstructed compensation for the freeze year.

If a plan makes a minimum benefit adjustment for purposes of paragraph (c)(4)(vi) of this section, an employee's frozen accrued benefit is first adjusted in the same manner as provided in § 1.401(l)-3(l)(7)(ii)(C) and then multiplied by the fraction determined under one of the preceding methods.

(B) *Permissible compensation definitions.* Any compensation definition used for purposes of this paragraph (c)(6)(ii) must be the same for every employee with pre-effective date accrued benefits under the plan. The definition may, but need not, be the same as the compensation definition used in the current plan year for other purposes under section 401(a)(4).

(C) *Option to make less than the full permitted adjustment.* In lieu of the adjustment described in the first sentence of paragraph (c)(6)(ii)(A) of this section (and, if applicable, after the minimum benefit adjustment described in the last sentence of that paragraph has been made), the frozen accrued benefit of every employee in the plan may be increased by adding to the frozen accrued benefit the product determined by multiplying the frozen accrued benefit by the product of two percentages. The first percentage is the single percentage designated in the plan for this purpose (not to exceed 100 percent). The second percentage is determined by finding the difference between the numerator and the denominator of the fraction determined for the employee under one of the methods described in the first sentence of paragraph (c)(6)(ii)(A) of this section and then by dividing that difference by the denominator of the employee's fraction. In addition, a plan may impose a uniform maximum dollar amount on the adjusted accrued benefit of every employee in the plan. Furthermore, the plan can, at any time, terminate all future adjustments permitted under this paragraph (c)(6)(ii).

(iii) *Benefit accruals in the current plan year.* The term "benefit accruals in the current plan year" means benefit accruals in the current plan year other than increases in pre-effective date accrued benefits.

(iv) *Freeze year.* The term "freeze year" means the last plan year in which pre-effective date accrued benefits were accrued under the plan. Notwithstanding the preceding sentence, for purposes of paragraph (c)(2) of this section, the term "freeze year" means the last plan year beginning before January 1, 1989 (or, in the case of a collectively bargained plan, the applicable effective date under section 401(l)).

(v) *Frozen accrued benefit.* The term "frozen accrued benefit" means an employee's accrued benefit under the plan determined as of the close of the freeze year, as if the employee terminated employment with the employer on that date, and without regard to any amendment to the plan adopted after May 9, 1990 (or an earlier date selected by the employer but not before December 13, 1988). For this purpose, service for the employer after the date on which the employee is deemed to have terminated employment is nonetheless still taken into account for purposes of vesting and determining eligibility for benefits (including any optional form of benefit) with respect to the frozen accrued benefit. In addition, the plan may provide for increases in the frozen accrued benefit of every employee in the plan based solely on the adjustments under section 415(d)(1) in the maximum benefit permitted under section 415(b)(1). Notwithstanding the preceding three sentences, for purposes of paragraph (c)(2) of this section, the term "frozen accrued benefit" means the frozen accrued benefit as defined in § 1.401(l)-3(l)(7)(ii)(B).

(vi) *Meaningful benefit accruals in the current plan year.* The term "meaningful benefit accruals in the current plan year" means benefit accruals in the current plan year that are meaningful in comparison to the rate at which pre-effective date accrued benefits accrued in the freeze year and preceding plan years.

(vii) *Meaningful coverage as of the close of the freeze year.* A plan provides meaningful coverage as of the close of the freeze year if the group of employees with frozen accrued benefits under the plan as of the close of the freeze year satisfies the minimum coverage requirements of section 410(b) as in effect on that date (including the average benefit percentage test, if applicable). In order to satisfy the requirement in the preceding sentence, an employer can amend the plan to grant past service credit under the formula in effect as of the close of the freeze year to nonhighly compensated employees, provided that the amount of past service granted them is reasonably comparable, on average, to the amount of past service highly compensated employees have under the plan. An amendment described in the preceding sentence is not considered as adopted after May 9, 1990 (or the earlier date selected by the employer), for purposes of paragraph (c)(4)(iv) or (c)(6)(v) of this section. Benefits granted nonhighly compensated employees under the amendment are also treated as pre-effective date accrued benefits for purposes of paragraph (c)(6)(viii) of this section.

(viii) *Pre-effective date accrued benefits.*

The term "pre-effective date accrued benefits" means benefits that were accrued in plan years beginning before the effective date applicable to the plan under paragraph (a) or (b) of this section and that were accrued under a formula that is different from the formula used to determine benefit accruals in the current plan year.

(ix) *Reconstructed compensation for the freeze year.* The term "reconstructed compensation for the freeze year" means an employee's compensation for the freeze year determined under the following method in the same manner for every employee in the plan: First, select a single plan year beginning after the close of the freeze year but beginning not later than December 31, 1991; second, determine the employee's compensation for the selected plan year under the same compensation definition used to determine the employee's compensation for the current plan year under paragraph (c)(6)(ii)(A)(*3*) of this section; third, multiply the employee's compensation for the selected plan year by a fraction, the numerator of which is the employee's compensation for the freeze year determined under the same compensation definition used to determine the employee's frozen accrued benefit, and the denominator of which is the employee's compensation for the selected plan year determined under the same compensation definition used to determine the employee's frozen accrued benefit, and the denominator of which is the employee's compensation for the selected plan year determined under the same compensation definition used to determine the employee's frozen accured benefit.

Par. 6. Section 1.401(l)–3, as proposed on November 15, 1988 (53 FR 45928), and amended on May 14, 1990 (55 FR 19953), is amended by revising paragraphs (l)(7)(i), (l)(7)(ii)(c), and (l)(7)(ii)(D)(*2*), and adding new paragraphs (l)(7)(ii)(D)(*3*) and (l)(8) to read as follows:

§ 1.401(l)–3 Permitted disparity with respect to employer-derived benefits.

* * * * *

(l) *Effective dates and transitional rules* * * *

(7) *Special rule*—(i) *In general.* A plan that satisfies the requirements of paragraph (l)(7)(iii) of this section will not fail to satisfy the requirements of paragraph (l)(1) of this section solely because, for purposes of applying paragraphs (l)(2), (3), and (4) of this section, the plan uses the adjusted accrued benefit calculated under paragraph (l)(7)(ii) of this section in lieu of the participant's accrued benefit, determined under the plan as of the close of the last plan year beginning before January 1, 1989, as if the participant terminated employment with the employer.

(ii) *Calculation of adjusted accrued benefit* * * * (C) *Minimum benefit adjustment*—(*1*) *Excess or offset plans.* In the case of an excess plan, each employee's frozen accrued benefit is adjusted so that the base benefit percentage is not less than 50 percent of the excess benefit percentage. In the case of an offset plan, each employee's offset applied to determine the frozen accrued benefit is adjusted so that it does not exceed 50 percent of the benefit determined without regard to application of the offset.

(*2*) *Other plans.* In the case of a plan that is neither an excess nor an offset plan, each employee's frozen accrued benefit is adjusted in a manner that is economically equivalent (taking into account the plan's benefit formula, accrual rate, and relevant employee factors, such as period of service) to the adjustment required for excess and offset plans under paragraph (l)(7)(ii)(C)(*1*) of this section.

(D) *Final pay adjustment* * * *

(*2*) *Alternative adjustment.* In lieu of the adjustment described in paragraph (l)(7)(ii)(D)(*1*) of this section, and after the minimum benefit adjustment described in paragraph (l)(7)(ii)(C) of this section has been made, the frozen accrued benefit of every employee under the plan may be increased in the same manner as provided in § 1.401(a)(4)–13(c)(6)(ii)(A) (*2*) or (*3*) for adjusting accrued benefits for plans that do not satisfy section 401(l).

(*3*) *Option to make less than the full permitted adjustments.* In lieu of the adjustment described in paragraph (l)(7)(ii)(D)(*1*) of this section and after the minimum benefit adjustment described in paragraph (l)(7)(ii)(C) of this section has been made, the frozen accrued benefit, of every employee in the plan may be increased by adding to the frozen accrued benefit the product determined by multiplying the frozen accrued benefit by the product of two percentages. The first percentage is the single percentage designated in the plan for this purpose (not to exceed 100 percent). The second percentage is determined by finding the difference between the numerator and the denominator of the fraction determined for the employee under paragraph (l)(7)(ii)(D)(*1*) and then by dividing that difference by the denominator of the employee's fraction. In addition, a plan may impose a uniform maximum dollar amount on the adjusted accrued benefit of every employee in the plan. Furthermore, the plan can, at any time, terminate all future final pay adjustments permitted under this paragraph (l)(7)(ii)(D).

* * * * *

(8) *Additional rule.* Paragraphs (l) (2), (3), and (7) of this section require the determination of an employee's accrued benefit under the plan as of the close of the last plan year beginning before January 1, 1989, as if the employee terminated employment with the employer on that date (the employee's "frozen accrued benefit" as defined in paragraph (l)(7)(ii)(B) of this section). For this purpose, service with the employer after the date on which the employee is deemed to have terminated employment is nonetheless still taken into account for purposes of vesting and determining eligibility for benefits (including any optional form of benefit) with respect to the accrued benefit so determined. In addition, a plan may provide for increases in those accrued benefits based solely on adjustments under section 415(d)(1) in the maximum benefit permitted under section 415(b)(1).

Par. 7. Section 1.410(b)–5(d), as proposed on May 14, 1990 (55 FR 19931), is amended by revising the second sentence of paragraph (d)(1) to read as follows:

§ 1.410(b)–5 Average benefit percentage test.

* * * * *

(d) *Calculation of employee benefit percentages*—(1) *In general.* * * * These rules are generally the same as the rules used for calculating allocation and accrual rates under an aggregated plan under section 401(a)(4), except that plans (or portions of plans) that are ESOPs or that are subject to section 401 (k) or (m) are taken into account. * * *

* * * * *

Par. 8. Section 1.410(b)–7, as proposed on May 18, 1989 (54 FR 21448), is amended by revising paragraphs (c)(2), (d)(1), (d)(2), (e)(1), and (e)(2) to read as follows:

§ 1.410(b)–7 Definition of plan and rules governing plan disaggregation and aggregation.

* * * * *

(c) *Mandatory disaggregation of certain plans* * * *

(2) *ESOPs and non-ESOPs.* The portion of a plan that is an employee stock ownership plan described in section 4975 (e)(7) or section 409 (an ESOP) and the portion of the plan that is not an ESOP are treated as separate plans for purposes of section 410(b) except as otherwise permitted under § 54.4975–11(e). Notwithstanding §§ 1.410(b)–10 and 54.4975–11(a)(5), an employer may treat the rule in this paragraph (c)(2) as not effective for plan years beginning before January 1, 1990.

* * * * *

(d) *Permissive aggregation for ratio percentage and nondiscriminatory classification tests*—(1) *In general.* For purposes of applying the ratio percentage and nondiscriminatory classification tests of § 1.410(b)–2, except as provided in paragraphs (d)(2) and (d)(3) of this section, an employer may elect to designate two or more separate plans (determined after application of paragraph (b) of this section) of the employer as a single plan. If an employer elects to treat two or more of its separate plans as a single plan under this paragraph, the plans must be treated as a single plan for all purposes under sections 401(a)(4) and 410(b). See §§ 1.401(k)–1(b) (5)(i) and 1.401(m)–1(b)(4)(i) for special aggregation rules applicable to plans subject to section 401 (k) or (m) and related plans that are treated as part of the same plan for purposes of those sections.

(2) *Rules of disaggregation apply.* An employer cannot elect to aggregate portions of a plan that are disaggregated under the rules of paragraph (c) of this section. Similarly, an employer also cannot elect to aggregate two or more separate plans that would be disaggregated under the rules of

paragraph (c) of this section if they were portions of the same plan. (For purposes of the preceding sentence, the special transitional rule in paragraph (c)(2) of this section does not apply.) In addition, an employer cannot elect to aggregate an ESOP with another plan (including another ESOP) except as permitted under § 54.4975-11(e).

* * * * *

(e) *Mandatory aggregation for average benefit percentage test*—(1) *In general.* In determining whether a plan satisfies § 1.410(b)-2(b)(3), it is necessary to determine whether the average benefit percentage test of § 1.410(b)-5 is satisfied. For purposes of applying the average benefit percentage test, all qualified plans of the employer must be taken into account to form a deemed single plan, including plans (or portions of plans) that are ESOPs or that are subject to section 401 (k) or (m).

(2) *Rules of disaggregation.* Once all qualified plans of the employer have been aggregated to form a deemed single plan under paragraph (e)(1) of this section, that deemed single plan must be disaggregated under the rules in paragraphs (c)(1), (c)(5), and (c)(6) of this section and may, at the option of the employer, be disaggregated under the rules of paragraph (c)(4) of this section. Each deemed separate plan that includes a plan (or a portion of a plan) that does not satisfy the ratio percentage test of § 1.410(b)-2(b)(2) must separately satisfy the average benefit percentage test of § 1.410(b)-5.

* * * * *

Fred T. Goldberg, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 90-21761 Filed 9-12-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. S-760-B]

RIN 1218-AB27

Accreditation of Training Programs for Hazardous Waste Operations

AGENCY: Occupational Safety and Health Administration.

ACTION: Proposed rule; cancellation and rescheduling of informal public hearings; extension of comment period; extension of time to notify of intention to appear.

SUMMARY: On July 27, 1990, the Occupational Safety and Health Administration (OSHA) published a notice in the **Federal Register** (55 FR 30720) scheduling informal public hearings and reopening the written comment period for its proposed Accreditation of Training Programs for Hazardous Waste Operations. It has become necessary for OSHA to cancel and reschedule the informal public hearings announced in that notice. The written comment period and the time to submit notices of intention to appear, evidence and testimony have been extended to coincide with the rescheduled public hearings.

DATES: The informal public hearings scheduled for October 2, 1990 through October 5, 1990 in Washington, DC are cancelled and rescheduled for February 5, 1991 through February 8, 1991 in Washington, DC. The informal public hearings scheduled for October 10, 1990 through October 11, 1990 in Cincinnati, OH (Covington, KY) are cancelled and rescheduled for February 12, 1991 through February 14, 1991 in Cincinnati, OH. The hearings will begin at 9:30 a.m. on the first day in each city and at 9 a.m. on any succeeding day. A tentative schedule of appearances will be prepared and distributed to parties who have submitted notices of intention to appear so parties will know when issues which concern them are likely to be raised at the hearing.

Notices of intention to appeqr must be postmarked by December 17, 1990. Written comments, testimony and all other evidence which will be offered into the hearing record must be postmarked by January 21, 1991.

ADDRESSES: Four copies of the notice of intention to appear, testimony, and documentary evidence which will be introduced into the hearing record must be sent to Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3649, 200 Constitution Avenue, NW., Washington, DC; 202-523-8615. Written comments on the proposed standard should be sent in quadruplicate to the Docket Office, Docket No. S-760-B, Occupational Safety and Health Administration, OSHA Room N-2625, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. Previously submitted comments, notices of intention to appear, testimony and evidence submitted in response to OSHA's July 27, 1990 notice (55 FR 30720) scheduling the October hearings need not be resubmitted and will be considered and used in scheduling the February hearings. Those parties who have previously filed notices of intention to appear at the October hearings need only let OSHA know if and when they will appear at the new hearings. They do not need to resubmit all of their supporting data unless it has changed.

The location of the informal public hearing to be held in Washington, DC is the Auditorium of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210. The location of the informal public hearing to be held in Cincinnati, OH is the Omni Netherland Plaza, 35 W. Fifth Street, Cincinnati, OH 45202, (513) 421-9100.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Hall, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3649, 200 Constitution Avenue, NW., Washington, DC; 202-523-8615.

SUPPLEMENTARY INFORMATION: OSHA proposed a new standard on certification of training programs on January 26, 1990 (55 FR 2776). Various members of the public requested that OSHA hold public hearings. On July 27, 1990 at 55 FR 30720, OSHA scheduled public hearings and extended the comment period for this proposed rule.

OSHA has found it necessary and made a decision to reschedule its informal public hearings on its proposed standard for the Accreditation of Training Programs for Hazardous Waste Operations due to potential problems affecting OSHA's personnel staffing and operating budget during the early months of the 1991 fiscal year beginning October 1, 1990. OSHA believes that any problems affecting OSHA's staffing and operating budget can be resolved by January, 1991. The first practical dates available for rescheduling the hearing for this rulemaking are in February 1991 and this notice reschedules the cancelled hearings for the first two weeks in that month. In light of the additional time available to the public before the informal public hearings, OSHA has also decided to extend the public comment period until January 21, 1991.

Issues

Through this hearing, the Agency expects to obtain testimony and other information pertinent to all the issues relevant to the notice of proposed rulemaking. Many issues were raised in the notice of proposed rulemaking (55 FR 2776; January 26, 1990) and in the previous notice of informal public hearings (55 FR 30720; July 27, 1990). Some of those issues include the criteria for certification, the procedures for certification, and the methods to prevent a backlog from developing. Several issues in addition to those were emphasized in the comments and request for a hearing. OSHA is identifying those additional issues below so that participants may be better prepared to discuss them more fully during the February hearings.

Emergency Response Training

OSHA did not propose to accredit training programs for emergency response covered by paragraph (q) of 29 CFR 1910.120. Several commenters addressed this issue during the comment period provided in the proposal. There is both support for accreditation of emergency response training programs and support for not accrediting emergency response training programs. Several comments suggest that OSHA is required to provide accreditation of emergency response training. This issue will be discussed during the hearings and interested parties are invited to submit any data, views, or arguments that OSHA could use in making its final determination on accreditation of emergency response training. In particular, information on the number of programs available and the cost and benefits for accrediting these programs is requested. OSHA is also interested in hearing what role state emergency response training accreditation agencies should play in national accreditation programs. Are there other Federal agencies that should play a role in emergency response training? If so, who are they and what role should they assume? Which level(s) of emergency response training should be targeted for accreditation? Should in-house fire/rescue company or law enforcement department level training be required to be accredited?

Submission of Copyrighted Material

OSHA proposed that applicants for training accreditation submit copies of all audio-visual aids that will be used as part of a training program. Several commenters have suggested that they would be violating copyright protection laws if they were to submit copies of the audio-visual aids they have purchased for use in their programs. It is not clear to OSHA how its review of copyrighted materials for regulatory purposes would violate copyright laws. However, comment on the most appropriate manner in which audio-visual aids can be reviewed for acceptance is requested.

Cost of Proposal

Several commenters have suggested that OSHA's estimated costs for submittal of applications are too low. This is particularly true, it is argued, if additional copies of copyrighted material have to be purchased for submittal to the Agency to gain accreditation. Comments are requested on the cost involved to submit applications as well as any other costs associated with the procedure.

Public Participation

OSHA has rescheduled informal public hearings to begin at 9:30 a.m. on the first day in each city and at 9 a.m. on any succeeding day. A tentative schedule of appearances will be prepared and distributed to parties who have submitted notices of intention to appear so parties will know when issues which concern them are likely to be raised at the hearing. The hearing in Washington, DC will be held in the Auditorium, Francis Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The location of the informal public hearing to be held in Cincinnati, OH is the Omni Netherland Plaza, 35 W. Fifth Street, Cincinnati, OH 45202, (513) 421-9100.

Persons desiring to participate at the hearing, including the right to question witnesses, must file a notice of intention to appear postmarked by December 17, 1990. The notice of intention to appear must contain the following:

1. The name, address, and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The specific issues that will be addressed;
5. A detailed statement of the position that will be taken with respect to each issue addresses;
6. A statement as to whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 10 minutes for presentation at the hearing or who will present documentary evidence, must provide in quadruplicate, the complete text of its testimony, including, all documentary evidence to be presented at the hearing. These materials must be postmarked no later than January 21, 1991 and sent to Mr. Tom Hall, OSHA Division of Consumer Affairs, at the address given above.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of the fact. Any party who has not substantially complied with the above requirements, may be limited to a 10 minute presentation and may be requested to return for questioning at a later time.

Notices of intention to appear, testimony and evidence, will be available for inspection and copying at the Docket Office, Docket No. S-760-B, Occupational Safety and Health Administration, Room S-2625, 200 Constitution Avenue, NW., Washington, DC 20210.

The hearing in Washington, DC is scheduled to commence at 9:30 a.m. on February 5, 1991 and in Cincinnati it is scheduled to commence at 9:30 a.m. on February 12, 1991. If there is less extensive testimony, the hearings in each city may be terminated sooner than the dates specified. If there is more extensive testimony, the hearings may be extended. The hearings will be conducted in accordance with the public participation and hearing procedures found at 55 FR 30722 in OSHA's July 27, 1990 hearing notice.

Authority

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

It is issued under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655), Secretary of Labor's Order 1-90, (55 FR 9033) and 29 CFR part 1911.

Signed at Washington, DC, on this 10th day of September, 1990.

Gerard F. Scannell,

Assistant Secretary of Labor.

[FR Doc. 90-21707 Filed 9-13-90; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 918

Louisiana Permanent Regulatory Program

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

ACTION: Proposed rule; Public Comment Period and Opportunity for Public Hearing on Proposed Amendment.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Louisiana permanent regulatory program (hereinafter, the "Louisiana program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Louisiana proposes to add to its program an exemption from the Louisiana rules for the extraction of coal incidental to the extraction of other minerals. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards.

This notice sets forth the times and locations that the Louisiana program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received 4 p.m., c.d.t. October 15, 1990. If requested, a public hearing on the proposed amendment will be held on October 9, 1990. Requests to present oral testimony at the hearing must be received by 4 p.m., c.d.t. on October 1, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to James H. Moncrief at the address listed below.

Copies of the Louisiana program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Tulsa Field Office.

James H. Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, suite 550, Tulsa, OK 74135, *Telephone:* (918) 581-6430.

Department of Natural Resources, Office of Conservation, Injection and Mining Division, 625 N. 4th Street, P.O. Box 94275, Baton Rouge, LA 70804-9275, *Telephone:* (504) 342-5515.

FOR FURTHER INFORMATION CONTACT: James H. Moncrief, Director, Tulsa Field Office, on telephone number (918) 581-6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Louisiana Program

On October 10, 1980, the Secretary of the Interior conditionally approved the Louisiana program. General background information on the Louisiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Louisiana program can be found in the October 10, 1980 Federal Register (45 FR 67340). Subsequent actions concerning Louisiana's program and program amendments can be found at 30 CFR 918.16.

II. Proposed Amendment

By letter dated August 14, 1990 (Administrative Record No. LA-307), Louisiana submitted a proposed amendment to its program pursuant to SMCRA. Louisiana submitted the proposed amendment in response to a February 7, 1990, letter that OSM sent in accordance with 30 CFR 732.17(c). Louisiana proposes to add a new chapter 4, entitled "Exemption for Coal Extraction Incidental to the Extraction of Other Minerals."

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Louisiana program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Tulsa Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m., c.d.t. on October 1, 1990. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to testify have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons persent in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notice of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the administrative record.

List of Subjects in 30 CFR Part 918

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 6, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

[FR Doc. 90-21704 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286

[DoD 5400.7-R]

Freedom of Information Act (FOIA) Program; Correction

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Proposed rule; correction.

SUMMARY: The Department of Defense published a proposed rule on August 31, 1990, 55 FR 35652. Due to an administrative oversight, this document corrects the published proposed rule to include a Regulatory Flexibility statement in the Supplementary information. For the statement that should have been included, see SUPPLEMENTARY INFORMATION below.

ADDRESSES: Office of the Assistant Secretary of Defense (Public Affairs), Washington, DC 20301-1400.

FOR FURTHER INFORMATION CONTACT: Mr. C. Talbott, telephone (202) 697-1180.

SUPPLEMENTARY INFORMATION: It is hereby certified that this proposed rule does not exert a significant economic impact on a substantial number of small entities. This determination is made based upon the fact that the rule merely recodifies the procedural aspects of the Department of Defense's Freedom of Information Act Program, which includes guidance on how and from whom to request information pertaining to the Department of Defense; imposes no new requirements, rights, or benefits on small entities; will have neither a beneficial nor an adverse effect on small entities, and is not a major rule under the Regulatory Flexibility Act.

Dated: September 11, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-21720 Filed 9-13-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7-90-37]

Drawbridge Operation Regulations: Okeechobee Waterway, Sanibel Causeway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule: Extension of comment period.

SUMMARY: This notice extends the comment period of the proposed rule to change drawbridge operating regulations for the Sanibel Causeway drawbridge across the Caloosahatchee River (Okeechobee Waterway at Punta Rassa, Florida. Due to summer vacations and seasonal resident absences, numerous interested parties have been unable to provide meaningful response within the original 45 day comment period. In order to ensure all persons are afforded adequate time to comment on the proposed rule, the deadline for receipt of comments is extended to September 15, 1990.

DATES: The comment period on the notice of proposed rule making is extended to September 15, 1990.

ADDRESSES: Comments should be mailed to Commander (oan) Seventh Coast Guard District, 909 SE 1st Avenue, Miami, FL 33131-3050. The comments and other materials referenced in this notice will be available for inspection and copying at Brickell Plaza Federal Building, room 406, 909 SE 1st Avenue, Miami, FL. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Ian MacCartney (305) 536-4103.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking was published on June 22, 1990 in the **Federal Register** (55 FR 25676).

Dated: August 30, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 90-21772 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-90-79]

Drawbridge Operation Regulations; Canaveral Barge Canal, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Brevard County, the Coast Guard is considering adding regulations governing the Christa McAuliffe (SR 3) drawbridge on Merritt Island by permitting the draw to remain closed during certain periods. This proposal is being made because the vehicular traffic pattern has changed. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATES: Comments must be received on or before October 29, 1990.

ADDRESSES: Comments should be mailed to Commander (oan) Seventh Coast Guard District, 909 SE 1st Ave. Miami, FL 33131-3050. The comments and other materials referenced in this notice will be available for inspection and copying at Brickell Plaza Federal Building, Room 484, 909 SE 1st Avenue, Miami, FL. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Walt Paskowsky (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self addressed postcard or envelope. The Commander, Seventh Coast Guard District will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Walt Paskowsky, project officer, and Lt. Genelle Tanos, project attorney.

Discussion of Proposed Regulations

The bridge presently opens on signal; except that, from 6:45 a.m. to 7:45 a.m. and 4:15 p.m. to 5:45 p.m. Monday through Friday, except federal holidays, the draw need not open. Brevard County requested these periods be changed and lengthened to cover the period from 6:15 a.m. to 7:45 a.m. and 3:30 p.m. to 5:15 p.m., weekdays except holidays. Analysis of highway traffic data indicates this two lane roadway has a poor level of service during the morning and evening rush hours which now occur earlier and last longer than the periods covered by the existing regulations. The proposed rule would be identical to the existing operating rule for the SR 401 bridge across the same waterway at mile 5.5.

Federalism

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

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the rule exempts tugs with tows. Since the economic impact of the proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.273 (a) is revised to read as follows:

§ 117.273 Canaveral Barge Canal.

(a) The draw of the Christa McAuliffe bridge, (SR 3.), mile 1.0, near Indianola, shall open on signal from 6 a.m. to 10 p.m.; except that, from 6:15 a.m. to 7:45 a.m. and 3:30 p.m. to 5:15 p.m. Monday through Friday, except federal holidays, the draw need not be opened for the passage of vessels. From 10 p.m. to 6 a.m., the draw shall open on signal if at least three hours notice is given. The draw shall open as soon as possible for the passage of public vessels of the United States, tugs with tows and vessels in distress.

* * * * *

Dated: August 30, 1990.

Robert E. Kramek,

Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 90-21771 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

49 CFR Parts 350 Through 399

[FHWA Docket No. MC-89-2]

RIN 2125-AC04

Federal Motor Carrier Safety Regulations; Paperwork Reduction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The FHWA is withdrawing its advance notice of proposed rulemaking (ANPRM) published on April 17, 1989, 54 FR 15232 and closing docket MC-89-2. The Paperwork Reduction Act of 1986 requires all Federal agencies to reduce the recordkeeping burdens imposed on the public by 20 percent. The ANPRM sought ways to reduce the paperwork burdens imposed on regulated motor carriers. The FHWA has determined that current paperwork burdens can best be addressed individually in subsequent rulemaking actions.

FOR FURTHER INFORMATION CONTACT: Ms. Paula R. Robinson, Office of Motor Carrier Standards, (202) 366-2984, or Michael J. Laska, Office of the Chief Counsel, (202) 366-1383, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On April 17, 1989, the FHWA published an ANPRM in the **Federal Register** (54 FR 15232) seeking public comment on ways to reduce paperwork burdens imposed on motor carriers subject to the Federal Motor Carrier Safety Regulations (49 CFR parts 350 through 399). Thirteen comments were received to the docket. Motor carriers, associations, utility companies and other interested parties that commented to the docket had diverse opinions on ways to reduce current paperwork burdens. One commenter, the Virginia Electric and Power Company, expressed concerns about the duplication that exists for recordkeeping requirements and questioned the need for some of these requirements because of the commercial driver's license (CDL) requirements which most States have implemented or are in the process of implementing. The Virginia Electric and Power Company specifically stated that "49 CFR 383.71(a)(2) and 49 CFR 391.35 require the driver to study the same material in order to pass a test, therefore, promoting duplicative efforts." Another commenter, the National School Transportation Association, commented on the increasing paperwork imposed on for-hire carriers as a result of the new drug testing requirements.

The American Trucking Associations, Inc. (ATA) offered several suggestions which included ways to improve the driver's record of duty status to further reduce paperwork. Utility companies, such as Baltimore Gas and Electric and Virginia Power, offered the opinion that vehicles with superior safety records should be exempted from all paperwork required by the FMCSRs.

The FHWA, in certain instances, agrees with these commenters because the CDL and drug testing programs are well on the way to complete implementation. In 49 CFR part 383, all States must have licensed their drivers under the CDL program by April 1982. The drug testing requirements were implemented for large motor carriers (more than 50 drivers) on December 21, 1989 (53 FR 47134, 54 FR 46616). All other motor carriers are to implement drug testing by December 21, 1990.

The FHWA continues to be committed to eliminating duplicative requirements and other factors that impose additional burden on the motor carrier industry even though no additional action will be taken with respect to this notice. Instead, the FHWA believes that current paperwork burdens would best be addressed individually in subsequent rulemaking actions. For example, the "written examination" and "driving test" requirements are possibly redundant in light of the CDL program and, thus, are targeted for future rulemaking actions to be published soon. Also, the issue of the driver's record of duty status and driver fatigue is currently the subject of a 3-year research project. After its completion, the FHWA intends to consider appropriate actions, consistent with the research findings, that may reduce the burden associated with the preparation of the driver's record of duty status.

The FHWA believes those directly affected by the costs and benefits of the FMCSRs would be best served by specific rulemaking actions in the future. This cannot be done until additional research and review in the various areas are completed. Therefore, the FHWA is withdrawing its ANPRM on this subject and is closing Docket MC-89-2 since the paperwork reduction will be addressed in subsequent rulemaking actions.

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

List of Subjects in 49 CFR Parts 350 through 399

Highways and roads, Highway safety, Motor carriers, Driver's hours of service, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Authority: Title XII of Pub. L. 99-570, 100 Stat. 3207-170; 49 U.S.C. 3102; 49 U.S.C. App. 2505; 49 CFR 1.48.

Issued on: September 5, 1990.

T.D. Larson,

Administrator.

[FR Doc. 90-21632 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 900244-0234]

RIN 0648-AC80

Foreign Fishing; Groundfish of Gulf of Alaska; Bering Sea, and Aleutian Islands

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

ACTION: Proposed rule; request for comments.

SUMMARY: NOAA issues a proposed rule to implement (1) Amendment 19 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (Gulf FMP) and (2) Amendment 14 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (Bering FMP). If the Secretary of Commerce approves these amendments, the implementing rules would (1) regulate the practice of stripping roe (eggs) from female pollock and discarding female and male pollock carcasses without further processing, and (2) seasonally allocate the total allowable catch (TAC) of pollock in commercial fisheries for groundfish in the U.S. exclusive economic zone (EEZ) adjacent to Alaska. Publication of this proposed rule is necessary to fulfill procedural requirements of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The intended effects of these regulations, if issued as proposed, are to reduce wastage of the pollock resource, prevent possible adverse effects on the marine ecosystem and reproductive potential of pollock, provide for an equitable distribution of the pollock resource among users of the groundfish fishery, and, generally, promote the conservation and management objectives of the FMPs.

DATES: Comments on this proposed rule are invited on or before October 29, 1990.

ADDRESSES: Comments may be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668. Copies of the proposed Amendments 19 and 14 to the FMPs, and the environmental assessment, regulatory impact review and initial regulatory flexibility analysis (EA/RIR/IRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (telephone 907-271-2809). Comments on the EA/RIR/IRFA are particularly requested.

FOR FURTHER INFORMATION CONTACT: Jay J.C. Ginter (Fishery Management Biologist, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

Domestic and foreign groundfish fisheries in the EEZ off Alaska are managed in accordance with the Gulf and Bering FMPs. Both FMPs were prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson Act. The Gulf FMP is implemented by regulations appearing at 50 CFR 611.92 and part 672, and the Bering FMP, by regulations appearing at 50 CFR 611.93 and part 675. The Council has recommended Gulf FMP Amendment 19 and Bering FMP Amendment 14 to the Secretary for review, approval, and implementation under sections 304(a) and 305(c) of the Magnuson Act. A notice of availability and request for public comment on these amendments was published on August 17, 1990 (55 FR 33737).

Walleye pollock (*Theragra chalcogramma*) is the principal species in the groundfish fisheries off Alaska. Domestic harvesting and processing of pollock off Alaska in 1989 totaled 1.09 million metric tons (mt) and has an ex-vessel value, excluding the value added by at-sea processing, of about $190 million. This was 78 percent and 54 percent, respectively, of the harvest and ex-vessel value of all domestic groundfish fisheries off Alaska. The wholesale value of pollock products resulting from the catch in the domestic pollock fishery in 1989 was about $600 million.

The TAC of pollock in the Gulf of Alaska (GOA) area has been fully used by the domestic fishery since 1988, after being harvested primarily by foreign fisheries through 1981, and then harvested primarily by joint venture fisheries through 1986. In the Bering Sea and Aleutian Islands (BSAI) area, the joint venture fishery became the predominant user of the pollock TAC in 1986, but the domestic fishery is expected to be able to fully use the pollock TAC in that area for the first time in 1990. The rapid expansion of domestic harvesting and processing (shore-based and at-sea) capacity of the domestic pollock fishery has been encouraged by the policies and provisions of the Magnuson Act. However, this growth has resulted in increased competition within the domestic fishery for the pollock TAC because all participants are not able to fulfill their harvesting and processing plans before the TAC is attained and further fishing prohibited.

This competition for pollock within the domestic fishery first occurred in the GOA in 1989. The TAC of pollock in the GOA declined from 416,000 mt in 1984 to 72,200 mt in 1989. Domestic catcher-processor and mothership-processor vessels became principal participants in the GOA pollock fishery in 1989. In 1988, this at-sea component of the industry harvested only about 8,000 mt or 14.4 percent of the 55,724 mt domestic harvest. During the 1989 pollock roe fishery, catcher-processor and mothership operations harvested about 32,000 mt of pollock, approximately 53 percent of the initial GOA pollock TAC. This harvest level, combined with an accelerated rate of harvest by vessels delivering the shore-based processors, resulted in the initial TAC for the Western and Central GOA being exceeded by late March. Until the TAC was later increased, no TAC was available either for the pollock fisheries that had been expected to occur later in the year or for bycatch in other groundfish fisheries. No similar problem occurred in the BSAI area in 1989 because the domestic catches of pollock were expected to be less than the specified TACs.

In 1990 and beyond, the capacity for domestic harvesting and processing of pollock in the GOA and the BSAI areas is expected to reach or exceed the pollock TACs. The NMFS forecast of the 1990 domestic production potential of pollock exceeds the 1990 TACs by about 52,000 mt or 74 percent in the Western and Central GOA, and by 556,000 mt or 43 percent in the Bering Sea subarea. In the Aleutian Islands subarea, the 1990 forecasted production is less than the TAC. However, management problems caused by increased competition for pollock in the other two areas are expected to spread to this area also.

Pollock roe is a particularly high-value product that can be obtained from females caught before spawning during the roe-season fishery (primarily late January through early April). Some processing operations produce roe and other pollock products. Other operations produce only the roe during all or part of the roe-season fishery by roe stripping (i.e., extracting only roe and discarding the female carcasses and all the males). During other times of the year, various combinations of fillets, surimi, meal, and other products, are produced from pollock.

Competition for pollock during the roe season is intensified due to the high value of pollock roe relative to other pollock products. In addition, the extraction of roe can be done faster than production of other pollock products. By roe stripping, fishermen can increase their share of the TAC of pollock. The incentive to strip roe from pollock is further enhanced by the fact that pollock are congregated in larger schools during the roe season, in preparation for spawning, than they are at other times of the year. This provides fishermen with a higher catch per unit of effort during the roe season. Hence, roe stripping has occurred because the most valuable pollock product can be made at the least cost.

The Council expressed concern in 1989 that the practice of roe stripping is a wasteful use of the pollock resource because it can result in the discard of 90 percent or more of a pollock catch during the roe season. Additional concern was expressed about the allocative effect of roe stripping and its potential biological implications. At its meeting of December 5–8, 1989, the Council requested the Secretary of Commerce (Secretary) to impose an emergency interim rule prohibiting roe stripping during the 1990 roe season. Limitations on the amount of pollock roe, rather than the prohibition of roe stripping, were implemented by emergency interim rule effective February 16, 1990 (55 FR 6396, February 23, 1990). The emergency interim rule was terminated when it was no longer needed because the pollock spawning season had ended (55 FR 19266, May 9, 1990).

The Problem

In recommending Amendments 19 and 14 to the Secretary, the Council intends to address a number of current or potential fishery conservation and management problems. The Council has identified these problems as follows:

(a) Roe stripping is a wasteful use of the pollock resource;

(b) Roe stripping causes an inappropriate and unintended allocation of the pollock TAC among seasons and between industry sectors (i.e., at-sea versus shore-based processing);

(c) Roe stripping may adversely affect the ecosystem; and

(d) Roe stripping may adversely affect the future productivity of pollock stocks.

In addition to these problems, the rapid pace at which pollock may be harvested increases the difficulty of accurately monitoring the pollock TAC. Hence, increased rates of harvest also increase the risk of exceeding the TAC and possibly the risk of overfishing. This problem is exacerbated at low levels of TAC such as those in the GOA in recent years.

A discussion of these problems and analysis of the effects of various alternative management measures to resolve these problems is contained in the EA/RIR/IRFA, which is currently available for public review and comment from the Council at the above address. A brief description of the Council's preferred alternative follows.

Description of Proposed Roe-Stripping Management Measures

The Council has recommended amending the Gulf and Bering FMPs to limit pollock roe stripping, enunciate a policy that pollock should be used, to the maximum extent possible, for human consumption, and provide for division of the pollock TAC into seasonal components. The Council recommended different seasonal components in each FMP. In the Gulf FMP, Amendment 19 would provide for four equal divisions of the pollock TAC, each to be made available for harvest at the beginning of each calendar quarter. In the Bering FMP, Amendment 14 would divide the pollock TAC into two components. One component would be available for harvest during the "roe-bearing season," and the other would be available during the "non-roe-bearing season." Each season would be defined in the implementing regulations.

The Council is aware of administrative difficulties in implementing its human-consumption policy and roe-stripping prohibition. The Council, at this time, is not proposing rules mandating product form. Also, the proposed product-recovery standards (described later) would not difinitively "prohibit" roe stripping, but they would severely limit the practice. The Council is proposing this approach because it was effective when used by the Secretary in the emergency interim rule.

Hence, if approved, Amendments 19 and 14 would be implemented basically by two management measures: seasonal allocation of the pollock TAC and recovery-rate standards for pollock products.

1. Seasonal Allocation of TAC

For fisheries in the GOA, the pollock TAC for the Central and Western Regulatory Areas would be divided into four equal seasonal allowances. Each allowance would be available for harvest during each calendar quarter of the fishing year beginning with the first complete weekly reporting period (Sunday through Saturday) after January 1, April 1, July 1, and October 1. These quarterly allowances would be specified during the annual groundfish TAC specification process, which involves prior public notice and comment (§ 672.20). Insignificant amounts of pollock are caught in directed fisheries in the East Regulatory Area; therefore, the TAC in the this area is not divided into seasonal allowances.

Attainment of a quarterly allowance of pollock before the end of a calendar quarter would cause the Secretary to prohibit directed fishing for pollock until the beginning of the following calendar quarter. The proposed regulations would provide authority to prohibit directed fishing for pollock before complete attainment of a quarterly allowance if pollock are likely to be taken incidental to catch of other species of groundfish. In this event, the bycatch of pollock could be retained up to prescribed limits (§ 672.20(g)).

If a quarterly allowance of pollock in the GOA is exceeded, the proposed regulations would provide for the deduction of the excess equally from the remaining quarters of a fishing year. Likewise, the proposed regulations would provide for any uncaught quarterly allowance to be added equally to the remaining quarters of a fishing year. However, the deduction of over-harvests or the addition of under-harvests in the fourth quarter of one fishing year from or to the first quarter of the following fishing year would not be allowed.

For fisheries in the BSAI area, the pollock TAC for each subarea would be divided into roe-season and non-roe-season allowances. This would occur after deduction of the reserve as provided under § 675.20(a)(3). The amount of pollock specified for each allowance would be determined during the annual groundfish TAC specification process which involves prior public notice and comment (§ 675.20(a)(7)). The proposed amendment does not limit the relative proportions of each seasonal allowance as in the GOA area.

The roe-season allowance in the BSAI area would be available for harvest from January 1 through April 15, and the non-roe-season allowance would be available from June 1 through the end of the fishing year. Attainment of an allowance before the end of a season would cause the Secretary to prohibit directed fishing for pollock until the beginning of the following season. As in the GOA, the proposed regulations for the BSAI area would provide authority to prohibit directed fishing for pollock before complete attainment of a seasonal allowance if pollock are likely to be taken incidental to catch of other species of groundfish. In this event, the bycatch of pollock could be retained up to prescribed limits (§ 675.20(h)).

If the roe-season allowance of pollock is exceeded, the proposed regulations would provide for the deduction of the excess from the non-roe season.

Likewise, the proposed regulations would provide for the addition of any uncaught roe-season allowance to the non-roe-season allowance. However, the subtraction of over-harvests or the addition of under-harvests in the non-roe season of one fishing year from or to the roe season of the following fishing year would not be allowed.

The purpose of seasonal allocations of the pollock TAC in both areas is primarily to assure that the fishery will be prosecuted throughout the year and not exhausted during the roe season. This preserves a predetermined amount of the pollock TAC for those operations that do not intend to fish for or process pollock early in the fishing year. By itself, a seasonal allocation of the pollock TAC does not prevent roe stripping, but it will prevent a disproportionate harvest of the pollock TAC during the roe season.

The purpose of the quarterly allocation of pollock TAC in the GOA is primarily the same as that stated in the inseason adjustment notice issued early in 1990 (55 FR 3223, Janury 31, 1990): it prevents excessive harvesting of pollock in the first quarter as occurred in the GOA in 1989. The quarterly allocation also is expected to slow the pollock fishery, attract fewer participants and thus enable NMFS to monitor harvests more accurately than would be possible otherwise and thereby reduce the risk of over-harvesting the pollock TAC. Quarterly allocations of the pollock TAC, as proposed, may prevent a roe fishery from occurring if the TAC is low and fishing effort is high.

The potential biological, social, and economic effects of dividing the pollock TAC into seasonal allowances are assessed in the draft EA/RIR/IRFA. Althoght some operations may benefit from being assured of a pollock fishery late in the year, the start-up and shut-down costs of short-term fisheries may negatively affect long-term benefits. Seasonal allowances also will not necessarily increase the total amount of fishing time during the year. The harvesting capacity of the groundfish appears to exceed that necessary for a year-round fishery within current levels of TAC. If, for example, sufficient harvesting capacity exists to use the entire TAC in 60 days, then equal quarterly apportionments of the TAC may result in a concentration of the fishery in the first 15 days of each quarter. The net benefits of a larger number of fishery openings could be less than a single season. Public comment is invited especially on the social and economic aspects of this proposed management measure.

From the biological perspective, a pollock fishery fully prosecuted during the early part of the year may have low bycatches of crabs, halibut, herring, and other species of commercial importance. In the early part of the year pollock, which school off the bottom, are fished with mid-water trawls, and bycatches of fish other than pollock are negligible. Later in the year, pollock disperse and are near the bottom; consequently, they are usually fished with bottom trawls, and bycatch rates are typically higher.

Shifting fishing effort to later in the year may reduce competition for pollock between the fishery and Steller sea lions whose populations have been declining in recent years. A hypothesis that pollock roe fisheries and other pollock fisheries may be contributing to these declines has not been tested, and current data are insufficient to link sea lion population declines with declines in prey availability. However, in consideration of the recent listing of Steller sea lions as "threatened" under the Endangered Species Act, a conservative course of action may be prudent.

2. Product-Recovery-Rate Standards

The proposed product-recovery-rate (PRR) standards provide the principle means of limiting roe stripping. Basically, this management measure would establish a standard that, if exceeded, would indicate roe stripping. In addition, it assures that products other than roe will be produced from pollock, thereby preventing excessive discard of pollock products. The proposed PRR standards are the same for the GOA and the BSAI area. Public comment on the appropriateness of the proposed PRR standards for implementing Amendments 19 and 14 is especially invited.

The proposed recovery-rate standard for pollock roe product is 10 percent of the total round-weight equivalent of pollock and other pollock products onboard a vessel at any time during a fishing trip. A vessel with more roe product onboard than 10 percent of the calculated round-weight equivalent would be in violation of this standard and presumed to be roe stripping. This PRR for pollock roe is higher than the 7-percent standard used in the emergency interim rule. That rate approximated an overall average recovery rate based on foreign fisheries observer data from 1983 through 1985. Also, it assumed an equal sex ratio of pollock. However, roe-recovery rates vary from 3 percent to 17 percent, depending on the sex ratio of the catch, size and maturity of fish, area, time of year, and hydration of roe sac.

The proposed PRRs that would be used to extrapolate round-weight equivalents from product weights are as follows:

Pollock product type	PRR percent of round weight
Fillet	18
Surimi	15
Mince	17
Meal	17
Headed and gutted	50

The proposed PRRs are based on recent data from domestic processors. Except for pollock meal, all of these PRRs are lower than those used in the emergency interim rule. The PRRs used in the emergency interim rule were based on rates observed onboard foreign processor vessels during the 1983, 1984, and 1985 roe seasons. The proposed PRRs may differ from average annual recovery rates for the same products due to seasonal variation in flesh quality.

If pollick are processed into products other than those listed above, extrapolated round-weight equivalents would be deemed to equal or exceed the PRR for pollock surimi. Additional data on product-recovery rates will be collected by observers on domestic processor vessels. These data will contribute to possible future refinements in roe-stripping management according to PRRs.

Examples of the procedure that would be used to derive allowable pollock roe retention during roe-season fisheries follow.

Allowable Pollock Roe in a Pollock Surimi Operation

If the total amount of pollock surimi onboard is 200 mt, then the round-weight equivalent is 200 mt divided by the surimi PRR of 0.15, or 1,333.3 mt. The allowable roe retention is then calculated as 1,333 mt times 0.10, or 133.3 mt of pollock roe.

Allowable Pollock Roe in a Pollock Mince or Meal Operation

If the total amount of pollock mince or meal product onboard is 200 mt, then the round-weight equivalent is 200 mt divided by the mince or meal PRR of 0.17 or 1,176.5 mt. The allowable roe retention is then calculated as 1,176.5 mt times 0.10, or 117.6 mt of pollock roe.

Allowable Pollock Roe in an Operation Producing Headed-and-Gutted Pollock

If the total amount of pollock H&G product onboard is 200 mt, then the round-weight equivalent is 200 mt divided by the PRR for H&G pollock of 0.50 or 400 mt. The allowable roe retention is then calculated as 400 mt times 0.10, or 40 mt of pollock roe.

Allowable Pollock Roe in an Operation Producing More Than One Pollock Product

If more than one product is produced from pollock, for example, fillets from large fish and meal from small fish, then the total round-weight equivalent is calculated separately for each product and the round-weight equivalents added. The sum of the round-weight equivalent is then multiplied by the maximum roe-recoved rate (0.10) to determine the amount of roe that can be retained onboard.

If more than one product is produced from the same pollock, surimi from the muscle tissue and meal from bones and viscera, for example, then the maximum roe-recovery rate is based on the primary pollock product, which in this case is surimi. Ancillary products include, but are not limited to, meal, heads, internal organs, pectoral girdles, or any other product that may be made from the same fish that the primary product is made.

Enforcement of the Roe-Stripping Limitation

Enforcement of this roe-stripping limitation will rely on pollock-product information recorded in the mandatory daily cumulative production logbooks, weekly production reports that provide cumulative weekly production information from the logbooks, product transfer logs, and on-site inspection of product inventory. The mandatory logbook program implemented under Amendments 18 and 13 to the groundfish FMPs (54 FR 50386, December 6, 1989) requires that species product types and product weights be recorded on a daily basis and that primary and ancillary products from the same fish be identified.

Classification

This proposed rule is published under section 304(a)(1)(D) of the Magnuson Act as amended by Public Law 99-659, which requires the Secretary to publish regulations proposed by the Council within 15 days of receipt of the fishery management plan amendment and regulations. At this time the Secretary has not determined that the amendments these regulations would implement are consistent with the national standards, other provision of the Magnuson Act, and other applicable law. The Secretary, in making these determinations, will take into account the data and comments received during the comment period.

The Council prepared an environmental assessment (EA) for these amendments and concluded that there would be no significant impact on the environment as a result of this rule. A copy of the EA may be obtained from the Council at the previously cited address, and comments on it are requested.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the EA/RIR/IRFA prepared by the Council. A copy of the EA/RIR/IRFA may be obtained from the Council at the previously cited address.

The Assistant Administrator concludes that this proposed rule, if adopted, would have a significant economic impact on a substantial number of small entities. Fishing vessels are considered to be small businesses. In 1989, a total of 1,890 vessels fished for groundfish off Alaska, based on Federal groundfish permits issued by NMFS through April 12, 1989. From January 1 through May 6, 1989, 52 vessels reported processing pollock in the Gulf of Alaska and BSAI areas; 70 catcher-boats reported pollock catches.

The proposed rule would result in a transfer of pollock catch from the roe-season fishery to fisheries prosecuted later in the year. Consequently, the net wholesale value (NWV) of the pollock catch may decrease $5.3 million in the GOA area and $26 million in the BSAI area. Limiting roe stripping would result in a $3.6 million decrease in the NWV of pollock fishery in the GOA area and a $3 million increase in the NWV of the fishery in the BSAI. These effects are discussed further in the EA/RIR/IRFA, a copy of which may be obtained from the Council at the previously cited address.

This proposed rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

The Council determined that this rule, if adopted, will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

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

This proposed rule does not contain a collection of information requirements for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Parts, 611, 672 and 675

Fisheries, Foreign fishing, Reporting and recordkeeping requirements.

Dated: September 10, 1990.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 611, 672 and 675 are proposed to be amended as follows:

PART 611—FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

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

2. In § 611.92, paragraph (c)(3) is added to read as follows:

§ 611.92 Gulf of Alaska Groundfish Fishery.

* * * * *

(c) * * *

(3) *Allowable retention of pollock roe.* See 50 CFR 672.20(i) for procedures used to determine the allowable amount of pollock roe that may be retained onboard a foreign processor vessel at any time during a fishing trip.

* * * * *

3. In § 611.93, paragraph (c)(6) is added to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

* * * * *

(c) * * *

(6) *Allowable retention of pollock roe.* See 50 CFR 675.20(j) for procedures used to determine the allowable amount of pollock roe that may be retained onboard a foreign processor vessel at any time during a fishing trip.

* * * * *

PART 672—GROUNDFISH OF THE GULF OF ALASKA

4. The authority citation for part 672 continues to read as follows:

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

5. In § 672.7, a new paragraph (e) is added to read as follows:

§ 672.7 General prohibitions.

* * * * *

(e) Retain pollock roe onboard a vessel in violation of paragraph 672.20(i) of this part.

6. In § 672.20, paragraph (a)(2) is redesignated (a)(2)(i) and a new

paragraph (a)(2)(ii) is added to read as follows:

§ 672.20 General limitations.

(a) * * *

(2) * * *

(ii) The TAC of pollock for the Central and Western regulatory areas will be divided equally into four calendar quarters. Within any fishing year, any unharvested amount of a quarterly allowance will be added in equal proportions to the quarterly allowances of the remaining quarters of that fishing year. Within any fishing year, harvests in excess of a quarterly allowance will be deducted in equal proportions from the quarterly allowances of the following quarters of that fishing year.

* * * * *

7. In § 672.20, paragraphs (c)(1) and (2) are revised, and new paragraph (i) is added to read as follows:

§ 672.20 General limitations.

* * * * *

(c) *Notices.*—(1) *Notices of harvest limits and PSC limits.* (i) As soon as practicable after October 1 of each year, the Secretary, after consultation with the Council, will publish a notice in the **Federal Register** specifying preliminary annual TAC, DAH, DAP, JVP, TALFF, reserves, and applicable PSC amounts for each target species, "other species" category, species determined to be fully utilized by the DAP fisheries, and quarterly allowances of pollock. This notice also will include the dates that directed fishing may commence for each quarterly allowance. The preliminary specifications of DAP will be the amounts harvested during the previous year plus any additional amounts the Secretary finds will be havested by the U.S. fishing industry for delivery to U.S. processors. The preliminary specifications of JVP will be the amounts harvested during the previous year plus any additional amounts the Secretary finds will be harvested by the U.S. fishing industry for delivery to foreign processors, subject to reductions to accommodate increasing DAP. These additional amounts will reflect as accurately as possible the projected increases in U.S. processing and harvesting capacity and the extent to which U.S. processing and harvesting will occur during the coming year.

(ii) Public comment on these amounts will be accepted by the Secretary for 30 days after the notice is filed for public inspection with the Office of the Federal Register. The Secretary will consider timely comments and, after consultation with the Council, specify the final PSC limits and annual TAC for each target species and the "other species" category and apportionments thereof among DAP, JVP, TALFF, and reserves, and quarterly allowances of pollock. These final amounts will be published in the **Federal Register** as soon as practicable after January 1 of each year. These amounts will replace the corresponding amounts for the previous year.

(2) *Notices prohibiting directed fishing.* If the Regional Director determines that the amount of a target species or "other species" category apportioned to a fishery or quarter, with respect to pollock, is likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. The amount of a species or species group apportioned to a fishery or quarter, with respect to pollock, is the amount in Table 1 or, if applicable, Table 2, as these amounts are revised by inseason adjustments, for that species or species group, as identified by regulatory areas or district and as further identified according to any allocation of TALFF, the apportionment for JVP, the apportionment for DAP, the quarterly allowance of pollock and, if applicable, as further identified by gear type. In establishing a directed fishing allowance, the Regional Director shall consider the amount of that species or species group or quarterly allowance of pollock which will be taken as incidental catch in directed fishing for other species in the same regulatory area or district. If the Regional Director establishes a directed fishing allowance and that allowance is or will be reached before the end of the fishing year or, with respect to pollock, before the end of the quarter, he will prohibit directed fishing for that species or species group in the specified regulatory area or district. No person may engage in directed fishing in violation of an applicable notice. If directed fishing is prohibited, the amount of any catch of that species or species group equal to or greater than the amount which constitutes directed fishing may not be retained and must be treated as a prohibited species under paragraph (e) of this section.

* * * * *

(i) *Allowable retention of pollock roe.* Pollock roe must equal no more than 10 percent of the total round-weight equivalent of pollock as, calculated from the primary pollock product, retained onboard a vessel at any time during a fishing trip.

(1) *Fishing trip.* For purposes of this paragraph, a vessel is engaged in a single fishing trip when commencing fishing until the transfer or offloading of any pollock or pollock product or until the vessel leaves the regulatory area where fishing activity commenced, whichever comes first.

(2) For purposes of this paragraph, only primary products other than pollock roe are used to calculate round-weight equivalents. When multiple products are produced from the same fish, only one of those products may be considered as a primary product. Remaining product type(s) must be designated as ancillary products in the daily cumulative production logbook required under § 672.5 of this part.

(3) *Product-recovery rates used to extrapolate round-weight equivalents.* The following product-recovery rates will be used to calculate round-weight equivalents of primary pollock products:

(i) Pollock surimi—15 percent;

(ii) Pollock fillets—18 percent;

(iii) Pollock minced product—17 percent;

(iv) Pollock meal—17 percent; and

(v) Pollock headed and gutted—50 percent.

(4) *Other product-recovery rates.* Recovery rates for products not listed under paragraph (i)(3) of this section must equal or exceed the product-recovery rate established for pollock surimi.

(5) Calculation of the amount of retainable pollock roe. Round-weight equivalents are calculated only from the primary products onboard the vessel. To calculate the amount of pollock roe that can be retained, first calculate the round-weight equivalent by dividing the total amount of primary product onboard by the appropriate PRR. For example, to determine the round-weight equivalent of 200 mt of pollock surimi, divide 200 by the surimi PRR of 0.15. The round-weight equivalent is 1,333.3 mt of pollock. To determine the amount of pollock roe that can be retained, multiply the round-weight equivalent (1,333.3 mt) by 0.10. The result is 133.3 mt of pollock roe, the amount of pollock roe that can be retained onboard. If there is more than one primary product, round-weight equivalents are calculated for each primary product. Round-weight equivalents are then added together, and the sum multiplied by the 0.10 to determine the amount of pollock roe that can be retained onboard the vessel.

PART 675—GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

8. The authority citation for part 675 continues to read as follows:

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

9. In § 675.7, new paragraph (f) is added to read as follows:

§ 675.7 General prohibitions.

* * * * *

(f) Retain pollock roe onboard a vessel in violation of paragraph 675.20(j) of this part.

10. In § 675.20, paragraph (a)(2)(i) is redesignated as paragraph (a)(2)(ii), a new paragraph (a)(2)(i) is added, the introductory text of the newly designated paragraph (a)(2)(ii) is revised, paragraphs (a)(7) and (a)(8) are revised, and new paragraph (j) is added to read as follows:

§ 675.20 General limitations.

(a) * * *

(2) * * *

(i) The TAC of pollock in each subarea will be divided, after subtraction of reserves, into two allowances. The first allowance will be available for directed fishing from January 1 through April 15. The second allowance will be available for directed fishing from June 1 through the end of the fishing year. Within any fishing year, unharvested amounts of the first allowance will be added to the second allowance, and harvests in excess of the first allowance will be deducted from the second allowance.

(ii) The annual determination of the TAC for each target species and the "other species" category, the division of the pollock TAC into seasonal allowances, the exceeding of these species' TACs through the apportionment of reserves, and the reapportionment of surplus domestic annual harvest (DAH) to total allowable level of foreign fishing (TALFF) will be based on and be consistent with two types of information:

* * * * *

(7) *Notices.* As soon as is practicable after October 1 of each year, the Secretary, after consultation with the Council, will publish a notice in the **Federal Register** specifying preliminary TAC and apportionments thereof into Reserve, DAH, DAP, JVP, and TALFF amounts for each target species and for the "other species" category for the next calendar year, and seasonal allowances of pollock. Public comment on these amounts will be accepted by the Secretary for a period of 30 days after the amounts have been published in the **Federal Register**. The Secretary will consider all timely comments when determining, after consultation with the Council, the final annual TAC, initial TAC and apportionments thereof for each target species and the "other species" category, and seasonal allowances of pollock, for the next year. These figures will be published as a notice in the **Federal Register** as soon as practicable after December 15 and made available to the public through other suitable means by the Regional Director.

(8) If the Regional Director determines that the amount of a target species or "other species" category apportioned to a fishery, or a seasonal allowance of pollock, is likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. The amount of a species or species group apportioned to a fishery is the amount annually specified under paragraph (a)(7) of this section, as revised by inseason adjustments, for that species or species group, or seasonal allowance of pollock as identified by subarea and as further identified according to any allocation for TALFF, the apportionment for JVP, the apportionment for DAP and, if applicable, as further identified by gear type. In establishing a directed fishing allowance, the Regional Director shall consider the amount of that species or species group or seasonal allowance of pollock which will be taken as incidental catch in directed fishing for other species in the same subarea. If the Regional Director establishes a directed fishing allowance and that allowance is or will be reached before the end of the fishing year or, with respect to pollock, before April 15 or the end of the fishing year, he will prohibit directed fishing for that species or species group in the specified subarea. No person may engage in directed fishing in violation of an applicable notice. If directed fishing is prohibited, the amount of any catch of that species or species group equal to or greater than the amount which constitutes directed fishing may not be retained and must be treated as a prohibited species under paragraph (c) of this section.

* * * * *

(j) *Allowable retention of pollock roe.* Pollock roe must equal no more than 10 percent of the total round-weight equivalent of pollock, as calculated from the primary pollock product, retained onboard a vessel at any time during a fishing trip.

(1) For purposes of this paragraph, only one primary product can be used to calculate the round-weight equivalent. The primary product must be distinguished from ancillary products in the daily cumulative production logbook required under § 675.5 of this part. Ancillary products are those such as meal, heads, internal organs, pectoral girdles, or any other product which may be made from the same fish as the primary product.

(2) *Product-recovery rates used to extrapolate round-weight equivalents.* The following product-recovery rates will be used to calculate round-weight equivalents of primary pollock products:

(i) Pollock surimi—15 percent;

(ii) Pollock fillets—18 percent;

(iii) Pollock minced product—17 percent;

(iv) Pollock meal—17 percent; and

(v) Pollock headed and gutted—50 percent.

(3) *Other product-recovery rates.* Recovery rates for products not listed under paragraph (j)(2) of this section must equal or exceed the product-recovery rate established for pollock surimi.

(4) *Fishing trip.* For purposes of this paragraph, a vessel is engaged in a single fishing trip when commencing fishing until the transfer or offloading of any pollock or pollock product or until the vessel leaves the reporting area where fishing activity commenced, whichever comes first.

[FR Doc. 90-21668 Filed 9-11-90; 9:24 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 55, No. 179
Friday, September 14, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Governmental Processes and Special Committee on Financial Services Regulation; Public Meetings

Pursuant to the Federal Advisory Committee Act (5 U.S.C. App. I (1988), Pub. L. No. 92–463), notice is hereby given of meetings of the Committee on Governmental Processes and the Special Committee on Financial Services Regulation of the Administrative Conference of the United States.

Committee on Governmental Processes

Date: Thursday, September 27, 1990.
Time: 2:00 PM.
Location: Administrative Conference, 2120 L Street, NW., Suite 500, Washington, DC (Library, 5th floor).
Agenda: The committee will meet to discuss a new draft report on electronic records management in the federal government, prepared by Professor Henry H. Perritt, Jr. of Villanova University, School of Law.
Contact: David M. Pritzker, 202–254–7020.

Special Committee on Financial Services Regulation

Date: Friday, October 12, 1990.
Time: 10:30 AM.
Location: Skadden, Arps, Slate, Meagher & Flom, 919 Third Avenue, New York, NY, Conference Room 43 A & B.
Contact: Brian C. Murphy, 202–254–7020.
Agenda: The Special Committee has scheduled this meeting to develop a proposed recommendation dealing with the Administration of the Securities Exchange Act of 1934 by the Federal Bank Regulatory Agencies, based on a report by Professor Michael P. Malloy, of Fordham University School of Law. Copies of the consultant's report and the Committee's draft recommendation may be obtained from the contact person named in this notice.

Special Committee on Financial Services Regulation

Date: Friday, October 19, 1990.
Time: 10:00 AM.
Location: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC (Library, 5th floor).
Agenda: The Special Committee has scheduled this meeting to develop a proposed recommendation dealing with Federal Supervision of Safety and Soundness of Government Sponsored Enterprises, based on a report by Thomas H. Stanton, Esquire, of Washington, DC. Copies of the consultant's report and the Committee's draft recommendation may be obtained from the contact person named in this notice.
Contact: Brian C. Murphy, 202–254–7020.

Please Note: There is a possibility that budgetary sequestration may require the rescheduling of one or both of the meetings of the Special Committee on Financial Services Regulation. Please contact the Administrative Conference, at (202) 254–7020, for confirmation of date and time.

Public Participation

Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least one day in advance of the meeting. The committee chairmen may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after a meeting. Minutes of the meetings will be available on request. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC 20037. Telephone: 202–254–7020.

Dated: September 11, 1990.
Michael W. Bowers,
Deputy Research Director.
[FR Doc. 90–21835 Filed 9–13–90; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90–177]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit To Field Test Genetically Engineered Tobacco Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to the Amoco Technology Company to allow the field testing in Fayette County, Kentucky, of tobacco plants genetically engineered to contain a gene which directs additional synthesis of an enzyme having an activity already present in the parental plants. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tobacco plants will not present a risk of the introduction or dissemination of a plant pest and will not have a significant impact on the quality of the human environment. Based on this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 850, Federal Building, 6505 Belcrest Road, Hyattsville, MD, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Michael Schechtman, Biotechnologist, Biotechnology Permits, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD, 20782, (301) 436–7612. For copies of the environmental assessment and finding of no significant impact, write Mr. Clayton Givens at this address. The environmental assessment should be requested under permit number 90-135-02.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340 regulate the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products that are plant pests or that there is reason to believe are plant pests (regulated articles). A permit must be obtained before a regulated article can be introduced into the United States. The regulations set forth procedures for obtaining a limited permit for the importation or interstate movement of a regulated article and for obtaining a permit for the release into the environment of a regulated article. The Animal and Plant Health Inspection Service (APHIS) has stated that it would prepare an environmental assessment and, when necessary, an environmental impact statement before issuing a permit for the release into the environment of a regulated article (see 52 FR 22906, June 16, 1987).

The Amoco Technology Company, of Naperville, Illinois, has submitted an application for a permit for release into the environment, to field test tobacco plants genetically engineered to contain a gene which directs additional synthesis of an enzyme having an activity already present in the parental plants. The field trial will take place in Fayette County, Kentucky.

In the course of reviewing the permit application, APHIS assessed the impact on the environment of releasing the tobacco plants under the conditions described in the Amoco Technology Company application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will not have a significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact, which are based on data submitted by Amoco Technology Company, as well as a review of other relevant literature, provide the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A gene involved in primary metabolism has been inserted into the tobacco chromosome. In nature, chromosomal genetic material from plants can only be transferred to other sexually compatible plants by cross-pollination. In this field test trial, all flowers will be removed before they are sexually mature. Therefore, the introduced gene will be prevented from spreading to other plants by cross-pollination.

2. Neither the introduced metabolic gene itself, nor its gene product, confers on tobacco any plant pest characteristics.

3. The animal from which the metabolic gene was isolated is not a plant pest, a pathogen, or a common vector of human disease.

4. The vector used to transfer the metabolic gene to tobacco plants has been evaluated for its use in this specific experiment and does not pose a plant pest risk in this experiment. The vector, although derived from a DNA sequence with known plant pest potential, has been disarmed; that is, genes that are necessary for producing plant disease have been removed from the vector. The vector has been tested and shown not to be pathogenic to any susceptible plants.

5. The vector agent, the bacterium that was used to deliver the vector DNA and the metabolic gene into the plant cells, has been shown to be eliminated and no longer associated with the transformed tobacco plants.

6. Horizontal movement of the introduced gene is not known to be possible. The vector acts by delivering and inserting the gene into the tobacco genome (i.e., chromosomal DNA). The vector does not survive in the transformed plants. No mechanism that can transfer an inserted gene from a chromosome of a transformed plant to a chromosome of another organism has been shown to exist in nature.

7. The polypeptide produced by the introduced metabolic gene possesses an enzymatic activity already present in tobacco plants. This activity is present in most living organisms. Neither the polypeptide, nor the plant metabolite that results from its enzymatic action, is known to be toxic to any animal.

8. DNA sequences used to regulate expression of the inserted genes in tobacco are derived from the plant pests *Agrobacterium tumefaciens* and the cauliflower mosaic virus. These sequences in themselves, however, encode no proteins, and confer no plant pest related property on the recipient plants.

9. The test is to take place on a small field site, under 0.1 acre in size, at a research facility that has been safely used previously for tests involving transgenic plants. The site has good security: public access is restricted, and full-time employees reside near the test site.

10. At the conclusion of the test, all above-ground vegetative plant material will be harvested and removed from the field site, and any remaining plant material killed by application of herbicide. The site will be monitored during the following growing season, and any volunteer tobacco that may arise will be killed using herbicide as necessary.

The environmental assessment and finding of no significant impact have been prepared in accordance with: (1) The national Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 *et seq.*), (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500-1509), (3) USDA Regulations Implementing NEPA (7 CFR part 1b), and (4) APHIS Guidelines Implementing NEPA (44 FR 50381-50384, August 28, 1979, and 44 FR 51272-51274, August 31, 1979).

Done in Washington, DC, this 10th day of September 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90-21717 Filed 9-13-90; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

International Trade Administration

Sanctions for Violation of Administrative Protective Order

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

EFFECTIVE DATE: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Chief Counsel for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-8916.

SUPPLEMENTARY INFORMATION: The International Trade Administration, U.S. Department of Commerce (ITA), wishes to remind those members of the bar who appear before it in antidumping and countervailing duty proceedings of the extreme importance of protecting the confidentiality of business proprietary information obtained pursuant to administrative protective order ("APO") during the course of those proceedings. In order that the gravity with which ITA views violations of its APO's might be better appreciated, ITA is publishing the following report on the recent allegation that the provisions of an ITA APO have been violated.

The investigation consisted of a case in which counsel for petitioner used proprietary information obtained during an administrative review in making a below cost allegation in a later administrative review.

In this case the violation resulted from lack of due care in upholding obligations under the APO. There was found to be no harm to the submitter of the information because there was no unauthorized disclosure of the proprietary information and no impact on the Department of Commerce's decision to initiate a below cost investigation.

The specific charge that we have investigated, and action that we would regard as a violation of protective orders, includes the following:

1. Making a below cost allegation in one administrative review based on proprietary information obtained in a prior administrative review of the same order.

In this case, the individual was issued a private reprimand which warned that future violations by him or others associated with his firm could be treated more severely.

Serious harm can result from unauthorized use of proprietary information obtained under APO. ITA will continue to investigate vigorously allegations that the provisions of APO's have not been faithfully observed, and is prepared to impose sanctions commensurate with the nature of the violations, including letters of reprimand, denial of access to proprietary information, or debarment from practice before the ITA.

This notice is published pursuant to 19 CFR 354.15(e) of the Department's regulations.

Roger W. Wallace,

Deputy Under Secretary for International Trade.

[FR Doc. 90-21764 Filed 9-13-90; 8:45 am]

BILLING CODE 3510-05-M

Foreign Trade Zones Board

[Order No. 487]

Temporary Time Extension of Authority for Subzones 122D, 122E, 122F, and 122H, Corpus Christi, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a-81u), and the Foreign Trade Zones Board Regulations (15 CFR part 400), the Foreign Trade Zones Board (the Board) adopts the following order:

Whereas, on September 5, 1985, the Board conditionally approved an application submitted by the Port of Corpus Christi Authority, grantee of FTZ 122, which included conditional approval for foreign-trade subzone status at the manufacturing plants of Gulf Marine Fabricators, Inc. (SZ 122D), Berry Contracting, Inc. (SZ 122E), C.C. Distributors, Inc. (SZ 122F), Compressors of Texas (SZ 122G) and Hitox Corporation of America (SZ 122H) in Corpus Christi, Texas (Board Order 310, 50 FR 38020, 9/19/95);

Whereas, the foregoing subzones were approved subject to restrictions including a five-year time restriction (expires 9/5/90);

Whereas, the Port of Corpus Christi Authority made application to the Board (FTZ Docket 32-90, filed August 10, 1990, as amended) for a one-year temporary time extension on all of the foregoing subzone sites except 122G, while an application is being prepared for a longer-term time extension, as well as removal of other restrictions; and,

Whereas, the FTZ Staff has conducted a preliminary review and finds that a temporary extension of authority for the four foregoing sites would be in the public interest;

Now, therefore, the Board hereby orders:

That the authority for Subzones 122D, 122E, 122F, and 122H is extended to September 5, 1991, subject to all of the other conditions in Board Order 310.

Signed at Washington, DC this 5th day of September, 1990.

Francis J. Sailer,

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

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 90-21667 Filed 9-13-90; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-609]

Final Results of Antidumping Duty Administrative Review; Color Picture Tubes From Japan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On January 18, 1990, the Department of Commerce ("the Department") published the preliminary results of its administrative review of the antidumping duty order on color picture tubes from Japan. The review covers Toshiba Corporation, a manufacturer/exporter of this merchandise to the United States, and the period June 30, 1987 through December 31, 1988. We preliminarily found no dumping. We gave interested parties an opportunity to comment on the preliminary results and on the verification reports. Based on our analysis of the comments received, we have changed the margin from that presented in our preliminary results.

EFFECTIVE DATE: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Shawn Thompson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-8830 or (202) 377-1776, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 18, 1990, the Department published in the **Federal Register** (55 FR 1688, January 18, 1990) the preliminary results of its administrative review of the antidumping duty order on color picture tubes (CPTs) from Japan (53 FR 430, January 7, 1988). The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Act").

Scope of Review

Imports covered by this review are shipments of CPTs which during the period of review were provided for in Tariff Schedules of the United States Annotated (TSUSA) items 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520. The corresponding Harmonized Tariff Schedule (HTS) numbers are 8540.11.00.10, 8540.11.00.20, 8540.11.00.30, 8540.11.00.40, 8540.11.00.50, 8540.11.00.60 and 8540.11.00.80. CPTs that met the narrative description of the scope of the order also were imported during the period of review under TSUSA items 734.2012 and 687.5405. The corresponding HTS numbers are 9504.10.00 and 8540.11.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

CPTs are defined as cathode ray tubes suitable for use in the manufacture of color television receivers (CTVs) or other color entertainment display devices intended for television viewing.

CPTs which are imported as incomplete television assemblies that contain a CPT as well as additional components are also included in the scope of this review unless both of the following criteria are met: (1) The CPT is "physically integrated" with other television receiver components in such a manner as to constitute one inseparable amalgam; and (2) the CPT does not constitute a significant portion of the cost or value of the items being imported. CPTs which are imported together with other parts as incomplete television assemblies whether shipped directly from Japan or through Mexico are included in the scope of this review. Incomplete television receiver assemblies are provided for in TSUSA items 684.9656, 684.9658 and 684.9660. The corresponding HTS item number is 8528.10.80.45. Incomplete assemblies may also be included in HTS item number 8528.10.80.50.

Excluded from the scope of this review are CPTs which are shipped directly from Japan and imported together with other parts as television receiver kits (which contain all parts necessary for assembly into complete television receivers). However, CPTs which are shipped through Mexico and imported together with other parts as television receiver kits are included in the scope of this review.

The review covers one manufacturer and/or exporter of color picture tubes to the United States, Toshiba Corporation, and the period June 30, 1987 through December 31, 1988.

Comparisons

To determine whether sales of CPTs from Japan to the United States were made at dumped prices, we compared the United States price to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

For the purposes of making comparisons, we determined that the subject merchandise sold by Toshiba during the review period constitutes two such or similar categories: 14V and 30V. With regard to the 14V CPTs, Toshiba claimed that these tubes were sold to unrelated purchasers in the United States for use in video games. Because all entries were liquidated by Customs and because Toshiba claimed that these tubes were not included within the narrative description of the scope of the antidumpting duty order, Toshiba did not report any information on these 14V tubes. On May 1, 1990, Toshiba formally requested that the Department clarify the scope of the order with respect to these tubes. As a result of our scope inquiry, we determined that these tubes properly fell within the scope of the antidumping duty order. Because Toshiba declined to report additional sales information for these entries, we have used best information available to calculate a weighted-average margin for this such or similar category. As best information available, we used the rate applied to Toshiba in the less than fair value investigation. For further discussion of this issue, *see* DOC Position to Comment 1 in the "Interested Party Comments" section of this notice. With regard to the 30V CPTs, we calculated a weighted-average margin for this such or similar category, as specified below. We then calculated a single weighted-average margin for all exports made by Toshiba based on the separate margins found for each such or similar category.

United States Price

We based United States price on exporter's sales price (ESP, in accordance with section 772(c) of the Act, because all sales to the first unrelated purchaser took place after importation into the United States.

For all ESP sales, the CPTs were imported into the United States and incorporated into CTVs before being sold to the first unrelated party. Therefore, it was necessary to construct a selling price for the CPT from the sale of the CTV. To calculate ESP, we used the packed, f.o.b. price of CTVs to unrelated purchasers in the United States. Based on our findings at verification, we adjusted Toshiba's data for certain minor clerical errors. We made deductions for discounts, price and per unit expense adjustments, certain promotional expenses, usance expense incurred by Toshiba Japan, foreign inland freight, foreign inland insurance, U.S. and foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, harbor maintenance and merchandise processing fees, U.S. inland freight, and U.S. marine and inland insurance.

We also made deductions, where appropriate, for direct selling expenses incurred by or for the account of the exporter in selling CTVs in the United States, in accordance with § 353.41(e)(2) (1990) of the Department's regulations. Direct selling expenses included U.S. credit, advertising, flooring expenses (expenses incurred by Toshiba to have a finance company collect its receivables), warranties, and royalties. For the preliminary results, credit expense was calculated on the basis of invoice price; however, we recalculated this expense using the invoice price less price adjustments, early payment discounts, and promotional discounts. Certain advertising expenses were reported on a model-specific basis; however we recalculated advertising on a product-line basis. (*See* DOC Position to Comment 11 in the "Interested Party Comments" section of this notice.) Warranties were reported as an average rate for all models; however, we recalculated a model-specific rate because specific information was available and we consider it to be more accurate. Royalties and certain promotional expenses were reported as indirect selling expenses; however, we did not include them in the ESP cap because we found them to be directly related to the sales in question.

We made further deductions for indirect selling expenses, in accordance with § 353.41(e)(2) (1990) of the Department's regulations. Indirect selling expenses included those indirect expenses incurred outside the United States, those indirect expenses of the related reseller in the United States and inventory carrying costs. Inventory carrying costs reported for one of Toshiba's U.S. sales subsidiaries, Toshiba America (TAI), were reclaculated as a percentage of the cost of manufacture of CTV, using TAI's weighted-average short-term interest rate. (*See* DOC Position to Comment 16 in the "Interested Party Comments" section of this notice.) No adjustment was made to the inventory carrying costs of Toshiba's other U.S. sales subsidiary, Toshiba Hawaii (THI), because Toshiba did not separately identify these costs in its response. Pursuant to § 353.41(e)(1) of the Department's regulations, we also deducted commissions paid to unrelated parties.

We made deductions for all value added to the CPT in the United States in accordance with § 353.41(e)(3) of the Department's regulations. This value added consisted of the costs associated with the transformation of the CPT into a CTV, all movement expenses incurred in the United States, and a proportional amount of the profit or loss related to these costs. Profit or loss was calculated by deducting all production and selling costs incurred by the company with respect to the CTVs from the invoice price adjusted for discounts, price adjustments, and, in the case of TAI, certain promotional allowances. The total profit or loss was then allocated proportionately to all components of cost. The profit or loss attributable to (1) Production and movement costs in the United States, and (2) the portion of selling expenses attributable to further manufacturing, was considered to be part of the value added in the U.S. production.

In determining the costs incurred to produce the CTV, we included (1) The costs of production for the chasis and the CPT (which was the submitted actual cost as compared to the transfer price used by the respondent); (2) movement and inventory carrying costs for these components; and (3) the cost of other materials (e.g., the cabinet and other parts), fabrication, general expenses, and interest expenses attributable to the production of the CTV in the United States. The Department relied on the cost data provided by the respondent, except as noted below.

We used best information available in determining the cost of production of component parts produced by either Toshiba or its subsidiaries because, at verification, Toshiba was unable to substantiate that the reported transfer prices for these parts reflected fair market value. Interest expense was revised to reflect consolidated interest expense reduced to account for inventory carrying costs and imputed credit expenses. In order to facilitate the calculations, the reported quarterly costs were combined into weighted-average annual costs for the period of review and converted at an annual average exchange rate. In addition, annual corporate selling expenses were allocated to all of Toshiba's facilities involved in the production of the finished CTV (i.e., Toshiba Japan (Toshiba), Toshiba Singapore (TSP), and Toshiba Tennessee (TNP)).

The reported color picture tube costs were further revised as follows: (1) Corporate general and administrative costs were revised to include annual expenses and remove business tax expenses; (2) research and development costs were revised to reflect annual costs; (3) "ETDG EXPENSE' and "S.G. & A." were removed from the reported costs as they were included in selling expenses; and (4) the reported differences in merchandise were revised to eliminate the yield adjustment.

The reported chassis costs were further revised as follows: (1) Material costs were revised to account for discrepancies noted at verification; (2) the material usage variance amounts were added to the material costs; (3) the labor and overhead costs were revised to account for the difference in labor hours noted at verification; (4) the annual overhead rate was used for the overhead rate; (5) the production date was used to determine the monthly labor rate; (6) the reported costs were increased to account for certain non-operating expenses; and (7) the plant general and administrative costs were based on cost of sales rather than cost of manufacturing.

The reported further manufacturing costs were further revised as follows: (1) The material costs were revised for discrepancies noted at verification; (2) an adjustment was made to material costs for scrap and other miscellaneous costs; (3) labor and overhead amounts were adjusted to reflect revised efficiency ratios; (4) the overhead rate was revised to include the depreciation of the molds, dies, jigs, and fixtures; (5) patent costs were reclassified from selling expenses to costs of manufacturing; (6) plant general and administrative costs were based on cost of sales instead of cost of manufacturing; and (7) non-operating expenses were revised to exclude currency losses.

Since it is the CTV and not the CPT that is ultimately sold in the United States, a proportional amount of the CTV indirect selling expenses was allocated to the CPT based upon the costs associated solely with the CPT to the total CTV cost. The total of the indirect selling expenses allocated to the CPT formed the cap for the allowable home market selling expenses offset under § 353.56(b) of the Department's regulations.

Foreign Market Value

In calculating FMV, the Department used home market prices as specified in section 773 of the Act. FMV was based on packed, ex-factory prices to unrelated purchasers in the home market. Based on our findings at verification, we adjusted Toshiba's data for certain minor clerical errors. Where applicable, we deducted inland freight, discounts and rebates. We also deducted the home market packing cost from the foreign market value and added U.S. packing cost.

Because U.S. price was based on ESP, we made further deductions from the home market price, where appropriate, for credit expenses and royalties. For the preliminary results, credit expense was calculated on the basis of invoice price net of discounts and rebates; however, we recalculated this expense using the gross invoice price for purposes of our final results. During verification, we found that Toshiba's reported discounts were granted for prepayment of a fixed amount against purchases of all products; as such, these discounts could not be tied directly to sales of the CPTs under review. We further noted that both prepayment discounts and rebates were applied to the invoice amount after Toshiba had recorded the sale in its accounts receivable. Accordingly, we determined that the invoice amount without discounts and rebates subtracted is the appropriate basis for the credit calculation in this review. In addition, we revised the credit period to reflect the time between the date of shipment and the date of payment. (*See*, Comment 9 in the "Interested Party Comments" section of this notice.) We deducted indirect selling expenses incurred on home market sales up to the amount of commissions and indirect selling expenses incurred on sales in the U.S. market, in accordance with § 353.56(b) of our regulations.

Where appropriate, we made further adjustments to FMV to account for physical differences in the merchandise, in accordance with section 773(a)(4)(C) of the Act.

Currency Conversion

We used the official exchange rates in effect on the dates of U.S. sales, in accordance with section 773(a)(1) of the Act. All currency conversions were made at the rates certified by the Federal Reserve Bank.

Interested Party Comments

We received case briefs and rebuttal briefs from the respondent, Toshiba Corporation, and from the petitioners, the International Association of Machinists and Aerospace Workers, the International Union of Electronic, Electrical, Technical, Salaried and Machine Workers (AFL-CIO-CLC), the United Steelworkers of America (AFL-CIO), and the Industrial Union Department (AFL-CIO).

Comment 1: Petitioners contend that the U.S. Customs Service prematurely liquidated a large number of CPTs that they contend are within the scope of the antidumping duty order. Petitioners claim that this premature liquidation has allowed respondent to limit the scope of this review to its advantage. Petitioners maintain that this error has caused them substantial harm which warrants the dismissal of this review and the reinstatement of the existing cash deposit rate. Barring this, petitioners contend that the Department should (1) Order the reliquidation of the applicable CPTs; (2) include these units in the calculation of the future deposit rate; and (3) reissue instructions to Customs that such units will henceforth be subject to suspension of liquidation. If the Department does not use any of the liquidated models in its analysis, petitioners argue that the cash deposit rate calculated for the final results should apply only to future entries of CPTs covered by this analysis (i.e., 30V), with the current cash deposit rate continuing in effect for CPTs of all other screen sizes.

Respondent contends that the majority of the liquidated tubes were used as parts for video games and entered under TSUSA number 734.2012, which was not included in the scope of the original order. Respondent further states that no parties involved in these sales realized that these tubes might be covered by the antidumping duty order on color picture tubes, and once respondent and the importer became aware that the tubes met the narrative description of the scope of the order, sales of the merchandise ceased. Accordingly, respondent argues that, because the entries have been liquidated and because there will be no future sales of these CPTs, there is no reason to include these sales in the review.

Regarding reliquidation of these entries, respondent points out that it is long standing practice that liquidation is final on all parties unless a valid protest is filed and upheld administratively or by a court. Respondent further states that, according to section 520(c)(1) of the Act, entries may be reliquidated due to clerical error up to one year only in situations adverse to the importer.

DOC position: We agree in part with respondent and in part with petitioners. We agree with respondent that the reliquidation of the entries in question is not an issue in this review. While these entries may have been liquidated due to an inadvertent error, section 520(c)(1) of the Act permits reliquidation only when clerical mistakes of this nature are adverse to the importer, and then only within one year from the time that liquidation occurred. Because the respondent is the importer and this liquidation is not adverse to its interests, seciton 520(c)(1) is not applicable. Further, liquidation is final on all parties unless contested within the prescribed period, and there is no indication that liquidations of the CPTs in question were ever protested.

We agree with petitioners that these tubes are within the scope of the antidumping duty order. To avoid the possibility of any future recurrence of this situation, we have reissued instructions to Customs to ensure that all entries of CPTs that fall within the narrative description of the scope of the antidumping duty order, including CPTs that may enter as parts or components for video games, will be subject to suspension of liquidation.

The volume of sales of these tubes is so large in relation to the volume of sales of the 30V tubes reported by Toshiba that any deposit rate based solely on the sales of 30V tubes would be unrepresentative of Toshiba's pricing practices during the period of review. Consequently, we are including the sales of these tubes in the calculation of the future deposit rate even though the entries of these tubes have already been liquidated. Because Toshiba declined to report information for these sales, we used best information available, in accordance with section 776(c) of the Act. As best information available, we used the rate applied to Toshiba in the less-than-fair-value investigation.

Comment 2: Petitioners contend that the Department should include the liquidated entry of CPTs sold as samples in its calculation of a future cash deposit rate. Citing *Television Receivers, Monochrome and Color (CTVs) from Japan* (53 FR 4050, February 11, 1988), petitioners state that "goods entered for consumption are subject to an antidumping finding whenever ownership transfers from the exporter of such goods." Petitioners maintain that the Department should calculate net prices on sample CPTs sold to the United States. Absent sufficient information, petitioners argue that the Department should use the *ad valorem* rate applied to respondent during the less-than-fair-value investigation to the liquidated entry of sample CPTs manufactured by respondent and utilize this entry in the establishment of a future cash deposit rate.

Respondent contends that it is irrelevant whether the Department includes its one sample sale in the calculation of a final dumping margin, since, due to the small number of units involved and the small number of adjustments which would have been made to invoice price, this sale would not affect the final results of the review.

DOC position: We agree with respondent that inclusion of this one sample sale in the calculation of the future cash deposit rate will have a minimal effect. However, in order to be consistent in our treatment of liquidated entries in this review, we have included this entry in our analysis. Because Toshiba did not report charges and adjustments for this sale, we used best information available, in accordance with section 776(c) of the Act. Because this entry contained 30V CPTs, we used the weighted-average margin calculated for the other 30V tubes subject to this review as best information available.

Comment 3: Respondent contends that the Department should rescind its decision to include profit associated with selling expenses in the deduction for further manufacturing in the United States. Respondent asserts that Commerce specifically addressed this issue in the less-than-fair-value investigation (*See*, final determination, *Color Picture Tubes from Japan*, 52 FR 44171, 44173, November 18, 1987) and at that time concluded that profits related to selling expenses were not to be considered part of the value added in the United States. Respondent further argues that, in order to reach its decision in the less-than-fair-value investigation, the Department relied on the plain meaning of section 772(e)(3) of the Act, which states that the exporter's sales price shall be reduced by "any increased value, including additional material and labor, *resulting from a process of manufacture or assembly* performed on the imported merchandise * * *" (emphasis added). Respondent contends that this language explicitly precludes the inclusion of selling expenses (and resulting profits or losses) in the deduction for value added.

Respondent also asserts that the Department's justification for its change in methodology (i.e., "harmonizing" the practices used in both investigations and administrative reviews) is invalid, since, in its notice of the preliminary results of this review published in the **Federal Register**, the Department did not cite any specific cases in which profits related to selling expenses were included in the value added calculation. Respondent contends that the only case in which the Department did indicate that it used this methodology, *Forklift Trucks Circumvention Decision* covering forklift trucks from Japan (52 FR 50260, Dec. 5, 1989), does not apply to cases involving further manufacturing since the methodologies for the calculation of ESP and for the determination of circumvention implement different sections of the Act. Respondent maintains that these sections were enacted for wholly different purposes and use dissimilar language. Respondent further argues that this change in methodology has no basis in legislative history.

Additionally, respondent claims that the change in methodology unfairly penalizes foreign producers since the methodology used in the final determination of sales at less-than-fair-value *de facto* instructed respondent how to price in order to be in accord with the Department's interpretation of the law.

Petitioners contend that the Department properly allocated profit to U.S. value added operations. Petitioners argue that inclusion of selling expenses in value added reflects commercial reality since selling expenses add value or utility to the CPT and that respondent incurs these expenses with the expectation of making a profit on the final product. Petitioners further argue that the statute and legislative history do not limit value added solely to post-importation manufacturing and assembly expenses. Petitioners contend that Congress did not explicitly limit "increased value," and the profit associated thereto, to "additional material and labor." Finally, petitioners argue that the Department's methodology is consistent with prior administration precedent by citing recent decisions in the circumvention inquiry on *Forklifts from Japan* (54 FR 50260, Dec. 5, 1989) and in the less-than-fair-value investigation on *Certain Small Business Telephone Systems from Korea* (54 FR 53141, Dec. 27, 1989).

DOC position: We agree with petitioners. As we explained in the preliminary results, since the time of the final determination in the less-than-fair-value investigation, we have reevaluated our methodology on the calculation of value added to a product after importation. While the methodology used in the less-than-fair-value investigation is one permissible approach under the Act, after a thorough review of the statute and its legislative history, we have subsequently concluded that "increased value" should be interpreted to include all expenses incurred in the United States. Aside from standardizing our practice within the Department, this methodology more equitably allocates any profit or loss associated with further manufacturing after importation and therefore results in a fairer comparison of U.S. price and foreign market value. Thus, as we reasoned in the preliminary results, the profit or loss attributable to selling expenses incurred in the United States, as well as additional material and labor specifically addressed in the statute, is part of the value added after importation.

Comment 4: Respondent maintains that the Department should use the transfer price of the CPT to allocate profit. Respondent argues that the transfer price is valid for three reasons: (1) It is the price on which duties and taxes are paid, inventory is valued, and the price to the first unrelated customer is determined; (2) there is nothing in the statute or regulations that precludes the use of the transfer price, especially (as in this case) when it is above the cost of production; and (3) it is considered legitimate by the U.S. Customs Service and the IRS, which routinely review intra-company transfer prices to ensure that they reflect market prices, and which have the ability to impose both civil and criminal penalties for arbitrary manipulation or artificial depression of prices. Respondent contends its use of the transfer price does not disproportionately allocate profit to the CPT. Respondent believes profit should be included in all components. Respondent advocates subtracting the portion of profit included in the transfer price of the CPT (*i.e.*, the amount by which the transfer price exceeds cost of production) from the total CTV profit and then applying the profit related to the transfer price directly to the CPT; the remaining profit should be allocated to further manufacturing on the basis of the ratio of further manufacturing cost to total costs.

Petitioners contend that the Department properly used CPT cost to calculate the profit attributable to the value added by the U.S. operations because cost data is more objective, allowing for less manipulation. Petitioners state that the respondent has made contradictory assertions in its previous submissions by regarding transfer prices as less preferable than selling prices to unrelated parties in calculating profit and by submitting transfer prices which are less than the cost of production. Petitioners further argue that the use of transfer prices would allow respondent to manipulate the profit on the CPT, as well as the net CPT price, by merely changing the transfer prices of the CTV components.

DOC position: Consistent with prior practice, we used cost of production as the basis for calculating profit on the sale of the color television set. We do not normally accept transfer prices between related parties because such prices may be established by a company for a variety of corporate purposes and may not reflect actual cost experience. The fact that taxes or duties may be levied on, or inventory valued at, the transfer price does not in itself indicate that these prices reflect actual cost. Moreover, the alleged use of transfer price by the U.S. Customs Service or the IRS does not necessitate that the Department use transfer prices in reviewing antidumping duty orders. Therefore, to calculate the profit from the sale of the CTV, we used the actual cost of all components.

Comment 5: Respondent contends that, for purposes of selecting the most similar merchandise, the CPT models containing a "JZH" tube are equally similar to the CPT models containing a "JTS" tube. Respondent claims that the only difference between the JZH and the JTS tubes is the maximum anode voltage to be applied to the picture tube. Respondent further states that this difference is not physical and does not result in any difference in the cost of production. Therefore, respondent claims that all CPSs sold in the United States can be compared to home market CPTs containing either the JZH tube or the JTS tube.

DOC position: We disagree with respondent. All of the models sold in the United States contain JTS tubes. At verification we examined potential comparison models and determined that models sold in the home market containing the JTS tubes were the most similar based upon review of the technical information contained on the bills of material for each model. Toshiba has provided no information to demonstrate that the difference between the JTS and the JZH tubes (*i.e.*, the anode voltage) is not a physical characteristic of the merchandise. Moreover, the type of tube used in the CPT is not the sole physical characteristic used to determine product similarity. The models sold in the United States had deflection yokes and convergence purity magnets. None of the models sold in the home market containing the JZH tube was sold with a deflection yoke or a convergency purity magnet. Consequently, models containing the JZH tube were not used in our analysis.

Comment 6: Petitioners allege that, in its questionnaire response, respondent incorrectly reported amounts paid for U.S. customs duties. Petitioners state that the correct duty rate for imports of color picture tubes is 15 percent *ad valorem*. On one entry, respondent reported an import duty of less than 15 percent of the entered value: on the remaining four entries, respondent reported that it paid no U.S. customs duties.

With respect to the one entry for which respondent reported an import duty of less than 15 percent, petitioners argue that respondent has failed to justify its reported duty amounts. Petitioners note that this entry was made prior to the temporary duty suspension period claimed by respondent, and they state that examination of documents at verification confirmed that respondent paid duties of 15 percent on other CPT entries. Petitioners therefore feel that the Department should apply the verified 15 percent rate to this entry.

Regarding the entries for which no duty was reported, petitioners point out that for one entry documents obtained at verification show that duty was assessed. Petitioners argue that in cases in which respondent has applied for, but not yet received, a refund for these duties, the Department should apply the policy followed in *Mechanical Transfer*

Presses (MTPs) from Japan, 55 FR 335 (January 4, 1990) in which the Department did not allow unliquidated claims for rebate of cutoms duty since there was no guarantee that the importer would receive the reported import duty refunds.

Respondent maintains that it correctly reported duty amounts. With respect to the entry for which it reported less than 15 percent duty, respondent maintains that it weight-averaged actual duty amounts assessed because the shipment contained CPTs which entered under two separate TSUSA numbers: 687.3518 (CPTs) entering alone, assessed at a 15 percent rate) and 684.9660 (CPTs entering joined with other TV subassemblies, assessed at a 5 percent rate). Respondent therefore argues that the Department should use the amounts reported in its response.

Regarding the entries for which it reported zero duty, respondent admits that it paid a 15 percent duty on several entries, including the entry cited by petitioners. However, respondent maintains that it expects the final duty to be zero based on an amendment in the Omnibus Trade and Competitiveness Act of 1988 (1988 Act). Respondent states that it has already received a refund for duties paid on one entry and expects the duties paid on the remaining entries for which it reported a zero rate to be refunded in full. Therefore, respondent argues that the zero duty is appropriate.

DOC position: We agree with respondent. With regard to the one entry for which respondent reported a weighted-average duty, respondent was able to substantiate that this amount was based on duties actually assessed by Customs and paid by Toshiba. With regard to the entries for which respondent claimed no duty, we also determined that respondent has adequately supported its claim. This situation is clearly distinguishable from that in *MTPs*, because in this case rebate of customs duty is guranteed by section 1719 of the 1988 Act. Furthermore, unlike *MTPs*, respondent has been able to demonstrate that a refund of customs duty has been granted for one of the relevant entries. Therefore, for purposes of the final results, we have accepted all customs duties as reported.

Comment 7: Petitioners contend that respondent did not report either harbor maintenance or merchandise processing fees paid on each entry of color picture tubes. Petitioners note that payment of these fees is required by U.S. law and maintains that the Department should include these fees in its calculations of U.S. import charges.

Respondent states that these fees inadvertently were not added to the import charges reported for the CPT. For purposes of the final results, respondent agrees that these fees should be included in these charges. Respondent also notes that harbor maintenance and merchandise processing fees were correctly reported for other components imported by its manufacturing facility, TNP.

DOC position: We agree that both harbor maintenance and merchandise processing fees should be included in the calculation of import charges for the CPT. We have made the appropriate calculations for the final results.

Comment 8: Petitioners contend that respondent incorrectly calculated U.S. inland freight from the factory to its warehouses. Petitioners argue that, because the per container cost charged to respondent's sales subsidiary varies widely by destination, calculation of a weighted-average model-by-model freight cost is inappropriate. Petitioners state that because the difference in freight costs has a direct bearing on the profit earned on each sale, which in turn directly affects the calculation of net U.S. price for the CPT, the most appropriate method to calculate inland freight from the factory to the warehouse is by calculating actual costs on sale-by-sale basis.

Respondent contends that its inland freight calculation is reasonable. Respondent argues that freight from a manufacturing facility to a warehosue is an indirect expense because it is prior to the sale to the unrelated U.S. customer. Respondent further argues that it does not ordinarily maintain freight charges by destination. Finally, respondent maintains that in antidumping cases freight is a charge that normally is deducted on an average basis.

DOC position: We agree with petitioners. At verification, we observed that freight rates varied by the destination of the merchandise. Because this charge varies by location of the warehouse and not by the model shipped, we have determined that it is more accurate to calculate an inland freight expense based upon actual charges incurred for each of the warehouses. We have made the appropriate recalculations for purposes of the final results.

We disagree with respondent that the fact this freight charge is incurred prior to the sale to the first unrelated customer should alter our allocation methodology. Furthermore, as described above, we noted that respondent's books contain sufficient detail to identify this cost. Finally, we reject respondent's assertion that freight expense is "normally" deducted on an average basis; we generally deduct freight expense on the basis upon which it is actually incurred (*i.e.*, on a shipment-by-shipment basis).

Comment 9: Respondent contends that the Department should change both the interest rate used and the period covered for purposes of calculating credit expense associated with sales both in the home market and in the United States. Respondent argues that in the original CPT investigation the Department used the consolidated short-term interest rate of the parent company as the appropriate interest rate in its derivation of credit expense for related companies. Respondent, therefore, maintains that the Department should use the consolidated rate in order to be consistent with past practice. Respondent also contends that the credit period should be changed to reflect the number of days between the date of shipment and date of payment, because the credit period does not commence until the merchandise is shipped.

Petitioners also contend that the Department should change both the interest rate used in the calculation of U.S. credit expense for one of Toshiba's U.S. sales subsidiaries (TAI) and the length of the credit period. Petitioners, however, argue that the most appropriate interest rate is the weighted-average rate based on all short-term borrowings by TAI because it reflects the costs incurred by TAI in financing receivables on sales in the United States. Petitioners claim that respondent omitted certain interest expenses in the calculation of TAI's average short-term interest rate, and therefore the Department should calculate sale-by-sale credit costs based on a rate which takes these expenses into account. Petitioners maintain that in the less-than-fair-value investigation the Department used the average short-term corporate interest rate only in calculating expenses on related party transactions between a company and its subsidiaries. Regarding the credit period, petitioners also state that the Department should compute credit expenses based on the actual days from the date of shipment to date of payment.

DOC position: We agree with petitioners. Because TAI is financing its receivables through it short-term borrowings, it is TAI's weighted-average short-term interest rate that most accurately reflects credit expense. For purposes of the final results, we have used this rate which was reported by Toshiba in its questionnaire response.

revised to reflect all short-term borrowings verified by the Department.

We agree with both petitioners and respondent regarding the length of the credit period. For purposes of the final results, the credit period for both the home market and U.S. market reflects the time between shipment and payment by the customer. In our preliminary results, credit expense for U.S. sales was based on the period between shipment and payment and was not revised; for home market sales it was based on the period between sale and payment and was revised. Toshiba claimed an average of five days between completion of production and shipment for home market sales as part of its credit expense. In our preliminary results, we recalculated the credit period for home market sales to reflect more accurately this additional claimed cost to the company. At verification, we reviewed the company's records and determined that no credit expense was incurred for this period because production was completed after the date of sale for all products used for comparison. We revised the credit period accordingly.

Comment 10: Petitioners claim that respondent incorrectly calculated credit expense for certain of its U.S. sales. In addition to noting several mathematical errors, petitioners point out that for one sale respondent did not include flooring expenses in its sales listing, although it was noted in the verification report that respondent incurred flooring expenses for that sale. Furthermore, petitioners observe that the credit period for certain additional sales should be revised because respondent submitted revised dates of payment for those sales. Petitioners maintain that these errors and corrections should be taken into account for purposes of the final results of this administrative review.

Respondent maintains that, with the exception of two observations, its reported credit expenses are calculated correctly. Respondent notes that for several sales it incorrectly reported the collection date. However, respondent maintains that it used the correct date in its credit calculation and that the Department verified this date for one sale at TAI. For the two sales for which credit was calculated incorrectly, respondent states that the credit figures should be recalculated.

Regarding petitioners' comment on flooring expenses, respondent maintains that the verification report is incorrect and that no flooring expenses were incurred on the sale in question. In support of this point, respondent submitted sales documents showing that payment was not billed to a flooring company.

DOC position: For purposes of the final results, we have recalculated credit to reflect both the revised payment days and the miscalculations made by respondent. Regarding flooring expenses, we have reviewed documents taken at verification and agree that respondent correctly reported that no flooring expenses were incurred on the sale in question.

Comment 11: Respondent argues that the Department should not allocate advertising expenses on a model-specific basis. Citing the final results of the administrative review on *CTVs* from Japan (54 FR 13922, April 6, 1989), respondent contends that the Department no longer requires the submission of advertising on a more detailed level than product-line. Respondent argues that the reasoning in the final results of the CTV administrative review applies in this situation, because it does not maintain model-by-model advertising and because the wide shift in expenses as a percentage of sales for the two semi-annual fiscal periods evidences the distortive nature of the calculation of advertising expense on a model-specific basis. As a final point, respondent contends that advertising for Carver Sound products benefits not only the specific models advertised but also Toshiba TVs as a whole. Therefore, respondent feels that it is most appropriate to allocate advertising over total TV sales.

Alternatively, respondent argues that even if the Department does not follow its current practice and continues to allocate advertising expense to both 30V CTVs and Carver Sound products, the Department should accord different treatment to Carver Sound products. Respondent maintains that this expenses was abnormally high due to the fact that Carver Sound products were new. Therefore, respondent maintains that these costs should be treated as start-up costs and should be allocated over all sales, not just sales of Carver Sound products. However, respondent also argues that if this expense is allocated solely to sales of Carver products, the Department should use the expense to sales ratio for the second half of the fiscal year as experience for the entire year, since low sales in the first half of the year distort the ratio.

Petitioners contend that the Department has properly allocated advertising expenses to sales of specific models. Petitioners note that respondent has characterized Carver Sound products as a distinct product line and runs advertisements specific to Carver Sound models. Petitioners alleged that respondent's suggestions for treatment of Carver Sound advertising constitute a new argument and that respondent has made these suggestions in order to continue to understate its actual advertising expense on the CTV models under review because alternative ratios listed in the verification report are higher than those reported in its submission. With regard to the original methodology used to report advertising expense for Carver Sound products, petitioners contend that respondent has incorrectly calculated this ratio by dividing the expense incurred in October through December by the estimated sales amount of Carver Sound Products during the period October 1988 through March 1989. Petitioners argue that expenses during a period should be allocated over sales during the same period. Therefore, petitioners state that the Department should calculate advertising expense for Carver Sound Products based on the ratio of sales to expense for the period April through December 1988.

DOC position: We agree with respondent that the wide shift in Carver Sound products advertising expenses as a percentage of Carver Sound products sales for the two semi-annual fiscal periods evidences the distortive nature of calculating advertising expenses on a model-specific basis in this review. In *Television Receivers Monochrome and Color, From Japan; Final Result of Antidumping Duty Administrative Review and Determination Not To Revoke in Part*, 54 FR at 35523 (August 28, 1989), we determined that model-specific allocation can lead to inaccurate and erratic results. Our determination in that review is applicable to this case because Toshiba's reported model-specific advertising expenses are not reflective of the company's TV advertising experience. Moreover, we accept Toshiba's contention that advertising for its Carver Sound TV products, like all TV advertising, benefits not only the specific models advertised but also Toshiba TVs as a whole. Therefore, we have calculated Toshiba's advertising expense by allocating total TV advertising expense over total TV sales, using the information contained in TAI's reported financial statements.

Comment 12: Petitioners contend that respondent failed to report properly expenses incurred under the General Managers' Fund (GMF). Based on its review of the Department's verification reports, petitioners maintain that respondent (1) Failed to include GMF expenditures shown on a credit memo for one customer, and (2) incorrectly reported GMF percentages for two customers. Petitioners argue that the Department should correct the deficiencies uncovered during verification by revising the reported per unit and percentage GMF amounts for all sales to these customers.

Respondent contends that, with respect to the GMF expenditures shown on the credit memo, it properly reported this amount. Respondent states that the GMF in question was for a program for specific models sold between October and December 1988 and that these amounts were already deducted. Therefore, respondent maintains that they should not be allocated to all sales to the customer involved. With regard to the GMF percentages questioned by petitioners, respondent admits that these percentages were incorrectly reported and should be corrected.

DOC position: We have revised the two GMF percentages cited by petitioners based on clerical errors found at verification. However, with regard to the credit memo, there is insufficient information on the record to determine whether this credit memo should have been allocated over the sales under review. Accordingly, we did not consider the amount set forth in this credit memo in our analysis.

Comment 13: Petitioners contend that respondent failed to substantiate claimed per unit adjustments to United States price. Petitioners state that at verification respondent was unable to show that customers repaid a percentage of either the cash discounts or expenditures on the General Managers Fund. Petitioners further state that, based on documentation provided at verification, respondent was unable to demonstrate that commissioners were adjusted on the sales subject to review. According to petitioners, therefore, the Department should recalculate the expense adjustments on all of respondent's U.S. sales, not merely those reviewed during verification, and should deny those price adjustments that are based on a refund of cash discounts, General Managers Fund expenditures, or commission payments.

Respondent contends that, although it calculated a per unit expense adjustment for cash discounts which are not rebilled to the customer, little or no distortion occurs because cash discounts account for a relatively smal percentage of total sales. With respect to per unit adjustments relating to GMF expenditures, respondent maintains that these adjustments were calculated correctly since it uses a tracking system which automatically reduces GMF funds available when a customer returns merchandise. With respect to commission repayment, respondent contends that it also calculated this adjustment correctly and that the discrepancies noted by petitioners are not discrepancies, but misunderstandings. According to respondent, petitioners mistakenly reviewed the adjustment claimed for credit instead of commissions for the invoice in question as well as reviewed the wrong commissionnaire code.

DOC position: We agree with petitioners that respondent's claimed per unit adjustments for discounts and GMF expenditures repayments should not be allowed, because Toshiba was not able either to substantiate its claim at verification or to provide sufficient evidence on the record that these expenses were repaid. We have therefore recalculated this adjustment for purposes of the final results. With respect to the per unit adjustments relating to commission repayments, we agree that Toshiba calculated this adjustment correctly, because Toshiba adequately demonstrated at verification that commissions were repaid in instances involving post-sale price reductions.

Comment 14: Petitioners contend that respondent incorrectly calculated the discount on sales of CTV model CX3088. Petitioners argue that source documents reviewed at verification confirm that this discount was granted and applied to only one invoice. Therefore, accounting to petitioners, the Department should calculate the discount related to this model based on the actual invoice price, rather than computing an average unit price and an average per unit discount for all units involved in the sale.

Respondent contends that its allocated of the discount on sales of model CX3088 is correct. According to the respondent, a customer was not eligible for the discount unless it purchased several additional units. Respondent argues that the number of invoices on which the discount is recorded is immaterial since the discount would be rejected if the customer returned any of the units involved in the transaction.

DOC position: We agree with respondent. Review of verification documents shows that the customer must pruchase more than one unit in order to receive the discount on any unit. We have therefore allowed respondent's methodology for calculating this adjustment.

Comment 15: Petitioners contend that royalty payments should be treated as a direct selling expense in both the home market and the United States. Petitioners also maintain that this expense should be recalculated to reflect the terms of the licensing agreement reviewed at verification.

DOC position: We agree. We are continuing to treat royalty payments as a direct selling expense and are recalculating these amounts for purposes of the final results.

Comment 16: Petitioners contend that respondent used an improper interest rate to calculate inventory carrying expenses. Petitioners argue that, since money is fungible, TAI's short-term borrowings finance both inventory and accounts receivable. Therefore petitioners assert that TAI's short-term interest rate is a more appropriate rate to use in the calculation of inventory carrying expenses than Toshiba's average corporate interest rate.

Respondent contends that the corporate interest rate is the appropriate rate for all interest and credit calculations because this was the approach taken in the less-than-fair-value investigation. (*See,* respondent's position in Commnet 9)

DOC Position: We agree with petitioners that money is a fungible commodity and a company's short-term weighted-average interest rate reflects the cost of financing both inventory and accounts receivable. Moreover, because TAI takes title to the goods, it incurs the cost of holding the goods in inventory, not the corporate parent. Accordingly, we have used TAI's weighted-average interest rate based on its short-term borrowings. Specifically, we calculated inventory carrying costs for the CTV components and for the finished CTV based on TAI's short-term borrowing rate. Consistent with this methodology, we would have calculated inventory carrying costs for finished CTVs held in inventory at THI and for the parts held in inventory in Singapore based on THI's and Toshiba Singapore's borrowing rates, respectively. However, because Toshiba did not separately report inventory carrying costs for THI, we did not adjust the reported calculation. In addition, because Toshiba did not report a short-term interest rate for Toshiba Singapore, we have used as best information available the short-term rate reported for Toshiba Japan in our calculations.

Comment 17: Petitioners contend that inland freight costs on home market sales should be based on charges by unrelated shipping companies. Petitioners claim that respondent's reported inland freight charges in the home market do not reflect arm's length prices because, in some instances, respondent paid a related shipper significantly more than it would have paid an unrelated company. Accordingly, petitioners maintain that the Department should reduce respondent's reported charges by the amount of an administration fee paid by respondent to its related shipper in order to bring these charges into line with standard freight charges.

Respondent maintains that the higher prices charged by its related shipper are reasonable, since this shipper provides additional services which would have to be borne by either another trucking company or respondent itself if its related party's role were eliminated.

DOC Position: We agree in part with petitioners and in part with respondent. We agree with petitioners that inland freight costs on home market sales should be based upon charges by unrelated shipping companies. At verification we noted that Toshiba's related party charges Toshiba more for freight than it is charged by the trucking company that actually delivers the merchandise. Consistent with our practice in *MTPs,* we disallowed the mark-up charged to Toshiba by its related company because this mark-up is an intra-corporate transfer of funds and not an actual expense. We agree with respondent that the administration fee is payment for a legitimate expense that would have to be borne either by an unrelated trucking company or the respondent itself. Consequently, we recalculated this freight charge for the final results, excluding the related party's mark-up and including the administration fee. Because Toshiba did not report the actual mark-up for each sale, we used the information contained in the verification report as best information available.

Comment 18: Petitioners contend that the original ratios submitted by respondent for home market indirect selling expenses were overstated. Petitioners state that the Department discovered at verification that these ratios included expenses for a department within Toshiba Corporation which was unconnected to the production or sale of CPTs and that, based on this fact, the Department obtained revised ratios for home market indirect selling expenses. Therefore, according to petitioners, the Department should use the revised ratios to calculate home market indirect selling expenses.

DOC position: We agree. We are using the appropriate ratios to calculate home market direct selling expenses.

Comment 19: Petitioners contend that respondent understated the direct selling expenses incurred on its chassis units produced at Toshiba Singapore (TSP). Petitioners claim that information contained in the response to the Department's questionnaire is not supported by documents taken at verification. Accordingly, petitioners maintain that the Department should take direct selling expenses from the verification exhibits for purposes of the final results. Respondent maintains that it did not understate direct selling expenses, because all expenses either verified as reported or did not apply to sales of chassis to TNP.

DOC position: We agree with respondent. We have reviewed the data submitted for the record and have noted no discrepancies.

Comment 20: Respondent contends that the Department should ensure that usance expense is not double counted in the calculations for the final results. Respondent indicates that it is necessary to distinguish between interest associated with the sale of a CPT and interest incurred to manufacture the CPT. Respondent states that because usance expense was included as a specific expense for each export sale, the total usance expense was deducted from interest expense. Respondent argues that if the Department uses the higher usance rate isolated by Toshiba for each particular export sale and also includes the total usance expense in the overall interest, the usance would be double counted.

DOC position: We agree that usance expense should not be double counted in calculating the interest expense associated with the cost of production of a television set. We accepted the specific usance expense reported for export sale. To account for the fact that usance expense associated with export sales is an interest expense, we reduced total interest expense by that portion of interest which was deemed related to credit expense for export sales.

Comment 21: Respondent contends that each of the noted discrepancies in material cost understated the costs of TNP and, therefore, worked to the detriment of the respondent. Respondent also contends that the errors noted were of the type often occurring in an antidumping proceeding (e.g., rounding, misplaced decimal point, and the exclusion of an insignificant amount of scrap).

DOC position: The Department revised the submitted material costs to reflect the actual costs as incurred by TNP to account for clerical errors.

Comment 22: Respondent claims that the use of monthly average efficiency ratios based on the assembly stage of the cabinet are appropriate to calculate the actual labor and factory overhead costs for the 30V model because these ratios are used by TNP for internal purposes. Respondent further contends that the use of daily ratios (those days when the majority of production related to 30Vs) at the last stage of production (test and pack) would not be correct since the 30V was in a start-up situation in which production efficiency was lower. According to respondent, a comparison on the ratios on the first and last days included in the daily efficiency ratio spanning a six-month period reveals a significant increase in efficiency.

Respondent states that the Department has "normalized" the low rate period in other cases, and a similar adjustment is in order in this case. Respondent suggests use of the fourth quarter rate for the test and pack stage of production or the monthly experience at cabinet assembly stage of production reported by TNP.

Petitioners contend Toshiba substantially understated the labor and factory overhead costs at TNP because production costs should be based on the actual cost to produce the merchandise subject to review, rather than on an average for a variety of products. Furthermore, petitioners argue that Toshiba's claims on start-up costs are flawed in five ways: (1) TNP is not new to production of CTVs and the introduction of a new screen-size does not represent initiation of production for a new line of products; (2) test products of a 30V set were produced on May 3, 1988, and the costs associated with this test run were not included in Toshiba's reported production costs; (3) Toshiba did not identify the total start-up costs that should be "normalized;" (4) the efficiency ratios cited by the Department have already been artificially inflated because they include ratios on smaller, more efficiently produced products; and (5) it is the 30V CTV models which are subject to review and production costs should be based on the actual costs to produce the subject merchandise rather than an average for a range of products.

DOC position: We agree with petitioners. For the final results, we applied the daily efficiency ratios of the test and pack stage of production in which the majority of the sets produced were 30V sets. We used the efficiences of the test and pack stage of production as it is the final stage of production and, hence, reflects the total efficiency of the products manufactured on actual costs incurred to produce the subject merchandise. Use of the respondent's submitted amounts would take into account efficiency ratios for television sets other than the subject merchandise. Finally, the respondent did not suggest that 30V models were in a "start-up" situation until it submitted its briefs. Moreover, respondent provided no specific information as to which costs were attributable to this start-up. Therefore, we have to basis to determine what costs, if any, were a result of start-up.

Comment 23: Respondent contends that the methodolgy it used to calculate the depreciation of the molds, dies, jigs and fixtures is appropriate. Respondent contends that the depreciable life is consistent with that used in its financial records and that its approach to calculating a per unit amount is more consistent with the Department's preference for isolating costs to particular models. Respondent contends that it used anticipated production quantities as a basis for allocation because actual production quantities were not available at verification or at the time the response was prepared.

Petitioners contend the Department should revise TNP's costs to include depreciation based or actual rather than budgeted cost.

DOC position: We disagree with respondent's methodology for calculating depreciation. While the Department does prefer model specific information, it does not accept the use of expected or budgeted production quantities as a basis for allocating depreciation costs. Since actual production quantities were not available, we revised the depreciation amounts by allocating the financial statement depreciation over actual labor hours instead of anticipated production quantities. We used actual labor hours in this instance because this was reflective or actual experience. In addition, this methodology was used to allocate the other fixed factory overhead expenses.

Comment 24: Petitioners contend the Department should reclassify patent costs as part of the cost of manufacturing as they are based on production of CTVs.

Respondent contends that the misclassification of patent expenses as selling expenses instead of factory overhead expenses is immaterial.

DOC position: We agree with petitioners. Insofar as patent costs are incurred by the manufacturing facility for the production of a set or chassis, we reclassified such costs as part of the cost of manufacturing.

Comment 25: Respondent contends that it would be improper to include in further manufacturing the cost incurred in May 1988 for test production of model CF3048. Respondent contends these test production costs are treated as overhead costs and are expensed in the period incurred. Respondent states that if these test costs are included, it would be necessary to eliminate the test costs of all other models from the reported R&D costs. This approach would be contrary to the accounting principles employed by Toshiba Singapore and the net effect would be minuscule.

DOC position: We accepted respondent's treatment of these costs as included in the allocated portion of the respondent's current R&D. Therefore, the test costs of model CF3048 were not included in the further manufacturing costs.

Comment 26: Respondent contends that for the response the turn-over value (the prices at which the chassis was sold between companies) was inadvertently used instead of the actual cost for the chassis material cost for CTV model CF3068A.

Petitioners contend the Department should revise the chassis cost of model 3068A to include the material cost discovered during verification.

DOC position: We revised the submitted material cost of model 3068A on the basis of the actual costs incurred to produce the chassis.

Comment 27: Respondent contends TSP did not include any material usage variance in the calculation of chassis cost because the production of the size of chassis used in 30V CTVs is small relative to total chassis production and the overall variance, as noted by the Department, is minuscule. Moreover, the respondent contends that there was no variance in any of the months of production except September 1988 and, therefore, an addition is inappropriate.

Petitioners contend that the Department should adjust the reported chassis costs to include variances.

Doc position: We view material costs adjusted for material variance as more reflective of the actual costs incurred to produce a product than respondent's reported chassis costs which excluded material usage variance. Accordingly, for the final results we adjusted material costs for material usage variance.

Comment 28: Respondent contends the monthly overhead rates submitted in the response are appropriate as these monthly rates, with the exception of those for September 1988, are in line with the yearly average. Respondent states that it would be inconsistent to use an annual average for one cost element.

Doc position: We disagree with respondent. Overhead costs can be incurred and reported in varying amounts unrelated to production volume throughout the year. In a situation in which only certain months are used for calculating the overhead for the cost of production, the fluctuations in overhead costs between months can distort the overall rate. As the monthly overhead rates incurred by TSP do fluctuate, we consider the use of an average annual rate as more reflective of the actual cost incurred. For the final results, the overhead rate for products produced at TSP was adjusted to reflected the average annual rate.

Comment 29: Respondent states that TSP realized its error in using the per-unit labor and overhead costs in the month of transfer versus the month of production to determine the per-unit costs when preparing for the verfication and noted such error to the Department as soon as it was discovered.

Respondent contends the effect is not significant since only the labor and overhead costs were affected.

Doc position: We adjusted the product costs to reflect production costs incurred when the product was produced versus when the product was sold.

Comment 30: Respondent contends that because production of 30V CTVs is new, it is unlikely that parts needed for the production of these models are obsolete. Accordingly, write-offs for obsolete materials should not be included in the submitted cost of production. Furthermore, respondent contends that this cost is *de minimis* and that the total "other non-operating expenses" are offset by the total "non-operating income." Therefore, the submitted costs were not understated.

Petitioners contend that inventory write-offs and delay charges for parts should be added to the material costs because they are costs incurred to obtain materials used in the production of chassis at TSP.

DOC position: We disagree with respondent. We do not consider the production of this chassis as a new product line since Toshiba has been producing television sets for some time. Also, we would only consider offsetting non-operating expenses with non-operating income if the non-operating income were related to chassis production. For the final results, we included the non-operating expenses as they were related to chassis production. However, as the non-operating income did not relate to chassis production, no offset was allowed.

Comment 31: For differences in merchandise, the respondent states it never intended to claim differences in costs between the compared CPTs other than those related to physicial characteristics. Toshiba also states that although its costs for differences in merchandise did include costs related to material yields which reflected the results of assembly in different months, it prepared its response in accordance with the Department's questionnaire. Furthermore, contrary to the Department's inference that labor and variable overhead were excluded from submitted differences in merchandise, respondent contends it did present cost differences for labor and variable overhead between U.S. models and the home market models which related to the yoke attached to the U.S. models.

DOC position: We agree with respondent's submission except for the appropriateness of differences in merchandise which include adjustment for yields based on the date or time of assembly. We did not consider such differences because § 353.57(b) of the Department's regulations directs us not to consider differences in cost of production when compared merchandise has indentical characteristics. Therefore, for the final results, we used the verified physicial differences in merchandise, but removed the differences which resulted from the yield adjustment for assembly of the part in a particular month.

Comment 32: Petitioners contend TNP's reported production costs should include an allocated amount for corporate selling expenses.

Respondent contends its methodology of allocating corporate selling expenses to only the CPT is appropriate. Respondent contends that allocating these corporate selling expenses to the manufacturing facilities in the U.S. is unnecessary because these costs were not added to the further manufacturing component in the less-than-fair-value investigation. Respondent also argues that selling expenses are properly not included because such costs are unrelated to manufacturing in the U.S.

DOC position: We agree with petitioners. Corporate costs apply to all manufacutring locations within the corporation, not just the location producing the color picture tube. Accordingly, for the final results we allocated these costs to each manufacuturing location.

Comment 33: Petitioners contend TNP's reported production costs should include an allocated amount for business taxes.

Respondent contends that the business taxe which it had included in the cost of the CPT should be excluded as the Department excluded these costs in the less-than-fair-value investigation.

DOC position: We agree with respondent. For the final results, we excluded the business tax from the costs allocated to the CPT. Taxes similar to income taxes are not considered as a part of the production cost of a product.

Final Results of the Review

As a result of the comments received, we determine the margin to be:

Manufacturer/exporter	Time period	Margin (percent)
Toshiba Corporation	06/30/87-12/31/89	23.10

The Department will instruct the Customs Service to assess antidumping duties at that rate on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement intructions directly to the Customs Service.

Further, as provided for in section 751(a) (1) of the Act, a cash deposit of estimated antidumping duties based on the above margin shall be required on entries of this merchandise from Toshiba Corporation. For any entries of this merchandise from a new exporter, whose first shipments occurred after December 31, 1988, and who is unrelated to the reviewed firm or any previously reviewed firm, a cash deposit of 23.10 percent shall be required. These deposit requirements are effective for all shipments of color picture tubes from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This administrative review and notice are in accordance with section 751(a) (1) of the Act (19 U.S.C. 1675(a) (1)) and § 353.22(c) (8) of the Department's regulations.

Dated: September 7, 1990.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-21665 Filed 9-13-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-504 A-588-505]

Erasable Programmable Read Only Memory Semiconductors and Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above From Japan; Initiation of Antidumping Duty Administrative Reviews and Requests for Termination of Suspended Investigations

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

ACTION: Notice of initiation of antidumping duty administrative reviews; requests for termination of suspended investigations.

SUMMARY: The Department of Commerce has received timely requests to terminate the suspended investigations on Erasable Programmable Read Only Memory Semiconductors and Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above. In accordance with the Commerce Regulations, we consider these requests as including requests for administrative reviews. We are therefore initiating administrative reviews to determine whether termination is appropriate. The Department may terminate a suspended investigation if the Secretary concludes that: (1) All producers covered by the suspension agreements have sold the merchandise at not less than foreign market value for a period of three consecutive years; and (2) it is not likely that those producers will in the future sell the merchandise at less than foreign market value. The period of review will cover merchandise sold under the terms of the suspension agreements during the third quarter of 1989 through the second quarter of 1990.

EFFECTIVE DATE: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas Futtner or Melissa Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-5289 or (202) 377-4851.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with 19 CFR 353.25(b) (1990) of the Department's regulations, for termination of suspended investigations. Pursuant to 19 CFR 353.25(c), the Department considers these requests as including requests for administrative reviews.

Inititaiton of Reviews

In accordance with §§ 353.25(c) and 353.22(c) of the Department's regulations, we are initiating adminsitrative reviews for purposes of terminating the following suspended investigations. We intend to issue final results of these reviews no later than August 30, 1991.

Antidumping duty proceedings and firms	Periods to be reviewed
Japan:	
Erasable Programmable Read Only Memory Semiconductors	

Antidumping duty proceedings and firms	Periods to be reviewed
A-588-504	
NEC Corporation	7/1/89-6/30/90.
Hitachi, Ltd	7/1/89-6/30/90.
Fujitsu, Ltd	7/1/89-6/30/90.
Mitsubishi Electric Corporation.	7/1/89-6/30/90.
Toshiba Corporation	7/1/89-6/30/90.
Oki Electric Industry Co., Ltd.	7/1/89-6/30/90.
Texas Instruments, Japan	7/1/89-6/30/90.
Dynamic Random Access Memory.	
Semiconductors of 256 Kilobits and Above.	
A-588-505	
NEC Corporation	7/1/89-6/30/90.
Hitachi, Ltd	7/1/89-6/30/90.
Fujitsu, Ltd	7/1/89-6/30/90.
Mitsubishi Electric Corporation.	7/1/89-6/30/90.
Toshiba Corporation	7/1/89-6/30/90.
Oki Electric Industry Co., Ltd.	7/1/89-6/30/90.
Matsushita Electronics Corporation.	7/1/89-6/30/90.
Texas Instruments, Japan	7/1/89-6/30/90.

Interested parties must submit applications for administrative protective orders in accordance with § 353.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(a)).

Dated: September 11, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-21765 Filed 9-13-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-041]

Synthetic Methionine from Japan; Determination Not to Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of determination not to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping finding on synthetic methionine from Japan.

EFFECTIVE DATE: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3601.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 1990, the Deaprtment of Commerce (the Department) published in the **Federal Register** (55 FR 27292) its intent to revoke the antidumping finding on synthetic methionine from Japan (38 FR 18382, July 10, 1973).

The Department may revoke an antidumping finding if the Secretary concludes that the finding is no longer of interest to interested parties. We had not received a request for an administrative review of this finding for the last four consecutive annual anniversary months and, therefore, published a notice of intent to revoke pursuant to § 353.25(d)(4) of the Department's regulations (19 CFR 353.24(d)(4) (1990)).

On July 27, 1990, the Monsanto Company, a U.S. producer of synthetic methionine, objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: September 4, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-21766 Filed 9-13-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-508-605]

Industrial Phosphoric Acid From Israel; Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on industrial phosphoric acid from Israel. We preliminarily determine the net subsidy to be 5.40 percent *ad valorem* during the period February 5, 1987 through December 31, 1987. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: September 19, 1990.

FOR FURTHER INFORMATION CONTACT: Britt Doughtie or Maria MacKay, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1988, the Department of Commerce (the Department) published in the Federal Register a notice of "Opportunity to Request Administrative Review" (53 FR 29754) of the countervailing duty order on industrial phosphoric acid form Israel (August 19, 1987; 52 FR 31057). On August 30, 1988, the petitioners, FMC Corporation and the Monsanto Company, requested an administrative review of the order. We initiated the review, covering the period February 5, 1987 through December 31, 1987, on September 27, 1988 (53 FR 37618). The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act). This is the first administrative review.

Scope of Review

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the *Harmonized Tariff Schedule* (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

The imports covered in this review are shipments of Israeli industrial phosphoric acid. During the period of review, this merchandise was classifiable under item number 416.30 of the *Tariff Schedules of the United States*. This merchandise is currently classifiable under HTS item number 2809.20.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period February 5, 1987 through December 31, 1987 and four programs. Negev Phospates, Ltd. (NPL) is the only known exporter of industrial phosphoric acid (IPA) from Israel to the United States during the review period.

Analysis of Programs

(1) Encouragement of Capital Investments Law (ECIL) Grants

The ECIL grants program was established to attract capital to Israel. In order to be eligible to receive various benefits under the ECIL, including investment grants, drawback grants, and capital grants, accelerated depreciation, and reduced tax rates, the applicant must obtain approved enterprise status.

Approved enterprise status is obtained after review of information submitted to the Israel Ministry of Industry and Trade, Investment Center Division. The amount of the grant benefits received by approved enterprises depends on the geographic location of the eligible enterprise. For purposes of the ECIL program, Israel is divided into three zones—Development Zone A, Development Zone B, and the Central Zone—each with a different funding level.

Since 1978, only investment projects outside the Central Zone have been eligible to receive grants. The Central Zone comprises the geographic center of Israel, including its largest and most developed population centers. Because the grants are limited to enterprises located in specific regions, we determine that they constitute subsidies within the meaning of the Tariff Act.

NPL is located in Development Zone A, and received ECIL investment, drawback, and capital grants for several projects. All but two of the funded projects were located at its Oron and Zin plants and were unrelated to IPA production. We did not include ECIL grants to these locations in our calculations. There were three grants related to IPA production, two of which applied directly to NPL's IPA production facility and one of which applied to the phosphate rock processing plant in Arad, which produces an input for IPA. To determine the amount of the Arad grant applicable to IPA production, the Department first calculated the subsidy to the Arad facility per unit of output of rock (by volume), and then determined the subsidy tied to IPA production based on the share of Arad's output utilized in IPA production. The Department used only the grant value related to IPA production in the calculation of the benefit.

To calculate the benefit, we allocated these grants over ten years (the average useful life of assets in the chemical manufacturing industry, as determined under the U.S. Internal Revenue Service Asset Depreciation Range System). Usually, to allocate benefits over time we use as our discount rate the cost of the firm's long-term fixed-rate debt for the year in which the terms of the grant were approved. However, because NPL had no significant fixed-rate long-term debt and virtually all of its long-term loans bear variable interest rates, we used the interest rate in effect during the review period for non-preferential Israeli-sourced loans, as listed in the Bank of Israel's Annual Report for 1987, as the discount rate in our calculations. We used a declining balance formula to determine the benefit s ream for the relevant grants.

We allocated benefits attributable to the review period over the value of NPL's total IPA sales during the review period. On this basis, we preliminarily determine the benefit from this program to be 1.69 percent *ad valorem.*

(2) Long-term Industrial Development Loans

Prior to July 1985, approved enterprises were eligible to receive long-term industrial development loans funded by the Government of Israel. During our investigation, we verified that these loans, like the ECIL grants, were project-specific. They were disbursed through the Industrial Development Bank of Israel (IDBI) and other industrial development banks which no longer exist.

The long-term industrial development loans were provided to a diverse number of industries, including agricultural, chemical, mining, machine, and others. However, the interest rates on loans vary depending on the Development Zone location of the borrower. The interest rates on loans to borrowers in Development Zone A are lowest, while those on loans to borrowers in the Central Zone are highest. Therefore, loans to companies in Zones A and B are at preferential terms relative to loans received by companies in the heavily populated and developed Central Zone. Because preferential terms are limited to companies located in certain regions, we determine that these loans are countervailable.

NPL had loans outstanding under this program during the review period for projects at two of its plants, one of which is unrelated to IPA production and one of which is the phosphate rock processing facility (in Arad) which produces an input for IPA. The loans provided for the rock processing facility carry the Zone A interest rates because of NPL's location. Therefore, we determine that NPL received countervailable benefits under this program because the interest rates charged NPL are less than those which would apply in the Central Zone.

The loans under this program have variable interest rates linked to changes in the dollar-shekel exchange rate. Therefore, we cannot calculate the present value of the interest savings, nor is there a single discount rate for allocating the benefits over time, as under our normal long-term loan methodology. Accordingly, we have compared the interest that would have been paid on a variable-rate benchmark loan (i.e., a loan available to firms in the Central Zone) to the interest paid on the preferential loan during the review period. We multiplied the subsidy by the percentage of phosphate rock production used to make IPA, then divided this amount over the total value of all sales of IPA. On this basis, we preliminary determine the benefit from this program to be 0.002 percent *ad valorem.*

(3) Exchange Rate Risk Insurance Scheme

The Exchange Rate Risk Insurance Scheme (EIS), operated by the Israel Foreign Trade Risk Insurance Corporation Ltd. (IFTRIC), is aimed at insuring exporters against losses which result when the rate of inflation exceeds the rate of devaluation and the new Israeli Shekel (NIS) value of an exporter's foreign currency receivable does not rise enough to cover increases in local costs.

The EIS scheme is optional and open to any exporter willing to pay a premium to IFTRIC. Compensation is based on a comparison of the change in the rate of devaluation of the NIS against a basket of foreign currencies with the change in the consumer price index. If the rate of inflation is greater than the rate of devaluation, the exporter is compensated by an amount equal to the difference between these two rates multiplied by the value-added of the exports. If the rate of devaluation is higher than the change in the domestic price index, however, the exporter must compensate IFTRIC. The premium is calculated for all participants as a percentage of the value-added sales value of exports. IFTRIC changes this pecentage rate periodically, but at any given time it is the same for all exporters.

In determining whether an export insurance program provides a countervailable benefit, we examine whether the premiums and other charges are adequate to cover the program's long-term operating costs and losses. In our *Final Affirmative Countervailing Duty Determination: Oil Country Tubular Goods from Israel* (OCTG) (52 FR 1649, January 15, 1987), and *Final Affirmative Countervailing Duty Determination: Certain Fresh Cut Flowers from Israel* (Flowers) (52 FR 3316, February 3, 1987), we found that this program conferred a countervailable benefit on manufacturers, producers, or exporters in Israel of oil country tubular goods and flowers. In both those cases and in this case, we reviewed EIS data which showed that EIS operated at a loss from 1981 through 1985. In fact, in the five years of operation, there was only one month in which premiums received were greater than compensation paid out. We believe that five years, in this case, is a sufficiently long period to establish that the premiums and other charges are manifestly inadequate to cover the long term operating costs and losses of the program. Therefore, we determine that this program confers an export subsidy on exports of IPA from Israel.

In calculating the benefit, we have taken into account the special features of this program. Under a typical insurance scheme, the users pay premiums and then receive a payment if the event being insured against occurs. Under the Exchange Rate Risk Insurance Scheme, on the other hand, the user can receive a payment (if the inflation rate exceeds the depreciation rate) or must make an additional payment (if the depreciation rate exceeds the inflation rate).

Since the program has been in place, payments received by users have exceeded the payment they have made to the scheme. Thus, users of the scheme have virtually no risk of incurring additional payment costs, and the "premiums" serve only as a fee to obtain payment from the scheme. Therefore, we have calculated the benefit by allocating the amount of compensation NPL received from IFTRIC expressly for IPA exported to the United States, after deducting premiums paid, over the value of the company's exports of IPA to the United States during the review period. We thereby foound an estimated net subsidy of 3.68 percent *ad valorem* for NPL.

(4) Encouragement of Research and Development Law (ERDL) Grants

NPL has received grants under this program, one of which, the Zohar rock phosphate research project, was indirectly related to the production of IPA. Since we verified in the original investigation that the results of research funded by ERDL grants are not made publicly available, we determine these grants to be countervailable. This ERDL grant, issued to NPL on July 23, 1987, could benefit the production of IPA, as the grant is to benefit a research project concerning the development of a process for quarrying and beneficiation of rock phosphates. This research will benefit the gathering of raw materials (inputs) required to produce IPA. We expensed the full amount of the grant for the Zohar rock phosphate research project to 1987 and divide by NPL's total sales of all products. On this basis, we preliminarily determine the benefit from this program to be 0.03 percent *ad valorem.*

(5) Other Programs

We also examined the following programs and preliminarily determine that the manufacturer/exporter of industrial phosphoric acid from Israel did not use them during the review period:

(A) reduced tax rates under ECIL;
(B) ECIL section 24 loans;
(C) preferential accelerated depreciation under ECIL; and
(D) labor training grants.

Preliminary Results of Review

As a result of our review, we preliminarily determine the net subsidy to be 5.40 percent *ad valorem* during the period February 5, 1987 through December 31, 1987.

Because, pursuant to Article 5.3 of the "Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade" (the Subsidies Code), we cannot impose suspension of liquidation for more than 120 days without the issuance of a countervailing duty order, we terminated the suspension of liquidation on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after June 5, 1987. We reinstated the suspension of liquidation and required the collection of cash deposits of estimated countervailing duties on the subject merchandise entered, or withdrawn from warehouse, for consumption on or after August 19, 1987, the date of publication of the countervailing duty order.

Therefore, the Department will instruct Customs Service to assess countervailing duties of 5.40 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after February 5, 1987 and on or before June 4, 1987 and on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after August 19, 1987 and exported on or before December 31, 1987. Entries or withdrawals made on or after June 5, 1987 and on or before August 18, 1987 are not subject to countervailing duties.

Further, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 5.40 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Any request for disclosure under an administrative protective order must be made no later than five days after the date of publication.

The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: August 23, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-21664 Filed 9-13-90; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Emergency Striped Bass Research Study

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

SUMMARY: The NMFS and the U.S. Fish and Wildlife Service will hold a joint meeting to discuss progress on the Emergency Striped Bass Research Study as authorized by the amended Anadromous Fish Conservatiion Act (Public Law 96-118).

DATES: The meeting will convene on Thursday, November 8, 1990, at 10 a.m., and will adjourn at approximately 3 p.m. The meeting is open to the public.

ADDRESSES: Room 200, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: David G. Deuel, Office of Fisheries Conservation and Management, NMFS, 1335 East-West Highway, Silver Spring, Maryland 20910, Telephone: (301) 427-2347.

Dated: September 10, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-21719 Filed 9-13-90; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1990; Additions and Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletion from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1990 commodities and military resale commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 15, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 29, July 9, 20, and 27, 1990, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (55 FR 26738, 28083, 29647 and 30745) of proposed additions to and deletion from Procurement List 1990, which was published on November 3, 1989 (54 FR 46450).

Additions

No comments were received concerning the proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified workshops to produce the commodities and military resale commodities and provide the services at a fair market price and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities, military resale commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities, military resale commodities and services listed.

c. The actions will result in authorizing small entities to produce the commodities, military resale commodities and provide the services procured by the Government.

Accordingly, the following commodities, military resale commodities and services are hereby added to Procurement List 1990:

Commodities

Insulation,
1430-01-134-7893,
(Remaining Government Requirement).
Kit, Tiedown,
1440-01-132-9719,
(Remaining Government Requirement).
Holder, Toilet Paper,
4510-00-364-3035.
Clamp, Loop
5340-00-182-9681
5340-00-410-2972
5340-00-410-2973
5340-00-410-2974
5340-00-410-2975
5340-00-410-6441
5340-00-411-2953
5340-00-420-1747
5340-00-420-1749
5340-00-460-4522
5340-00-460-4524
5340-00-562-2947
5340-00-018-8983
Strap, Webbing,
5340-00-949-8637.

Military Resale No. and Name

530 Candle, Air Freshening, Christmas Scent.
890 Tools, Barbecue.
993 Pens, Stick, Air Force.
994 Pens, Stick, Army.

Services

Commissary Shelf Stocking & Custodial, Fort Eustis, Virginia.
Janitorial/Custodial, Border Patrol Sector Headquarters, Spokane, Washington.

Deletion

After consideration of the relevant matter presented, the Committee has determined that the commodity listed below is no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

Accordingly, the following commodity is hereby deleted from Procurement List 1990:

Strap Set, Webbing,
4935-00-776-2724,
(Requirements for U.S. Army Missile Command, Redstone Arsenal, Alabama only).

Beverly L. Milkman,

Executive Director.

[FR Doc. 90-21738 Filed 9-13-90; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1990; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1990 commodities to be produced and services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: October 15, 1990.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1990, which was published on November 3, 1989 (54 FR 46540):

Commodities

Bandage, Elastic,
6510-00-935-5823.
Folder, Equipment Record,
7510-00-065-0166.

Services

Grounds Maintenance, Naval Aviation Depot, Marine Corps Air station, Cherry Point, North Carolina.

Janitorial/Custodial, Navy Commissary Store, Naval Base, Norfolk, Virginia.
Janitorial/Custodial, Navy Commissary Store, Norfolk Naval Shipyard, Portsmouth, Virginia.
Janitorial/Custodial, Navy Commissary Store, Naval Air Station, Oceana Virginia Beach, Virginia.
Janitorial/Custodial, Navy Commissary Store, Naval Amphibious Base, Little Creek, Virginia Beach, Virginia.
Mailroom Service, U.S. Army Engineer District, L. Mendel Rivers Federal Building, Charleston, South Carolina.

Beverly L. Milkman,
Executive Director.

[FR Doc. 90-21739 Filed 9-13-90; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Board; Closed Meeting

AGENCY: Defense Intelligence Agency Advisory Board.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Public Law 92-463, as amended by section 5 of Public Law 94-409, notice is hereby given that a closed meeting of a panel of the DIA Advisory Board has been scheduled as follows:

DATES: Wednesday, October 3, 1990 (8:30 a.m. to 5 p.m.).

ADDRESSES: The DIAC, Bolling AFB, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel John G. Sutay, USAF, Chief, DIA Advisory Board, Washington, DC 20340-1328 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Counternarcotics.

Dated: September 11, 1990.

L.M. Bynum,
Alternate OSD, Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-21721 Filed 9-13-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

Privacy Act of 1974; Amend Record Systems

AGENCY: Department of the Navy, DOD.

ACTION: Amendment of Record Systems.

SUMMARY: The Department of the Navy proposes to amend three existing record systems in its inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The proposed actions will be effective without further notice October 15, 1990, unless comments are received which result in a contrary determination.

ADDRESSES: Send any comments to Mrs. Gwen Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000. Telephone (202) 697-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy record system notices for records systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) were published in the **Federal Register** as follows:

51 FR 12908—Apr. 16, 1986
51 FR 18086—May 16, 1986 (DON Compilation changes follow)
51 FR 19884—Jun. 3, 1986
51 FR 30377—Aug. 26, 1986
51 FR 30393—Aug. 26, 1986
51 FR 45931—Dec. 23, 1986
52 FR 2147—Jan. 20, 1987
52 FR 2149—Jan. 20, 1987
52 FR 8500—Mar. 18, 1987
52 FR 15530—Apr. 29, 1987
52 FR 22671—Jun. 15, 1987
53 FR 45846—Dec. 2, 1987
53 FR 17240—May 16, 1988
53 FR 21512—Jun. 8, 1988
53 FR 25363—Jul. 6, 1988
53 FR 39499—Oct. 7, 1988
53 FR 41224—Oct. 20, 1988
54 FR 8322—Feb. 28, 1989
54 FR 14378—Apr. 11, 1989
54 FR 32682—Aug. 9, 1989
54 FR 40160—Sep. 29, 1989
54 FR 41495—Oct. 10, 1989
54 FR 43453—Oct. 25, 1989
54 FR 45781—Oct. 31, 1989
54 FR 48131—Nov. 21, 1989
54 FR 51784—Dec. 18, 1989
54 FR 52976—Dec. 26, 1989
55 FR 21910—May 30, 1990 (Navy Mailing Addresses)

The specific changes to the record system being amended are set forth below, followed by the system notices, as amended, published in their entirety. These notices are not within the purview of subsection (r) of the Privacy Act, as amended, (5 U.S.C. 552a), which requires the submission of altered system reports.

Dated: September 11, 1990

L. M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

NO5800-2

System name:

Legal Records System (54 FR 51788, December 18, 1989).

Changes:

* * * * *

Categories of records in the system:

At the end of the third paragraph add "or other administrative or disciplinary actions."

Authority:

At the end of the entry, add "Executive Order 9397."

* * * * *

Retrievability:

Delete the entire entry and replace with "Name and Social Security Number."

* * * * *

Record source categories:

Delete the entire entry and substitute with "Military personnel system, medical records, investigative records, personal interviews, personal observations reported by persons witnessing or knowing of incidents."

N05800-2

SYSTEM NAME:

Legal Records System.

SYSTEM LOCATION:

Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120 and naval medical facilities. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Naval (military and civilian) health care personnel or staff employed at medical facilities; patients and visitors of medical facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for legal representation; requests for information by subpoena; requests for assistance; all background material necessary to answer the requests; and copies of letters replying to the requests.

Article 138, UCMJ complaints and all proceedings, including statements, affidavits, correspondence, briefs, conditions, court records, etc.

Incident reports and in-house investigations compiled as background for possible claims or other administrative or disciplinary actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; Article 138, UCMJ; 10 U.S.C. 938; Article 15, UCMJ; Naval Military Personnel Manual; 28 U.S.C. 1346(b), "Federal Torts Claim Act"; 42 U.S.C. 2651-2653, "Medical Care Recovery Act"; and Executive Order 9397.

PURPOSE(S):

To provide a record of individual requests and responses for reference and appellate purposes and to prepare responses to individual requests.

To provide background for the proceedings on complaints and review of those complaints.

To prepare correspondence and materials for actual or possible disciplinary proceedings.

To investigate, provide background on, and determine future action concerning possible claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of the Navy "Blanket Routine Uses" that appear at the beginning of the Navy's compilation of record system notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, forms, letters.

RETRIEVABILITY:

Name and Social Security Number.

SAFEGUARDS:

Files are maintained in file cabinets and other manual storage devices under the control of authorized personnel during working hours; the office spaces in which the file cabinets and storage devices are located are locked outside office working hours.

RETENTION AND DISPOSAL:

Records are retained for two years after final action and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this record system contains information about themselves should address written inquiries to the naval medical facility where the incident took place or to the Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

Written requests should contain full name, Social Security Number, military status, approximate date of contact with system (if known).

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the naval medical facility where the incident took place or to the Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

Written requests should contain full name, Social Security Number, military status, approximate date of contact with system (if known).

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Military personnel system, medical records, investigative records, personal interviews, personal observations reported by persons witnessing or knowing of incidents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N06150-2

System name:

Health Care Record System (54 FR 43460, October 25, 1989).

Changes:

* * * * *

Categories of records in the system:

In paragraph one, delete the last sentence. In paragraph two, line three, change "of" to "or".

* * * * *

System manager(s) and address:

Delete the entire entry and substitute with "Service medical (health and dental) records for active and reserve, Navy and Marine Corps: Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; Commanding Officers, Naval Activities, Ships and Stations; and Director, National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132-5000. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

Inpatient and outpatient treatment records: Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; Commanding Officers and Officers-in-Charge of Naval Medical Treatment Facilities; and, Director, National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132-5000. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

* * * * *

N06150-2

SYSTEM NAME:

Health Care Record System.

SYSTEM LOCATION:

Military outpatient health (medical and dental) records of active duty individuals are retained at the member's medical or dental treatment facility. Military outpatient health (medical and dental) records of current reservists are retained by the member's command. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

Military outpatient health (medical and dental) records of retired and separated individuals are retained at the National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132-5100; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800; Marine Corps Reserve Support Center, 10905 El Monte, Overland Park, KS 66211-1408; Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; or Headquarters, U.S. Marine Corps, Navy Department, Washington, DC 20380-0001.

Inpatient health records are retained at the originating naval medical treatment facility. Veterans Administration Hospitals; other medical treatment facilities such as PRIMUS; National Personnel Records Center (Military), 9700 Page Avenue, St. Louis, MO 63132-5100; National Personnel Records Center (Civilian), 111 Winnebago Street, St. Louis, MO 63118; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA

70149–7800; Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211–1408; Medical Director, American Red Cross, Washington, DC 20226; Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372–5120; or Headquarters, U.S. Marine Corps, Navy Department, Washington, DC 20380–0001. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

Outpatient health (medical and dental) treatment records of civilians are retained at the originating naval medical or dental treatment facility. (Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.) Veterans Administration Hospitals; other medical treatment facilities such as PRIMUS; National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132–5100; National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118; Medical Director, American Red Cross, Washington, DC 20226; Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372–5120; or Headquarters, U.S. Marine Corps, Navy Department, Washington, DC 20380–0001. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems of records.

Secondary health records may be retained separate from the health record by individual departments at naval medical or dental treatment facility.

Subsidiary records are retained by individual departments within medical or dental treatment facilities or located at Naval Medical Data Services Center, Bethesda, MD 20814–5066; Regional Data Service Centers; Naval Environmental Health Center, Norfolk, VA 23511–6695; and, other approved locations for compiling data and conducting research studies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy and Marine Corps personnel, other military personnel, dependents, retired and separated military personnel and dependents, civilian employees, Red Cross personnel, foreign personnel, VA beneficiaries, humanitarian patients, and all other individuals who receive treatment at a Navy medical or dental treatment facility.

CATEGORIES OF RECORDS IN THE SYSTEM:

Outpatient and inpatient health (medical and dental) records contain forms documenting care and treatment. These records contain patient and sponsor demographic data.

Secondary health records contain forms documenting care and treatment at specific departments or clinics.

Subsidiary health records contain information from individual health records and supporting documentation. Examples are X-ray files; electrocephalogram tracing files; laboratory or secondary treatment record with supporting documentation or they may be based on the files; pharmacy files, social work case files; alcohol rehabilitation files; psychiatric or psychology case files, including psychology files documenting the clinical psychological evaluation of individuals for suitability for certain assignments; nursing care plans; medication and treatment cards, stat/daily orders; patient intake and output forms; ward reports; day books; nursing service reports; pathology and clinical laboratory reports; tumor registries; autopsy reports; laboratory information system (LABIS); blood transfusion reaction records; blood donor and blood donor center records; pharmacy records, surgery records, and vision records and reports; communicable disease case files, statistics, and reports; occupational health, industrial, and environmental control records, statistics, and reports, including data concerning periodic and total lifetime accumulated exposure to occupational/environmental hazards; emergency room and sick call logs; family advocacy case files, statistics, reports, and registers; psychiatric workload statistics and unit evaluations; gynecology malignancy data, etc.

Aviation physical examinations and evaluation case files contain medical records documenting fitness for admission or retention in aviation programs

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files contain medical records documenting suitability for assignement as Embassy Guards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5131 (as amended) and 5132; 44 U.S.C. 3101; 10 CFR part 20, Standards for Protection Against Radiation, and Executive Order 9397.

PURPOSE(S):

This system is used by officials, employees and contractors of the Department of the Navy (and members of the National Red Cross in naval medical treatment facilities) in the performance of their official duties relating to the health and medical treatment of Navy and Marine Corps members; physical and psychological qualifications and suitability of candidates for various programs; personnel assignment; law enforcement; dental readiness; claims and appeals before the Council of Personnel Boards and the Board for Correction of Naval Records; member's physical fitness for continued naval service; litigation involving medical care; performance of research studies and compilation of statistical data; implementation of preventive medicine programs and occupational health surveillance programs; implementation of communicable disease control programs; and management of the Bureau of Medicine and Surgery's Radiation program and to report data concerning individual's exposure to radiation.

This system is also used for the initiation and processing, including litigation, or affirmative claims against potential third party payors.

This system is used by officials and employees of other components of the Department of Defense in the performance of their official duties relating to the health and medical treatment of those individuals covered by this record system; physical and psychological qualifications and suitability of candidates for various programs; and the performance of research studies and the compilation of medical data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To officials and employees of the Veterans Administration in the performance of their official duties relating to the adjudication of veterans' claims and in providing medical care to Navy and Marine Corps members.

To officials and employees of other departments and agencies of the Executive Branch of Government upon request in the performance of their official duties related to review of the physical qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies.

To private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal Government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies

To officials and employees of the National Research Council in cooperative studies of the National History of Disease.

To officials and employees of local and state governments and agencies in the performance of their official duties relating to public health and welfare, communicable disease control, preventive medicine, child and spouse abuse prevention and public safety.

To Officials and employees of local and state governments and agencies in the performance of their official duties relating to professional certification, licensing and accreditation of health care providers.

To law enforcement officials to protect the life and welfare of third parties. The release will be limited to necessary information. Consultation with the hospital or regional judge advocate is advised.

To spouses of service members (including reservists) who are infected with the Human Immunodeficiency Virus. This release will be limited to HIV positivity information. Procedures for informing spouses will be published by the Director, Naval Medicine and must be used.

To military and civilian physicians to further the medical care and treatment of the patient.

To release radiation data per 10 CFR part 20.

When required by federal statute, by executive order, or by treaty, medical record information will be disclosed to the individual, organization, or government agency, as necessary.

The Department of the Navy "Blanket Routine Uses" that appear at the beginning of the Navy's compilation of record system notices also apply to this system.

Note: Records of identity, diagnosis, prognosis or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, requested, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided herein, be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd-3 and 290ee-3. These statutes take precedence over the Privacy Act of 1974 in regard to accessibility of such records except to the individual to whom the record pertains. The Navy's "Blanket Routine Uses" do not apply to these records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Primary, secondary, and subsidiary medical health records are stored in file folders, microform, on magnetic tape, punched cards, machine listings, discs, and other computerized or machine readable media.

RETRIEVABILITY:

Military health (medical and dental) treatment records are filed and maintained by the last four digits of the military member's Social Security Number, the member's last name, or the member's Social Security Number. A locator case file cross-references the patient's name with the location of his/her record.

Inpatient (clinical) health records are filed and maintained by the last four digits of the sponsor's Social Security Number or a register number. A manual or automatic register of patients is kept at each Navy medical treatment facility. The location of the file can be determined by a seven-digit register number or the patient's name.

Outpatient (medical and dental) health records are filed and maintained by the sponsor's Social Security Number or date of birth, relationship to the sponsor, and name. A locator file cross-references the patient's name with the location of his/her record.

Treatment records retired to a Federal Records Center prior to 1971 are retrieved by the name and service number or file number. After that date, records are retrieved by name and Social Security Number.

Aviation medical records are filed and maintained by Social Security Number and name.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files contain medical records documenting fitness for assignment as Embassy Guards and are filed and maintained by Social Security Number and name. Subsidiary health care records may or may not be identified by patient identifier. When they are, they may be retrieved by name and Social Security Number.

SAFEGUARDS:

Records are maintained in various kinds of filing equipment in specific monitored or controlled access rooms or areas; public access is not permitted. Computer terminals are located in supervised areas. Access is controlled by password or other user code system. Utilization reviews ensure that the system is not violated. Access is restricted to personnel having a need for the record in providing further medical care or in support of administrative/clerical functions. Records are controlled by a charge-out system to clinical and other authorized personnel.

RETENTION AND DISPOSAL:

Health care records are retained, retired, and disposed of in accordance with Secretary of the Navy Instruction 5215.5 (Disposal of Navy Marine Corps Records) and Naval Medical Command Instruction 6150.1 (Health Care Treatment Records). Specifics are given below:

Military health (medical and dental) records, are transferred with the member upon permanent change of duty station to his/her new duty station. These records are retired to the National Personnel Records Center (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5100; Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800; and Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211-1408.

Inpatient health records are transferred to the National Personnel Records Center (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5100 or to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO, two years after the calendar year of the last date of treatment.

Outpatient health records of civilians are tranferred to the National Personnel Records Center (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132-5100 or to the National Personnel Records Center (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO, two years after the calendar year of the last date of treatment.

X-ray files are retained on-site and destroyed three years after the last x-ray in the file. Asbestos x-rays are retained on site indefinitely.

Secondary health records may be retained separate from the health record. A notation is made in the health record that these records exist and where they are being kept. When the health record is retired or the patient transfers, these records should be entered in the health record.

Aviation medical records are retained on board and destroyed when 30 years old.

Marine Security Guard Battalion psychological examination, evaluation, and treatment case files containing medical records documenting fitness for assignment as Embassey Guards are retained on board and destroyed after 50 years.

Clinical psychology case files documenting suitability for special assignment will be retained at the originating medical treatment facility and destroyed when 50 years old.

Radiation exposure records for personnel exceeding exposure limits are retained at Bureau of Medicine and Surgery for 50 years, then destroyed; all others are retained 5 years, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Service medical (health and dental) records for active and reserve, Navy and Marine Corps: Chief: Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; Commanding Officers, Naval Activities, Ships and Stations; and Director, National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132-5000. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

Inpatient and outpatient treatment records: Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; Commanding Officers and Officers-in-Charge of naval medical treatment facilities; and Director, National Personnel Records Center, Military Personnel Records, 9700 Page Avenue, St. Louis, MO 63132-5000. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

NOTIFICATION PROCEDURE:

Active duty Navy and Marine Corps personnel and drilling members of the Navy and Marine Corps Reserves seeking to determine whether this record system contains information about themselves should address written inquiries to the originating medical or dental treatment facility. Official mailing addresses are published as an appendix to the Department of the Navy's compilation of record systems.

Inactive Naval Reservists should address requests for informaton to the Naval Reserve Personnel Center, 4400 Dauphine Street, New Orleans, LA 70149-7800. Marine Reservist's should address requests for information to Marine Corps Reserve Support Center, 10950 El Monte, Overland Park, KS 66211-1408.

Former members who have no further reserve or active duty obligations should address requests for information to the Director, National Personnel Records Center (Military Personnel Records), 9700 Page Avenue, St. Louis MO 63132-5100.

All written requests should contain the full name and Social Security Number of the individual, his/her signature, and in those cases where his/her period of service ended before 1971, his/her service or file number. In requesting records for personnel who served before 1964, information provided to the National Personnel Records Center should also include date and place of birth and dates of periods of active Naval service.

Records may be requested in person. Proof of identification will consist of the Armed Forces Identification Card or by other types of identification bearing picture and signature.

Requests for inpatient records within two years of inpatient stay should be addressed to the Commanding Officer of the hospital where the individual was treated.

Requests for inpatient records after two years after inpatient stay should be addressed to the Director, National Personnel Records Center, (Civilian Personnel Records), 111 Winnebago Street, St. Louis, MO 63118 or to the Director, National Personnel Records Center, (Military Personnel Records), 9700 Page Avenue, St. Louis, Mo 63132-5100.

Requests for subsidiary medical records should be addressed to the Commanding Officer of medical or dental center where treatment was received.

The following data should be provided: Full name, Social Security Number, status, date(s) of treatment or period of hospitalization, address at time of medical treatment, and service number.

Full name, date, and place of birth, ID card or driver's license, or other identification to sufficiently identify the individual with the medical records held by the treatment facility must be presented.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the medical or dental treatment facility where treatment was received or to the officials listed above under "Notification procedure". Official mailing addresses are published as an appendix to the Department of the Navy's compilation of systems or records.

CONTESTING RECORD PROCEDURE:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Reports from attending and previous physicians and other medical personnel regarding the results of physical, dental, and mental examinations, treatment, evaluation, consultation, laboratory, x-rays, and special studies conducted to provide health care to the individual or to determine the individual's physical and dental qualification.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

NO6320-3

System name:

COMNAVMEDCOM Quality Assurance/Risk Management (51 FR 18192, May 16, 1986).

Changes:

System name:

Delete "COMNAVMEDCOM".

System location:

Delete the entire entry and substitute with "Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; health care treatment facilities. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices."

Categories of individuals covered in the system:

Delete the entire entry and substitute with "Naval military heath care providers including active duty, reserve, retired, and separated personnel; Naval civilian health care providers including government employees, voluteers, and contractors."

Categories of records in the system:

Delete the entire entry and substitute with "Credentialling records including Individual Credentials Files, Clinical Activity Files, Clinical Performance Profiles, Performance Appraisal Reports and other records including administrative and disciplinary proceedings; records of current and past employment and/or assignment, current and past clinical privileges, qualifications and performance, peer review records, Internal Review records, statments of physical and mental health."

Authority for maintenance of the system:

Delete the entire entry and substitute with "5 U.S.C. 301, Department

Regulations; 10 U.S.C. 1102 and 5132; and Executive Order 9397."

Purpose:

Delete the entire entry and substitute with "This system relates to the Bureau of Medicine and Surgery's Quality Assurance/Risk Management Program. It is used to review the quality and appropriateness of care provided to patients; investigate, analyze, and report accidents, injuries, and other incidents which may be related to patient care or safety; to identify health care providers with known or suspected deficiencies or impairments which may affect patient care or safety or be the subject of professional negligence claims."

Routine uses of records maintained in the system, including categories of users and purposes of such uses:

Delete the entire entry and substitute with "Quality assurance records may be disclosed:

With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from the Department of Defense or the identity of any other person associated with the department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of such record is made outside the Department of Defense. Such requirement does not apply to the release of information pursuant to the Privacy Act of 1974, as amended (5 U.S.C. Section 552a).

Medical quality assurance records (10 U.S.C. Section 1102) described herein may not be made available to any person under the Freedom of Information Act (5 U.S.C. Section 552).

To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to Department of Defense health care facilities or to perform monitoring, required by law, or Department of Defense health care facilities.

To an administrative or judicial proceeding commenced by a present or former Department of Defense health care provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a member or an employee of the Department of Defense.

To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a member or an employee of the Department of Defense.

To a hospital, medical care center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a member or employee of the Department of Defense and who has applied for or been granted authority or employment to provide health care services in or on behalf of such institutions.

To an officer, employee, or contractor of the Department of Defense who has a need for such record or testimony to perform official duties.

To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record of testimony be provided for a purpose authorized by law.

In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in the above paragraph, but only with respect to the subject of such proceeding.

The Department of the Navy "Blanket Routine Uses" that appear at the beginning of the Navy's compilation of record system notices do not apply to this system."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

* * * * *

Retrievability:

Delete th entire entry and substitute with "Records are retrieved by full name or Social Security Number of health care provider, or other alpha/numeric identifier."

* * * * *

Retention and disposal:

Delete the entire entry and substitute with "Records are retained at the command to which the health care provider is assigned and are transferred to the provider's new command upon transfer. When health care providers leave the health care system, the Individual Credentials Files are ordinarily retained at a provider's last command for 10 years and then destroyed. If the provider's Individual Credentials File contains a permanent adverse privileging action or an investigation of criminal misconduct, the original is forwarded to BUMED for the 10 year retention period and then permanently archived. Performance Appraisal Reports and associated documents are retained at each command to which a provider is assigned for 10 years after the provider leaves the facility and then destroyed."

System manager(s) and address:

Delete the entire entry and substitute with "Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120. Commanding Officers or Officers in Charge of Navy Medical Department health care treatment facilities. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices."

* * * * *

N06320-3

SYSTEM NAME:

Quality Assurance/Risk Management.

SYSTEM LOCATION:

Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120; health care treatment facilities. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Naval military health care providers including active duty, reserve, retired, and separated personnel; Naval civilian health care providers including government employees, volunteers, and contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Credentialing records including Individual Credentials Files, Clinical Activity Files, Clinical Performance Profiles, Performance Appraisal Reports and other records including administrative and disciplinary proceedings; records of current and past employment and/or assignment, current and past clinical privileges, qualifications and performance, peer review records, Internal Review records, statements of physical and mental health.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Department Regulations; 10 U.S.C. 1102 and 5132; and Executive Order 9397.

PURPOSE(S):

This sytem relates to the Bureau of Medicine and Surgery's Quality Assurance/Risk Management Program. It is used to review the quality and appropriateness of care provided to patients; investigate, analyze, and report accidents, injuries, and other incidents which may be related to patient care or safety; to identify health care providers with known or suspected deficiencies or impairments which may affect patient care or safety or be the subject of professional negligence claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

With the exception of the subject of a quality assurance act, the identity of any person receiving health care services from the Department of Defense or the identity of any other person associated with the department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of such record is made outside the Department of Defense. Such requirement does not apply to the release of information pursuant to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

Medical quality assurance record (10 U.S.C. 1102) described herein may not be made available to any person under the Freedom of Information Act (5 U.S.C. 552).

Quality assurance records may be disclosed:

To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to Department of Defense health care facilities or to perform monitoring, required by law, or Department of Defense health care facilities.

To an administrative or judicial proceeding commenced by a present or former Department of Defense health care provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

To a governmental board or agency or to a professional health care society of organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is a or was a member or an employee of the Department of Defense.

To a hospital, medical care center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a member or employee of the Department of Defense and who has applied for or been granted authority or employment to provide health care services in or on behalf of such institutions.

To an officer, employee, or contractor of the Department of Defense who has a need for such record or testimony to perform official duties.

To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record of testimony be provided for a purpose authorized by law.

In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in the above paragraph, but only with respect to the subject of such proceeding.

The Department of the Navy "Blanket Routine Uses" that appear at the beginning of the Navy's compilation of record system notices do not apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on hard copy forms in filing cabinets.

RETRIEVABILITY:

Records are retrieved by full name or Social Security Number of health care provider, or other alpha/numeric identifier.

SAFEGUARDS:

Files are monitored during normal working hours by authorized personnel and the room or the files are locked at all other times.

RETENTION AND DISPOSAL:

Records are retained at the command to which the health care provider is assigned and are transferred to the provider's new command upon transfer. When health care providers leave the health care system, the Individual Credentials Files are ordinarily retained at a provider's last command for 10 years and then destroyed. If the provider's Individual Credentials File contains a permanent adverse privileging action or an investigation of criminal misconduct, the original is forwarded to BUMED for the 10 year retention period and then permanently archived. Performance Appraisal Reports and associated documents are retained at each command to which a provider is assigned for 10 years after the provider leaves the facility and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Bureau of Medicine and Surgery, Navy Department, Washington, DC 20372-5120. Commanding Officers or Officers in Charge of Navy Medical Department health care treatment facilities. Official mailing addresses are published as an appendix to the Navy's compilation of record system notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this record system contains information about themselves should address written inquiries to the naval medical facility where the treatment was received or to the Chief, Bureau of Medicine and Surgery. Requests should contain the full name, Social Security Number, and signature of the individual. The individual may also visit BUMED or the health care treatment facility. Visitors must posses proof of identification such as ID card, driver's license, or other identification showing name and a recent photograph of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the naval medical facility where the treatment was received or to the Chief, Bureau of Medicine and Surgery at the addresses indicated above. Requests should contain the full name, Social Security Number, and signature of the individual. The individual may also visit BUMED or the health care treatment facility. Visitors must possess proof of identification such as ID card, driver's license, or other identification showing name and a recent photograph of the individual.

CONTESTING RECORD PROCEDURES:

The Department of the Navy rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Secretary of the Navy Instruction 5211.5; 32 CFR part

701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Incident reports relating to patients, staff, and other personnel documenting accidents, injuries, and other incidents, together with supportive correspondence and statements including statistical displays and summaries.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90–21722 Filed 9–13–90; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Proposed Contract Option Award to NUS Corp.

AGENCY: Department of Energy.

ACTION: Notice of potential organizational conflict of interest in the exercise of a contract option with NUS Corporation.

SUMMARY: Consistent with the Department of Energy (DOE) Acquisition Regulations, 48 CFR 909.570–9, DOE gives public notice that the first of two(2), three-month option periods under an existing contract (Contract #DE-AC01-87EH79003) between DOE and NUS Corporation will be exercised despite the potential for an organizational conflict of interest, because it has been determined that the continued contract performance by NUS Corp. is in the best interests of the United States.

FOR FURTHER INFORMATION CONTACT:
Lee Stevens, U.S. Department of Energy, Office of Environmental Audit, EH–24, Washington, DC 20585.
Lynn Warner, U.S. Department of Energy, Office of Procurement Operations, PR–322.1, Washington, DC 20585

SUPPLEMENTARY INFORMATION:

Findings, Mitigation, and Determination

Under section 19 of the Federal Nonnuclear Energy Research and Development Act of 1974, (Pub. L. 93–577), as amended, and section 33 of the Federal Energy Act of 1974, (Pub. L. 93–275), as amended, the Department of Energy is subject to certain requirements intended to avoid organizational conflicts of interest in the award and performance of contracts for technical and management support services. An organizational conflict of interest (OCI) is considered to exist when a contractor "has past, present, or currently planned interests, that either directly or indirectly, through a client relationship, relate to the work to be performed under a Department contract and which (1) may diminish its capacity to give impartial, technically sound, objective assistance and advice, or (2) may result in it being given an unfair competitive advantage." DOE Acquisition Regulations, 48 CFR 909.570–3. Pursuant to these statutory provisions, a contract may not be awarded unless the Secretary or his designee has made a determination that it is unlikely that an inclusion of appropriate conditions in the contract. If an OCI is determined to exist and cannot be avoided, the contract may be awarded only if the Secretary or his designee determines that award would be in the best interest of the United States and includes appropriate provisions in the contract to mitigate the OCI. If, after award, a possible OCI is subsequently identified, the Secretary or his designee must determine whether or not it would be in the best interests of the Government to terminate the contract.

On the basis of the following findings, mitigation, and determination, the option in the contact described below is being exercised. The DOE recognizes the existence of potential organizational conflicts of interest pursuant to the authority of 48 CFR 909.570.

Findings

1. The U.S. Department of Energy, Office of Environmental Audit (OEV), has a continuing need for specialized environmental technical support. Such support is to assist OEV in performing environmental audits and assessments, enabling the Office to evaluate compliance with environmental requirements. These evaluations are independent of Department line management and concern the compliance status of various Departmental entities with federal, state, and local environmental laws, regulations, and DOE Orders. The contract that now supplies this support includes evaluation of: (a) The effectiveness of the environmental protection and monitoring systems associated with the industrial processes and research involved in the Departments' various activities, (b) field data associated with such monitoring, (c) performance of the systems against required and recommended criteria, and (d) the root causes of any noncompliances.

2. Using the information gathered under this contract option period, the OEV staff will prepare reports for use by senior Department managers to use in determining: (a) The appropriate actions to take to correct any deficiencies, (b) the cost of such actions, and (c) the priorities for correction.

3. NUS Corporation, it affiliates, and subcontractors have provided up-dated information concerning business activities related to the work to be performed for DOE. This information bears on whether or not it has possible conflicts of interest (a) with respect to its ability to render impartial, technically-sound, and objective assistance or advice, or (b) which may give it an unfair competitive advantage.

4. Based on an evaluation of the information provided by NUS Corporation, its affiliates, and subcontractors, I find that the additional work to be performed under the contract could create a potential conflict of interest because of the nature of the contract and its proposed scope of work, which may provide access to DOE data, information concerning DOE plans and programs, and confidential or proprietary data of others. In addition, there may be the appearance that, through this support contract, NUS Corporation could potentially influence DOE decisions so as to benefit the contractor's other government and commercial business activities. There is also a potential conflict of interest in that NUS has performed work at certain of the facilities which will be the subject of reviews, which could result in NUS reviewing its own prior work.

NUS is affiliated with the Halliburton Company, Dallas, Texas, and their subsidiary, Brown and Root Inc., Houston, Texas. The Halliburton Company and Brown and Root, Inc., own stock in NUS Corporation. The Halliburton Company can be generally divided into 4 principal categories of operations: Oil field services and products; industrial engineering and construction services; marine engineering and construction services; and insurance services. Brown and Root, Inc., is engaged in performing a broad range of engineering and construction services in government, industrial, and marine areas.

NUS is affiliated with NUS Training Corporation, NUS Process Services Corporations, NUS Operating Services Corporation, and EQEX Corporation. The NUS Training Corporation provides personnel training services primarily to the fossil and nuclear power industries. The NUS Process Services Corporation provides on-site, low-level radioactive waste processing services to the nuclear power industry. The NUS Operating Services Corporation provides a variety of services to assist electric utility firms in the operation of nuclear and coal-fired electric power plants. The Equipment Exchange Company (EQEX) provides equipment brokerage services primarily to the nuclear utility industry. These affiliates are wholly-owned subsidiaries of the NUS Corporation.

NUS has 3 international affiliates: (1) Japan NUS Company, Ltd., Tokyo, Japan; (2) Nuklear-Ingenieur-Service, GmBH, Hanau, West Germany; and (3) Arabian Environmental Services, Ltd., Jeddah, Kingdom of Saudi Arabia. These 3 affiliates provide engineering and consulting services similar to those of NUS within the geographical areas where they are lcoated.

5. Because the Department will shortly award a follow-on contract to the existing NUS Corporation contract, and the existing NUS contract expires on September 15, 1990, this option, and possibly a second option, is being exercised to cover the time period between contract expiration and award and phase-in of the new contract.

Mitigation

Because of the following steps to be taken to mitigate, if not totally avoid, the perceived conflicts, I believe that the work NUS Corporation will perform during the OEV option period will not result in NUS Corporation providing the DOE with biased assistance, nor give NUS Corporation any unfair competitive advantage. Since this is a level-of-effort type contract in which specific direction would be given to the contractor by task assignment, the Contracting Officer's Technical representative, who prepares such tasks, and the Contracting Officer, will examine each task to be assigned to ensure that the contractor will not be reviewing the work it or any of its corporate organization or its subcontractors has previously performed under this or any other contract. The potential for unfair competitive advantage is avoided by the following circumstances:

(a) Almost all data reviewed is publicly available, or is subject to FOIA request;

(b) Most of the non-publicly available information is either Classified or Unclassified Controlled Nuclear Information and is therefore protected by security requirements from disclosure to non-project related personnel in the offeror's organization or affiliates:

(c) Any follow-on work which might be identified as necessary by line management review of a Tiger Team Assessment or Environmental Audit would be competitively bid, and all information necessary to bid would be made available to all offerors through the Request For Proposal process; and

(d) NUS has committed itself to maintain any information generated in the assessments or audits within the project office, where it could not be used to gain any advantage in other business undertaken by themselves or their affiliates.

In addition, the clause "Organizational Conflict of Interest," 48 CFR 952.209-72, is included in the contract for the option period.

Finally, with regard of NUS Corp. participation in Tiger Team activities, the team operation is designed to permit the contractor only a supporting role contributing to its findings and recommendations. Whatever bias is contained in the contractor's work is effectively diminished or eliminated by the oversight of the team and the OEV.

Determination

In light of the above findings and mitigation, and in accordance with 48 CFR 909.570, I have determined that the proposed exercise of the contract option by DOE is in the best interest of the United States.

Issued in Washington, DC on September 10, 1990.

Paul L. Ziemer,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 90-21849 Filed 9-13-90; 8:45 am]

BILLING CODE 6450-01-M

San Francisco Operations Office Financial Assistance Award; University of California at Davis

AGENCY: Department of Energy.

ACTION: Intent to negotiate a cooperative agreement with University of California at Davis, CA.

SUMMARY: "Establishment of the National Institute for Global Environmental Change. The Department of Energy (DOE), San Francisco Operations Office (SAN) announces that it plans to negotiate, on a non-competitive basis, a Cooperative Agreement for approximately $11,916,000 with the Regents of the University of California. This Cooperative Agreement will carry the activity through July 14, 1992. The University of California, Davis has been invited to participate in negotiations leading to the execution of a formal agreement between the University of California, Davis and DOE. The objective of the agreement is to plan jointly with the DOE and to conduct through Regional Centers of Excellence located at Indiana, Tulane, and Harvard Universities a balanced research program supportive of DOE's essential mission related to global environmental change. The Institute contributes to DOE mission requirements, strengthens and enriches the Universities programs in the related areas and accomplish a public purpose. The authority for a determination of noncompetitive financial assistance is contained in the DOE Financial Assistance Rules at 10 CFR 600.7(b)(2)(i)(D). Any Public response may be addressed to the contracting representative below:

Contact: U.S. Department of Energy, San Francisco Operations Office (SAN), 1333 Broadway, Oakland, CA 94612. James H. Solomon, Contracting Officer (415) 273-7117.

Dated: August 29, 1990.

Kathleen M. Day,

Director, Contracts Management Division.

[FR Doc. 90-21780 Filed 9-13-90; 8:45 am]

BILLING CODE 6450-01-M

Chicago Operations Office; Cooperative Agreement Award: Engineering Resources, Inc.

AGENCY: Department of Energy.

ACTION: Notice of Cooperative Agreement Award under a notice of program interest (NOPI).

SUMMARY: The Department of Energy (DOE), Chicago Operations Office, announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.14(f), it intends to award a Cooperative Agreement to Engineering Resources, Inc. The objectives of the work to be supported by this Cooperative Agreement are: (1) To develop the biological systems (bacteria) which will convert the waste gases to acetic acid at sufficiently high rates to offer attractive economic return, and (2) to develop the biological reactor and separator systems required for industrial application.

FOR FURTHER INFORMATION CONTACT: June M. Wiinikka, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439, (708) 972-2126.

SUPPLEMENTARY INFORMATION: The proposed work is innovative in that it utilizes a biological technique that can perform efficiently with the low concentrations of the waste gases, and with relatively little sacrifice of energy to the high volume of nitrogen which accompanies the waste gases. The technology is also innovative in that it produces a marketable product, which will offset the cost of the biological treatment. This Award is the result of a NOPI for Industrial Energy Conservation with Waste Gas Reduction issued approximately 8/1/89. Several awards will be made as a result of the NOPI.

The project period for the Cooperative Agreement is a four year period, expected to begin in September 1990. DOE plans to provide funding in the amount of $2,088,000 for this project period.

Issued in Chicago, Illinois on September 4, 1990.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 90–21774 Filed 9–13–90; 8:45 am]

BILLING CODE 6450–01–M

Award of a Grant, Noncompetitive Financial Assistance: Lied Discovery Children's Museum

AGENCY: Department of Energy (DOE), Nevada Operations Office.

ACTION: Notice of noncompetitive financial assistance.

SUMMARY: DOE announces that pursuant to the DOE Financial Assistance Rules, 10 CFR 600.14(e)(1), it intends to award a noncompetitive financial assistance grant to the Lied Discovery Children's Museum in the amount of $53,000.

SCOPE: The grant will provide funding for the purchase of equipment for one science exhibit and two movable science carts to be used for "hands-on" experiments with other science exhibits throughout the museum.

The museum activities fulfill the educational outreach mission by providing programs to increase the interest of elementary school children in mathematics and science, and to introduce issues of environmental management to these children, as well as providing programs for science teacher education and training.

The authority and justification for determination of noncompetitive financial assistance is DOE Financial Assistance Rules 10 CFR 600.7(b)(2)(i)(B). The activity is being conducted by the applicant using its own resources or those donated or provided by third parties; however, DOE support of that activity would enhance the public benefits to be derived, and DOE knows of no other entity which is conducting or is planning to conduct such an activity.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Nevada Operations Office, ATTN: John B. Hall, P.O. Box 98518, Las Vegas, Nevada 89193–8518.

Issued in Las Vegas, Nevada, on September 7, 1990.

Nick C. Aquilina,

Manager.

[FR Doc. 90–21775 Filed 9–13–90; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance; Maryland Public Television

AGENCY: U.S. Department of Energy (DOE).

ACTION: Acceptance of an unsolicited proposal.

SUMMARY: DOE announces that it plans to award a noncompetitive grant to Maryland Public Television (MPT) as a result of acceptance of MPT's unsolicited proposal to produce a pilot television program called "A Flash of Genius." The grant will be for a three month duration for $323,945. The DOE share is $266,745, or approximately 82% and MPT will provide an in-kind and cash cost share of $57,200, or approximately 18% of the total cost. The Technology Integration Program (TIP) is responsible for the transfer of new technologies from DOE to industry and from industry to DOE. An additional significant aspect of TIP, is to motivate the American public's interest in science, stimulate creative thinking and generate ideas to solve some of the environmental and social problems facing the nation. TIP is authorized under Public Law No. 95–91, "DOE Organization Act," section 103 of Public Law No. 93–438 as amended, 42 U.S.C. 5813, and Public Law No. 101–189, as amended, 15 U.S.C. 3710, 3710a and 3710c.

MPT is the nation's fourth largest producer of programming for the national public television system. MPT will be assisted in the production of "A Flash of Genius" by Experimental Cities, Inc. (ECI), a nonprofit corporation, which holds the copyright to "A Flash of Genius." Personnel from both MPT and ECI are well qualified to participate in the production. The Executive-in-Charge of production has thirty years of experience in film making, has won several awards for his productions, and has been on the faculty of the University of Texas instructing film production and script writing. The Co-Executive Producer has experience in television and radio and has taught courses at the University of California at Los Angeles (UCLA). The series creator, Co-Executive Producer and Co-Founder of ECI has been involved with several programs focusing on inventions.

"A Flash of Genius" represents an opportunity to educate the American Public on the nation's needs for inventions to resolve social and environmental problems as well as stimulating the creative thinking of potential inventors and explaining the availability of federal assistance. Historically, "A Flash of Genius" has been successful, and the proposed pilot will be produced by an established public television production company. Finaly, "A Flash of Genius" will fulfill a part of the TIP mission.

The previous broadcast history of "A Flash of Genius" spotlighted inventions with a wide range of applications. However, this pilot program will concentrate on environmental concerns. This focused application of "A Flash of Genius" is innovative because it brings to bear the creativity of the nation's inventors on one area of need. The pilot is unique due to its use of nationwide television outlets to reach a broad audience of the American public, stimulating the minds of some, and educating the minds of others. This is the only known program with a format endeavoring to tap the intellect of inventors and scientists while educating the public, and providing insight on available government resources. There are no recent, current, or planned solicitations under which this proposal would be eligible for consideration.

PROCUREMENT REQUEST NUMBER: DE-FG07-ID9013036.

PROJECT OBJECTIVE: "A Flash of Genius" is a pilot program focused on environmental and scientific disciplines. "A Flash of Genius" through use of nationwide television outlets, represents an opportunity to educate the American Public on the nation's needs for inventions to resolve social and environmental problems as well as stimulating the creative thinking of potential inventors and explaining the availability of federal assistance.

FURTHER INFORMATION CONTACT: Ginger Sandwina, US Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402.

R. Jeffery Hoyles,

Acting Director, Contract Management Division, Idaho Operations Office.

[FR Doc. 90–21776 Filed 9–13–90; 8:45 am]

BILLING CODE 6450–01–M

Financial Assistance; University of Maryland Department of Geology

AGENCY: Department of Energy (DOE).

ACTION: Acceptance of an unsolicited proposal.

SUMMARY: The U.S. Department of Energy, Idaho Operations Office

announces that it intends to issue a grant award to the University of Maryland, Department of Geology. The award is the result of an unsolicited proposal (No. U9007008), dated April 27, 1990 to DOE. The purpose of the award is to continue support previously furnished as part of an interagency agreement with the National Science Foundation for research on high pressure and temperature studies of the interaction of hydrogen chloride-water with rocks of granitic composition.

GRANT AWARD NUMBER: DE-FG07-90ID13025.

SCOPE OF WORK: The statutory authority for the propsed award is in accordance with the provisions of Public Law 93-40, the "Geothermal Research, Development, and Demonstration Act of 1974". The unsolicited proposal meets the criteria for "Justification and Acceptance of an Unsolicited Proposal (JAUP)", as set forth in 10 CFR 600.14(e). The objective of the project is to conduct research on high pressure and temperature studies of the interaction of hydrogen chloride-water with rocks of granitic composition. The project will experimentally determine the equilibrium agueous concentration of HC1 in melt-aqueous mixture as a function of pressure, fluid/melt ratios, and total C1 between 800° and 900°C, and will combine this experimental data with the thermodynamic model previously developed by the principal investigator. The anticipated total project period is five (5) years with awards made on a twelve (12) month basis. Each twelve (12) month period is estimated at $30,000.00 for an estimated total project cost of $150,000.00.

FOR FURTHER INFORMATION CONTACT: Scott D. Apploine, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402-1129, or call (208) 526-8558.

Issued at Idaho Falls, Idaho.

Date: August 31, 1990.

R. J. Hoyles,

Acting Director, Contracts Management Division.

[FR Doc. 90-21781 Filed 9-13-90; 8:45 am]

BILLING CODE 6450-01-M

Chicago Operations Office; Cooperative Agreement Award to Membrane Technology & Research, Inc.

AGENCY: Department of Energy.

ACTION: Notice of Cooperative Agreement Award, under a notice of program interest (NOPI).

SUMMARY: The Department of Energy (DOE), Chicago Operations Office announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.14(f), it intends to award a Cooperative Agreement to Membrane Technology and Research, Inc. The objective of the work to be supported by this Cooperative agreement is to develop a method and apparatus employing special permeable membranes which selectively allow the passage of VOCs while blocking the passage of non-VOC gases. Such membrane systems, used in conjunction with refrigeration and condensation methods, will result in significantly improved efficiency of VOC separation and recovery. The major technological problem is to develop a membrane which will function effectively and reliably under moderately high differential pressure (10-20 atmospheres) which are common in industrial applications.

FOR FURTHER INFORMATION CONTACT: Martin A. Langsam, U.S. Department of Energy, Chicago Operations Office, 9800 S. Cass Avenue, Argonne, IL 60439, 708/972-2136.

SUPPLEMENTARY INFORMATION: The proposed work is innovative in that it proposes to combine the excellent separation selectivity of multi-layer membranes with refrigeration/condensation recovery to achieve high separation and recovery efficiencies. This award is the result of a NOPI for Industrial Energy Conservation with Waste Gas Reduction issued approximately August 1, 1989. Several awards will be made as a result of the NOPI..

The project period for the cooperative agreement is a three year period, expected to begin in September 1990. DOE plans to provide funding in the amount of $394,000.00 for this project period.

Issued in Chicago, Illinois on September 4, 1990.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 90-21777 Filed 9-13-90; 8:45 am]

BILLING CODE 6450-01-M

Idaho Operations Office; Cooperative Agreement Award Pacific Nuclear Fuel Services, Inc.

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of intent to award a grant based on an unsolicited proposal submitted by Pacific Nuclear Fuel Services, Inc. (PNFSI).

SUMMARY: The U.S. Department of Energy, Idaho Operations Office announces that it intends to issue a grant award to PNFSI. The award is the result of an unsolicited proposal submitted by PNFSI (No. P90000 15), dated January 1990. The purpose of the award is to develop a topical report for submittal to the Nuclear Regulatory Commission (NRC), tentatively titled "Licensing of NUHOMS Canister to meet 10 CFR 71 requirements for Off-Site Transportation".

GRANT AWARD NUMBER: DE-FG07-901D13041.

SCOPE OF WORK: The statutory authority for the proposed award is Public Law 97-425, the "Nuclear Waste Policy Act of 1982 (NWPA). The unsolicited proposal meets the criteria for "justification for acceptance of an unsolicited proposal (JAUP)", as setforth in 10 CFR 600.14(e). The objective of the project is to perform the engineering analysis to qualify the NUHOMS (registered) dry shielded spent fuel storage canister (DSC) for off-site transportation in accordance with the requirements of 10 CFR 71 and to submit a topical report licensing document to the NRC for approval. The canister qualification for transportation would be based on a conceptual design for a future transportation cask. The cask conceptual design would be limited to defining the required cask interface parameters to support the canister qualification. The anticipated total project period to be awarded, is eleven (11) months. The total cost of the project (all shares) is estimated at $490,000.00. The total project costs will be shared (25%/75%) $123,000.00 for DOE and $367,000.00 for PNFSI and Participants.

FOR FURTHER INFORMATION CONTACT: Dallas L. Hoffer, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402-1129, or call (208) 526-0014.

Issued at Idaho Falls, Idaho.

Dated: August 31, 1990.

R. J. Hoyles,

Acting Director, Contracts Management Division.

[FR Doc. 90-21778 Filed 9-13-90; 8:45 am]

BILLING CODE 6450-01-M

Chicago Operations Office; Cooperative Agreement Award to Texas Engineering Experiment Station

AGENCY: Department of Energy.

ACTION: Notice of Cooperative Agreement Award under a notice of program interest (NOPI).

SUMMARY: The Department of Energy (DOE), Chicago Operations Office, announces that pursuant to the DOE Financial Assistance Rules 10 CFR 600.14(f), it intends to award a Cooperative Agreement to Texas Engineering Experiment Station. The objective of the work to be supported by this Cooperative Agreement is to make measurements of the vapor-liquid equilibrium properties of acid gas-amine systems, using a new measurement method, which will result in significantly improved performance of these systems.

FOR FURTHER INFORMATION CONTACT: June M. Wilnikka, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, IL 60439, (708) 972-2126.

SUPPLEMENTARY INFORMATION: The proposed work is innovative in at least two siginficant aspects. First is the use of quantitative infrared analysis, which has not been previously used in the gas processing field; second is the concept of in-site measurement which eliminates many difficulties related to physical sampling systems. The combination of these two innovative concepts represents a unique approach to a difficult problem.

This Award is the result of a NOPI for Industrial Energy Conservation with Waste Gas Reduction issued approximately 8/1/89. Several awards will be made as a result of the NOPI.

The project period for the Cooperative Agreement is a three year period, expected to begin in September 1990. DOE plans to provide funding in the amount of $188,314 for this project period.

Issued in Chicago, Illinois on September 4, 1990.

Timothy S. Crawford,

Assistant Manager for Administration.

[FR Doc. 90-21779 Filed 9-13-90; 8:45 am]

BILLING CODE 6450-01-M

Idaho Operations Office; State of Washington, Department of Energy

AGENCY: Department of Energy, Idaho Operations Office.

ACTION: Notice of noncompetitive financial assistance award to State of Washington, Department of Ecology.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office, announces that it intends to make a noncompetitive Financial Assistance award to Washington State Department of Ecology on behalf of a group of states known as the "Low-Level Radioactive Waste Forum (the Forum)."

COOPERATIVE AGREEMENT NUMBER: DE-FC07-90ID13039.

SCOPE OF WORK: The statutory authority for the proposed award is the Low-Level Radioactive Waste Policy Amendments Act of 1985, section 7(a) (Pub. L. 99-240) (the Act). Additionally, the House Appropriations Committee report which accompanied the 1990 Energy and Water Development Appropriations Bill, H.R. 2696, July 1989, included a recommendation consistent with the Act. The Appropriations Committee recommended DOE: (1) assist the States and compacts in organizing an independent self-directed association through which to promote an effective and efficient national system for the management and disposal of commercially generated low-level radioactive waste; (2) provide organizational assistance to the extent requested by the States and compacts in establishing such an association; and (3) provide initial funding for the association until the States and compacts could develop a means for independent funding.

The Low-Level Radioactive Waste Forum (the Forum) is an association of States and interstate compacts established to facilitate State and compact implementation of the Act. In response to the House Committee report, the Forum determined the most effective way to accomplish the objective would be for one of its constituent States or compacts to submit a proposal for funding on behalf of the group. The Forum selected the State of Washington.

The Washington State Department of Ecology, under an agreement with the Forum, will provide administrative services to the Forum. Activities will include: administration of the grant; selection of a contractor to provide services to the Forum; and disbursement of grant funds to that contractor.

Because Forum members are appointed by and serve at the pleasure of Governors and compact chairpersons, the Department believes that the Forum reflects the varying interests and priorities of the entities they represent on low-level waste management issues. Following submission of the grant proposal, the Department received a number of letters from State and compact officials expressing support for this approach to fulfilling the Congressional recommendation.

The Forum will be the principal beneficiary of the financial assistance. However, the State of Washington, through its Department of Ecology, will have sole responsibility for any administrative or legal action relating to the enforcement of terms and conditions of the grant.

The award is anticipated to last three years. The anticipated DOE funding is as follows: $395,387 for the first year; $412,006 for the second year; and $432,606 for the third year.

FOR FURTHER INFORMATION CONTACT: Dallas L. Hoffer, U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, Tel: (208) 526-0014.

Issued in Idaho Falls, Idaho.

Dated: August 31, 1990.

R.J. Hoyles,

Acting Director, Contracts Management Division.

[FR Doc. 90-21782 Filed 9-13-90; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award: Washington State Employment Security Department

AGENCY: Department of Energy (DOE), Richland Operations Office.

ACTION: Notice of intent to make a noncompetitive financial assistance award.

SUMMARY: The DOE Richland Operations Office, in accordance with 10 CFR 600.7(b)(2), gives notice of its plan to make a noncompetitive financial assistance award under Grant No. DE-FG06-90RL12014 to the Washington State Employment Security Department for support of the Tri-Cities Educational Outreach Program.

SCOPE: In direct response to Energy Secretary James D. Watkins' position statement presented before the Senate Committee on Energy and Natural Resources during his confirmation hearings, the DOE is directing some of its efforts towards the promotion of educational programs emphasizing math and science as a viable field to students, as well as community outreach activities which also promote student interest in the math and science fields. The Richland Operations Office of the DOE has developed an educational outreach program which places some of the national focus on the local Tri-Cities, Washington communities. This educational outreach program is designed to encourage and assist the young people in the local community, particularly the growing number from minority backgrounds to pursue careers in science, engineering, math and related fields, and thereby increase the pool of talent from which DOE and its contractors may attract top level individuals for employment. The grant will provide for a variety of career oriented services for eligible youth in the Tri-City area who are interested in completing a college degree program in the science, engineering, math, or similarly related fields. The project will focus on, but will not be limited to, minority students within a 25 mile radius of the Tri-Cities. The duration of the grant shall be 12 months from the effective date of the award. The estimated cost of this project for the 12 month period is $60,603, of which the Federal support will be $50,000.

ELIGIBILITY: In accordance with 10 CFR 600.7(b)(2)(i)(B), (C) and (D), the DOE has determined that the award of a grant on a noncompetitive basis to the Washington State Employment Security Department is appropriate because (1) The applicant will be conducting the activity with its own resources and that DOE support of that activity would enhance the public benefit to be derived, (2) the applicant is a unit of government and the activity to be supported is related to the performance of the governmental function within the applicant's jurisdiction, and (3) the applicant has exclusive domestic capability to perform the activities described successfully based upon their unique qualifications relating to educational and employment opportunities within the Tri-City area.

FOR FURTHER INFORMATION CONTACT: Inquiries must be submitted within fourteen (14) calendar days of publication of this notice to: Julie A. Riel, U.S. Department of Energy, Richland Operations Office, Procurement Division, A7-80, P.O. Box 550, Richland, WA 99352, Telephone: (509) 376-9790.

Dated: September 6, 1990.

G.L. Amidan,

Acting Director, Procurement Division, Richland Operations Office.

[FR Doc. 90-21783 Filed 9-13-90; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP90-2109-000, et al.]

Natural Gas Certificate Filings; CNG Transmission Corporation, et al.

Take notice that the following filings have been made with the Commission:

1. CNG Transmission Corporation

[Docket No. CP90-2109]

September 6, 1990.

Take notice that on August 30, 1990, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP90-2109-000 a request pursuant to § 157,205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct, install and operate a sales tap, metering and appurtenant facilities and to transport gas through such facilities for Monongahela Power Company (Mon Power), an end user, under CNG's blanket certificates issued in Docket No. CP82-537-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CNG proposes to construct and operate a meter station and appurtenant piping in order to provide interruptible transportation, as necessary, for Mon Power for use at its power plant located in Harrison County, West Virginia. It is said that deliveries from the new sales tap will be made to Hope Gas Inc. (Hope) for Mon Power's account, which will transport the volumes for redelivery to the power plant. CNG states that it would install the facilities, near Shinnston in Harrison County, West Virginia, at an estimated construction and installation cost of $85,000, which is to be reimbursed by Hope.

It is stated that the maximum daily quantities to be delivered under the contract with Mon Power would be 4,000 dt equivalent of natural gas.

Comment date: October 22, 1990, in accordance with Standard Paragraph G at the end of this notice.

2. K N Energy, Inc., Colorado Interstate Gas Company, ANR Pipeline Company, United Gas Pipeline Company, United Gas Pipeline Company, United Gas Pipeline Company, United Gas Pipeline Company

[Docket Nos. CP90-2098-000,[1] CP90-2099-000, CP90-2100-000, CP90-2101-000, CP90-2102-000, CP90-2103-000 and CP90-2104-000

September 6, 1990.

Take notice that the above referenced companies (Applicants) filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: October 22, 1990, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notices requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1] avg annual	Points of		Start up date rate schedule	Related dockets
				Receipt	Delivery		
CP90-2098-000 (8-30-90)	K N Energy, Inc., P.O. Box 150265, Lakewood, Colorado 80215.	City of Central City, Nebraska.	250 27 10,000	KS	NE	7-01-90, FT-1, FT-2, FT-3.	ST90-4407-000.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1] avg annual	Points of Receipt	Points of Delivery	Start up date rate schedule	Related dockets
CP90-2099-000 (8-30-90)	Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs.	Synder Oil Corporation, dba Roggen Gas Processing Company.	5,000 2,000 7,300	WY, CO	CO	5-19-90, TI-1	ST90-3286-000.
CP90-2100-000 (8-30-90)	ANR Pipeline Company, 500 Renaissance Center, Detroit, Michigan 48243.	Amax Oil & Gas, Inc..	6,000 6,000 2,190,000	Offshore TX	LA, IL, KS	7-04-90, ITS	ST90-4184-000.
CP90-2101-000 (8-30-90)	United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478.	Centran Corporation.	80,312 80,312 29,313,880	Offshore LA, LA, MS.	TX, FL, MS, LA	7-31-90, ITS	ST90-4334-000.
CP90-2102-000 (8-30-90)	United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478.	Seagull Marketing Services, Inc..	515,000 515,000 187,975,000	AL, MS, offshore LA, LA, TX.	LA, TX, MS, FL, AL	8-08-90 ITS	ST90-4333-000.
CP90-2103-000 (8-30-90)	United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478.	Capital Gas Company.	4,120 4,120 1,503,800	LA	LA	8-01-90, ITS	ST90-4336-000.
CP90-2104-000 (8-30-90)	United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478.	Phoenix Gas Pipeline Company.	1,846 1,846 673,790	TX	TX	8-01-90, FTS	ST90-4337-000.

[1] Quantities are shown in Mcf for K N Energy, Inc., and Colorado Interstate Gas Company; in dt for ANR Pipeline Company; and in MMBtu for United Gas Pipeline Company.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

3. Kentucky West Virginia Gas Company

September 7, 1990.

[Docket No. CP90-2135-000]

Taken notice that on August 31, 1990, Kentucky West Virginia Gas Company (Kentucky West), P.O. Box 1388, Ashland, Kentucky 41105-1388 filed a request for authorization in Docket No. CP90-2135-000 to suspend temporarily firm sales service to the City of Hazard, Kentucky (Hazard), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Consistent with Article VI of a stipulation and agreement filed August 31, 1990, Docket Nos. TQ89-1-46-000, *et al.*, Kentucky West proposes to suspend sales service to Hazard under the service agreement dated November 26, 1984, for five years beginning October 1, 1990, and shall continue to be suspended for as long as Hazard and Kentucky West mutually agree. It is stated that to the extent sufficient surplus supplies are available to it Kentucky West will agree to waive the temporary suspension and make sales to Hazard at the then-effective Rate Schedule GSS rates if Hazard's third-party gas suppliers experience an emergency gas supply failure during the suspension period.

Comment date: September 20, 1990, in accordance with Standard Paragraph F at the end of this notice.

4. El Paso Natural Gas Company

September 7, 1990.

[Docket No. CP88-433-001]

Take notice that on August 31, 1990, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed a petition to amend in Docket No. CP88-433-001, under sections 7(c) and 7(b) of the Natural Gas Act, to amend the blanket transportation certificate of public convenience and necessity previously issued to El Paso, pursuant to § 284.221 of the Commission's Regulations, in Docket No. CP88-433-000, so as to authorize the implementation of a Capacity Brokering Program (Program) for firm transportation shippers, with pregranted abandonment, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

El Paso states that it is filing concurrently herewith a Stipulation and Agreement in Settlement of Rate and Related Proceedings (Stipulation and Agreement), designed to resolve all of the issues pending at Docket No. RP88-44-000, *et al.* As a part of the settlement, El Paso states it has agreed in Article VIII of the Stipulation and Agreement to seek Commission approval to broker its firm transportation service entitlements to third parties. El Paso states it is filing the instant petition pursuant to the terms of the stipulation and agreement. El Paso further states its acceptance of the authorizations requested in the petition is contingent upon the Stipulation and Agreement becoming effective in accordance with its terms. El Paso states that it specifically reserves the right to reject any brokering authorization issued in response to this request if the Stipulation and Agreement is not approved, or, if approved subject to conditions, is not implemented.

El Paso states further that in compliance with its undertaking contained in the Stipulation and Agreement, El Paso proposes to offer its Program to any Shipper: (1) Who has firm transportation rights under Rate Schedule T-3 of El Paso's FERC Gas Tariff, First Revised Volume No. 1-A (Volume No. 1-A Tariff), or such other rate schedules which provide for firm transportation service; (2) who elects to assign all or a portion of those firm transportation rights to third parties subject to the provisions of the Shipper's existing transportation service agreement; and (3) who agrees to pay the maximum applicable rate, unless El Paso agrees otherwise. The Program would be implemented pursuant to the specific terms and conditions of proposed section 24, Capacity Brokering Program, of the Transportation General Terms and Conditions contained in El Paso's Volume No. 1-A Tariff, and in accordance with amended certificate of public convenience and necessity issued by the Commission at Docket No. CP88-433-001 authorizing such Program on El Paso's interstate pipeline system. Shippers desiring to participate in the Program must submit a notice in writing in the form set forth in § 24.13 *Capacity Brokering Notice,* to El Paso indicating that the Shipper is willing to comply with terms and conditions set forth in proposed Section 24.

Under El Paso's proposed Program, firm capacity may be brokered by Shippers to Assignees, subject to the following conditions as discussed below:

1. Each firm transportation Shipper participating in the Program agrees that it would comply with the terms and conditions of any certificate or amendment issued by the Commission and accepted by El Paso authorizing the Program, and any future amendments, modifications, or orders issued by the Commission affecting the terms and conditions of the Program or its implementation.

2. Each firm transportation Shipper agrees to remain responsible to El Paso for its own compliance and compliance by its Assignees with all applicable terms and conditions of El Paso FERC Gas Tariff and Shipper's Transportation Service Agreement with El Paso. Additionally, each firm transportation Shipper further agrees that it would remain responsible to El Paso for all payments due under its Transportation Service Agreement with El Paso without regard to whether all or any portion of its capacity rights under such agreement are brokered to a third party for any period of time.

3. Each Shipper participating in the Program agrees that brokering of firm capacity would be available on an open-access basis without undue discrimination against any customer or group of customers.

4. Each firm transportation Shipper agrees that it would not seek or allow its Assignee to "repackage" its firm capacity rights by offering brokered interruptible transportation rights.

5. No firm transportation Shipper may use the Program to transfer or broker any capacity rights on a permanent basis.

6. The term of each brokering agreement must equal or exceed one calendar month, and commence with the beginning of a calendar month and end on the last day of a calendar month; provided, however, that a firm transportation Shipper may reserve the right to recall brokered capacity as necessary to avoid curtailment of deliveries to residential and commercial consumers who are dependent on such Shipper for reliable service.

7. Each shipper participating in the Program warrants that it or its assignee will have good title to (or right to deliver) all gas delivered to Applicant free and clear of all liens, encumbrances, and claims whatsoever. Shippers also agree to indemnify and hold El Paso harmless against loss or costs incurred by El Paso on account of any liens, encumbrances and claims.

8. The maximum rate charged for any brokered firm transportation service may not exceed the as-billed rate charged by El Paso, plus fuel and all applicable surcharges, as the same may be revised from time to time. A Shipper may charge a two-part rate that is different from the two-part rate charged by El Paso for the capacity assigned; provided, however, that the total revenues generated do not exceed those revenues that would be produced utilizing the rates El Paso charges the Shipper, and further provided that the reservation fee so charged does not exceed the reservation fee charged to Shipper by El Paso. In situations where the demand and components of two-part rate are blended to form a one-part rate, the maximum one-part rate is calculated using the projected load factor underlying El Paso's current rate applicable to the rate schedule under which the capacity is being brokered.

9. The Program would commence on the first day of the first month following the date of El Paso's acceptance of a final order granting the authorizing requested herein. Upon the termination of the Program, the capacity brokering services for which authorization is herein being sought shall be deemed to have been abandoned.

10. The receipt and delivery point priority extended to any Assignee shall be the same as that which El Paso extended to the original Shipper. Because the capacity rights which the Assignee receives are firm rights the Assignee shall receive priority over El Paso's interruptible transportation Shippers at said receipt and delivery points.

11. Shippers would be authorized to pass through any scheduling or balancing penalties levied by El Paso on the Shipper provided the Assignee actually caused the penalty to be incurred.

12. Any interstate pipeline subject to the jurisdiction of the Commission desiring to participate in the Program must: (i) Have accepted a blanket certificate under subpart G of Part 284 of the Commission's Regulations prior to commencing service under this Program; and (ii) file appropriate tariff sheets with the Commission which include, among other things, provisions for an open season for allocation of the assignable capacity and all scheduling, balancing and penalty provisions, and any other terms and conditions which the interstate pipeline seeks to impose upon the assignment of El Paso's capacity.

13. El Paso would continue to make available, on an interruptible basis, all capacity that is not used or brokered by firm transportation Shippers and at a rate which shall not be less than the minimum nor more than the maximum rate for such service under El Paso's Rate Schedule T-1, plus fuel and all applicable surcharges, as may be revised from time to time.

14. The issuance by the Commission of the authorizations requested herein and the submittal of the Capacity Brokering Notice shall constitute all the authorizations requested by Shippers or Assignees, who are not interstate pipeline companies otherwise subject to the jurisdiction over Shippers not otherwise subject to the jurisdiction of the Commission to insure nondiscriminatory access to brokered capacity. Such Shippers shall not be subject to the Commission's Uniform System of Accounts and other reporting requirements applicable to natural gas companies.

El Paso states its Capacity Brokering Program would allow firm transportation Shippers to maximize the utilization of firm capacity rights to El Paso's system by making capacity available to third parties currently unable to secure firm transportation capacity on El Paso's system. El Paso states that this would promote the efficient allocation of existing pipeline capacity and economic efficiency in conformity with the Commission's Rate Design Policy Statement in Docket No. PL89-2-000.

Comment date: September 20, 1990, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. South Georgia Natural Gas Company

[Docket No. CP90-2125-000]

September 7, 1990.

Take notice that on September 4, 1990, South Georgia Natural Gas Company (South Georgia), 1217 Old Albany Road, Thomasville, Georgia 31792, filed in Docket No. CP90-2125-000 an application pursuant to section 7(c) of the Natural Gas Act and Section 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

South Georgia requests authorization to provide, on a self-implementing basis, interruptible and firm transportation service on behalf of interstate pipelines and other shippers. South Georgia states that it would provide the transportation service under its Rate Schedules IT and FT as set forth in South Georgia's FERC Gas Tariff, First Revised Volume No. 1. South Georgia states the these rate schedules would continue to be applied in conformance with the requirements under Part 284 of the Commission's Regulations. Further, South Georgia states that it would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations.

Comment date: September 17, 1990, in accordance with Standard Paragraph F at the end of this notice.

6. Mississippi River Transmission Corporation

[Docket No. CP90-2127-000]

September 10, 1990.

Take notice that on September 4, 1990, Mississippi River Transmission Corporation (MRT), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CP90-2127-000, an application pursuant to section 7(b) of the Natural Gas Act (NGA), for permission and approval to partially abandon firm sales service to Laclede Gas Company (Laclede), a local distribution company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MRT proposes to reduce Laclede's maximum daily contract demand, which MRT provides under its Rate Schedule CD-1, from 675,000 MMBtu to 668,819 MMBtu. MRT proposes to implement this reduction through a new service agreement with Laclede to be effective October 1, 1990. It is stated that Laclede has requested that MRT make this adjustment to its maximum daily contract demand, to reflect reduced firm sales obligations of Laclede, resulting from Laclede customers permanently purchasing all or some of their natural gas requirements from other sources. It is alleged that except for the change to Laclede's maximum daily contract demand, the new service agreement is identifical to the existing service agreement between MRT and Laclede.

Comment date: October 1, 1990, in accordance with Standard Paragraph F at the end of the notice.

7. MIGC, Inc.

[Docket No. CP90-2110-000]

September 10, 1990.

Take notice that on August 30, 1990, MIGC, Inc. (MIGC), suite 230, 12200 N. Pecos Street, Denver, Colorado 80234, filed in Docket No. CP90-2110-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing MIGC to continue to operate in interstate commerce facilities previously constructed pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

MIGC states that in December 1989, after receipt of various Federal and State permits and approvals, it commenced construction on 8.2 miles of six-inch pipeline, designated as the Holly-Worland line, which runs from an interconnect with the mainline system of Colorado Interstate Gas Company in Big Horn County, Wyoming, northeast to the Big Horn River crossing and then east to a metering station and interconnect with Imperial Holly Sugar Corporation (Holly Sugar) at Worland, Wyoming. MIGC states that construction was completed and gas began flowing in February 1990. MIGC states that the cost of constructing the facilities was approximately $450,000 and that the capacity of the pipeline is approximately 14,800 Mcf per day.

MIGC further states that the facilities are currently being utilized solely to perform section 311 transportation and were constructed to provide an alternative source of transportation for deliveries to Holly Sugar, a sugar beet processing plant which uses natural gas in its operations.

MIGC states that approval of its request is required by the present and future public convenience and necessity for the following reasons: (1) The facilities would be available for any future shipper delivering volumes to Holly Sugar without having to qualify under section 311 of the NGPA for transportation service; (2) it would facilitate the access of an end-user, Holly Sugar, to additional market opportunities; (3) it would enhance competition in the natural gas marketplace, in that gas would flow on the Holly-Worland line without regard to source; and, (4) volumes transported through this line would enable MIGC to optimize its system operations.

Comment date: October 1, 1990, in accordance with Standard Paragraph F at the end of this notice.

8. Columbia Gulf Transmission Co., Southern Natural Gas Co.

[Docket Nos. CP90-2116-000; CP90-2117-000]

September 10, 1990.

Take notice that the above referenced companies (Applicants) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicants and is summarized in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that Applicants would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: October 25, 1990, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper	Peak day average annual	Points of receipt	Points of delivery	Start up date (rate schedule)	Related [2] dockets
CP90-2116-000 (8/31/90)	Columbia Gulf Transmission Company, 1700 MacCorkle Avenue SE., Charleston, West Virginia 25314.	Citizens Gas Supply Corporation.	50,000 40,000 14,600,000	LA	LA	8-1-90 (ITS)	CP86-239, ST90-4258-000.
CP90-2117-000 (8/31/90)	Southern Natural Gas Company, P.O. Box 2563, Birmingham, Alabama 35202-2563.	Midcon Marketing Corporation.	300,000 20,000 7,300,000	TX, LA, MS, AL	AL, GA	7-3-90 (IT)	CP88-316-000, ST90-3885-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.

[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

9. ANR Pipeline Company

[Docket No. CP90-2143-000]

September 10, 1990.

Take notice that the above referenced company (Applicant) filed in Docket No. CP90-2143-000 a prior notice request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of a shipper under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice request which is on file with the Commission and open to public inspection.

Information applicable to the Transaction including the identify of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket number and initiation date of the 120-day transaction under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for the shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule.

Comment date: October 25, 1990, in accordance with Standard Paragraph G at the end of this notice.

Docket No. (date filed)	Applicant	Shipper name	Peak day [1] average annual	Points of receipt	Points of delivery	Start up date rate schedule	Related [2] dockets
CP90-2143-000 (9-5-90)	ANR Pipeline Company, 500 Renaissance center, Detroit, MI 48243.	Fina Oil and Chemical Co.	25,000dth 25,000dth 9,125,000dth	OK	OK	7-1-90 Int	CP88-532-000, ST90-4230-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

10. Natural Gas Pipeline Company of America, El Paso Natural Gas Company, Transcontinental Gas Pipe Line Corporation

[Docket Nos. CP90-2121-000, CP90-2132-000 and CP90-2136-000

September 10, 1990.

Take notice that Applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[3]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comment date: October 25, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBTu	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP90-2121-000 (9-4-90)	Trans Marketing Houston, Inc. (Marketer)	250,000 100,000 36,500,000	NM, TX, OTX, OK, LA, OLA	Various	9-18-89, ITS, Interruptible.	ST90-4596-000, 7-1-90.
CP90-2132-000 (9-5-90)	Eastex Gas Transmission Company (Intra P/L)	144,000 144,200 52,633,000	Any Point [2]	CO, NM, OK, TX	1-3-90 T-1, Interruptible.	ST90-4106-000, 7-4-90.
CP90-2136-000 (9-5-90)	Chevron U.S.A., Inc. (Producer)	8,625,000 300,000 3,148,125,000 [3]	OTX, OLA, TX, LA	Various	5-18-90 IT, Interruptible.	ST90-4297-000, 7-24-90.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[2] Any receipt point on El Paso's system.
[3] Transco's quantities are in dekatherms.

[Docket No. CP90-2121-000, et al.]

APPENDIX B

Applicant's address	Blanket docket
El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978	CP88-433-000
Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148	CP86-582-000
Trancontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251	CP88-328-000

11. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP90-2126-000]

September 10, 1990.

Take notice that on September 4, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-2126-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to operate a delivery point in Hamilton County, Iowa, for deliveries of natural gas to Peoples Natural Gas Company, Division of Utilicorp United, Inc. (Peoples), under Northern's blanket certificate issued in Docket No. CP82-401-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern requests authorization to operate the delivery point and appurtenant facilities to provide jurisdictional service to Peoples under its Rate Schedule CD-1. It is stated that Peoples would serve Van Diest Supply Company (Van Diest) in Webester City, Iowa, a commercial end-user. It is stated that Northern installed the facilities under the self-implementing authorization of section 311 of the Natural Gas Policy Act. It is asserted that Northern would deliver up to 100 Mcf of gas on a peak day and 30,000 Mcf on an annual basis for Peoples to serve Van Diest. It is explained that the deliveries would be within People's current firm entitlement from Northern for Webster City and that Northern has sufficient capacity to make the deliveries without detriment to its other customers.

Comment date: October 25, 1990, in accordance with Standard Paragraph G at the end of this notice.

12. Trunkline Gas Company ANR Pipeline Company

Docket Nos. CP90-2119-000, CP90-2122-000, CP90-2123-000 and CP90-2124-000

September 10, 1990.

Take notice that Applicants filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: October 25, 1990, in accordance with Standard Paragraph G at the end of this notice.

Applicant: Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77251-1642. Blanket Certificate, Issued in Docket No.: CP86-586-000.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name	Peak day [1] average annual	Points of Receipt	Points of Delivery	Start up date rate schedule	Related [2] dockets
CP90-2119-000 (08-31-90).	Panhandle Trading Company.	75,000 10,000 3,650,000	LA, Offhore LA	LA	07-11-90 PT	ST90-4211-000

[1] Quantities are shown in Mcf unless otherwise indicated.
[2] If an ST docket is shown, 120-day transportation service was reported in it.

Applicant: ANR Pipeline Company, 500 Renaissance Center, Detroit, Michigan 48243. Blanket Certificate Issued in Docket No.: CP88-532-000.

Docket No. (date filed)	Shipper name	Peak day [2] average annual	Points of Receipt	Points of Delivery	Start up date rate schedule	Related [1] dockets
CP90-2122-000 (09-04-90).	Ward Gas Marketing, Inc.	50,000 50,000 18,250,000	TX, OK, KS, LA, Offshore LA, Offshore TX.	OK, KS, TX	07-06-90 ITS	ST90-4171-000

Docket No. (date filed)	Shipper name	Peak day [2] average annual	Points of Receipt	Points of Delivery	Start up date rate schedule	Related [1] dockets
CP90-2123-000 (09-04-90).	NGC Transportation, Inc.	250,000 250,000 91,250,000	WI	MI, WI, IL, OH, LA, IN, KY	07-05-90 ITS	ST90-4169-000
CP90-2124-000(09-04-90).	Coastal Gas Marketing Co.	100,000 LA, 100,000 36,500,000	OK, KS, TX, IL, WI, MI	OK, TX, KS	07-05-90 ITS	ST90-4172-000

[1] If an ST docket is shown, 120-day transportation service was reported in it.
[2] Quantities are shown in dekatherms unless otherwise indicated.

13. Texas Eastern Transmission Corporation

[Docket No. CP90-2120-000]

September 10, 1990.

Take notice that on August 31, 1990, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77251-2521, filed in Docket No. CP90-2120-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205(b) and 157.212) for authorization to add a proposed M&R station, in Perry County, Ohio, to the individual service agreements covering service to National Gas & Oil Corporation (National) under Rate Schedules CD-2, I, and FT-1, under Texas Eastern's blanket certificate issued in Docket No. CP82-535-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Texas Eastern states that the only facilities required to be constructed and owned by Texas Eastern in order to implement its proposal herein are tap facilities, and National would reimburse Texas Eastern for the cost of these facilities. Texas Eastern further states that the services rendered to National would be performed pursuant to Rate Schedules CD-2, I, and FT-1 of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1. Texas Eastern also states that the existing tariff does not prohibit the addition of the proposed new M&R station. It is further stated that the maximum delivery for all services at the proposed meter would be 8,000 dth per day of natural gas.

Comment date: October 25, 1990, in accordance with Standard Paragraph G at the end of this notice.

14. Colorado Interstate Gas Company

[Docket No. CP90-2118-000]

September 10, 1990.

Take notice that on August 31, 1990, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90-2118-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the interruptible transportation service it provides for Peoples Natural Gas, Division of UtiliCorp, Inc. (Peoples), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CIG states that by order issued June 20, 1985, in Docket No. CP85-300-000 CIG was authorized to transport up to 3,185 Mcf of natural gas per day (Mcfd) on an interruptible basis for Peoples. CIG further states that the February 11, 1985, transportation agreement between CIG and Peoples expired by its own terms on September 4, 1987 and deliveries ceased during July 1987. In addition, upon the grant of permission and approval of the proposed abandonment, CIG states that it will cancel Rate Schedule X-54 of its FERC Gas Tariff Original Volume No. 2.

Comment date: October 1, 1990, in accordance with Standard Paragraph F at the end of this notice.

15. United Gas Pipe Line Company

[Docket No. CP90-2094-000]

September 10, 1990.

Take notice that on August 29, 1990, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-2094-000, a request pursuant to § 157.211 of the Commission's Regulations under the Natural Gas Act, to construct and operate a 1-inch hot tap, located on United's existing Kosciusko 30-inch Main Line in Rankin County, Mississippi, pursuant to its blanket certificate, as more fully set forth in the request on file with the Commission and open to public inspection.

United states that the proposed delivery tap will enable it to supply an estimated average of 20 Mcf/d of natural gas for Wilmut Gas and Oil Company for resale to the Lazy J Rodeo Arena in Rankin County, under United's G Rate Schedule.

United further states that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Comment date: October 25, 1990, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenice and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21656 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-161-017]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 10, 1990.

Take notice that, on September 4, 1990, ANR Pipeline Company ("ANR") tendered for filing as part of its FERC Gas Tariff the tariff sheets with requested effective dates as listed below:

Tariff sheet	Effective date
Volume No. 1	
Third Substitute Twenty-Second Revised Sheet No. 18	11-01-89
Second Sub. Twenty-Fourth Revised Sheet No. 18	12-01-89
Third Sub. Twenty-Sixth Revised Sheet No. 18	01-01-90
Third Sub. Twenty-Seventh Revised Sheet No. 18	02-01-90
Fifth Sub. Twenty-Eighth Revised Sheet No. 18	05-01-90
Substitute Twenty-Ninth Revised Sheet No. 18	08-01-90
Substitute Thirtieth Revised Sheet No. 18	10-01-90
Substitute Alternate Thirtieth Revised Sheet No. 18	10-01-90
Volume No. 1-A	
Third Substitute Fifth Revised Sheet No. 5	11-01-89
Third Substitute Fifth Revised Sheet No. 6	11-01-89
Third Substitute Fourth Revised Sheet No. 7	11-01-89
Third Substitute Fourth Revised Sheet No. 8	11-01-89
Substitute Sixth Revised Sheet No. 5	05-01-90
Substitute Sixth Revised Sheet No. 6	05-01-90
Substitute Fifth Revised Sheet No. 7	05-01-90
Substitute Fifth Revised Sheet No. 8	05-01-90
Volume No. 2	
Third Substitute Fifth Revised Sheet No. 16	11-01-89
Third Substitute Fifth Revised Sheet No. 17	11-01-89
Third Substitute Fifth Revised Sheet No. 18	11-01-89
Third Substitute Fifth Revised Sheet No. 19	11-01-89
Third Substitute Seventh Revised Sheet No. 20	11-01-89
Third Substitute Sixth Revised Sheet No. 21	11-01-89
Third Substitute First Revised Sheet No. 22	11-01-89
Substitute Sixth Revised Sheet No. 16	05-01-90
Substitute Sixth Revised Sheet No. 17	05-01-90
Substitute Sixth Revised Sheet No. 18	05-01-90
Substitute Sixth Revised Sheet No. 19	05-01-90
Substitute Eighth Revised Sheet No. 20	05-01-90
Substitute Seventh Revised Sheet No. 21	05-01-90
Substitute Second Revised Sheet No. 22	05-01-90

The tariff sheets are filed in compliance with the Commission's Orders dated April 4, 1990 and August 3, 1990, in the captioned dockets, in which the Commission ordered the elimination of certain Account No. 858 costs.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before September 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21568 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM90-13-22-001]

CNG Transmission Corp., Proposed Changes in FERC Gas Tariff

September 10, 1990.

Take notice that CNG Transmission Corporation ("CNG"), on August 30, 1990, pursuant to Section 4 of the Natural Gas Act, the Stipulation and Agreement approved by the Commission on October 6, 1989, in Docket Nos. RP88-217, *et al.*, and § 12.9 of the General Terms and Conditions of CNG's FERC Gas Tariff, 1 filed six (6) copies of the following revised tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1:

Substitute First Revised Sheet No. 46

This filling supplements the August 22, 1990, filing in Docket No. TM90-13-22-000 by correcting an inadvertent error on the referenced tariff sheet. CNG also withdraws First Revised Sheet No. 46.

CNG states that copies of this filing were served upon CNG's customers as well as interested parties.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before September 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21663 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-24-000]

Equitrans, Inc. Proposed Changes in FERC Gas Tariff

September 10, 1990.

Take notice that Equitrans, Inc. (Equitrans), on September 6, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) the following tariff sheets to its FERC Gas Tariff, Original Volume Nos. 1 and 3, to become effective October 1, 1990.

Original Volume No. 1

Seventeenth Revised Sheet No. 10
Fifth Revised Sheet No. 23

Original Volume No. 3

Fifth Revised Sheet No. 4
Fifth Revised Sheet No. 8

Pursuant to Order No. 472, the Commission has authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment

(ACA) clause. The 1990 ACA unit surcharge approved by the Commission is $.0019 per Mcf. Equitrans has converted this Mcf rate to a dekatherm (Dth) Rate is $.0020 per Dth.

Pursuant to § 154.51 of the Commission's Regulation, Equitrans requests that the Commission grant any waivers necessary to permit the tariff sheets contained herein to become effective October 1, 1990.

Equitrans states that a copy of its filing has been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to protect said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-21643 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-13-4-000 TM90-9-4-000]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

September 10, 1990.

Take notice that on August 31, 1990, Granite State Gas Transmission, Inc. (Granite State) 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission the revised tariff sheets, listed below, in its FERC Gas Tariff, First Revised Volume No. 1 for effectiveness on the dates indicated:

Proposed Effective Dates

Thirty-Seventh Revised Sheet No. 7—September 1, 1990
Twenty-Fourth Revised Sheet No. 8—August 1, 1990

According to Granite State, Thirty-Seventh Revised Sheet No. 7 is an out-of-cycle purchased gas cost adjustment to reflect the effect, principally, of increased costs for Canadian gas purchased from Boundary Gas, Inc. and Shell Canada, Ltd. It is stated that the cost of gas purchased from these suppliers is based, in part, on indexing a base price by the weighted average cost of a mix of alternative fuels available in Granite State's markets. It is further stated that among the alternatives included in the pricing formula are the costs for No. 2 and No. 6 fuel oil which have risen significantly as a consequence of the political and military crisis in the Middle East.

Granite State further states that Twenty-Fourth Revised Sheet No. 8 reflects a change in the Injection Charge in its Rate Schedule GSS which tracks a parallel change field by CNG Transmission Corporation (CNG) in its Rate Schedule GSS in Docket No. RP90-152-000. According to Granite State, the change in the Injection Charge is due to the pass through of take-or-pay payments made by CNG to its suppliers.

It is stated that the proposed rate changes are applicable to Granite State's services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

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, 835 North Capitol Street, NE., in accordance with sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-21646 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-4-000 and TM91-1-4-0009]

Proposed Changes in Rates, Granite State Gas Transmission, Inc.

September 10, 1990.

Take notice that on September 5, 1990, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 the primary and revised tariff sheets listed below in its FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2, containing changes in rates for effectiveness on October 1, 1990.

First Revised Volume No. 1

Thirty-Eighth Revised Sheet No. 7.
Twelfth Revised Sheet No. 7-A
Twenty-Fifth Revised Sheet No. 8

Original Volume No. 2

Fourteenth Revised Sheet No. 27

Granite State further states that the above listed revised tariff sheets are the primary tariff sheets submitted in its filing and two alternate tariff sheets are also included:

Alternate Thirty-Eighth Revised Sheet No. 7
Alternate Fourteenth Revised Sheet No. 27

According to Granite State, the rate changes reflect its projected purchased gas costs and sales for the fourth quarter of 1990 and other adjustments to sales, storage and transportation services to reflect the effect of the Annual Charges Adjustment (ACA) for the fiscal year beginning October 1, 1990. Granite State further states that the Commission prescribed ACA charge beginning October 1 is $0.0019 per Mcf which does not reflect the effect of an additional debit billing to Granite State for the underrecovery of 1989 Project year ACA costs. The effect of the debit billing is to add $0.0003 per Mcf to the ACA charge prescribed by the Commission, or a total ACA charge of $0.0022 per Mcf, according to Granite State. Granite State further states that its primary tariff sheets reflect an ACA charge of $0.0022 per Mcf and the alternates reflect the Commission prescribed ACA charge of $0.0019 per Mcf.

It is stated that the proposed rate changes are applicable to Granite State's jurisdictional services rendered to Bay State Gas Company and Northern Utilities, Inc. Granite State further states that copies of its filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

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., of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21651 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-45-000]

Inter-City Minnesota Pipeline Ltd., Inc.; Tariff Filing

September 10, 1990.

Take notice that on September 4, 1990, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City"), 245 Yorkland Boulevard, North York, Ontario, Canada M2J 1R1, tendered for filing the following revised tariff sheet to Original Volume 1 of its FERC Gas Tariff to be effective November 1, 1990:

Original Volume No. 1

Forty-Second Revised Sheet No. 4

Inter-City states that this revised tariff sheet is filed as Inter-City's Annual PGA pursuant to Order Nos. 483 and 483-A. The effect of the revised rates is a 2.5¢ increase in the Eastern Zone G-1 commodity rate, TWS-1 rate and I-1 rate.

Also submitted is an alternate Forty-Second Revised Sheet No. 4, which could be substituted on the Commission's acceptance of Inter-City's August 17, 1990 Compliance Filing in Docket Nos. RP89-14 and RP89-235 et al.

Inter-City states that copies of the filing have been mailed to all of its customers and the affected state regulatory commission.

Any persons 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, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 8, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21644 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-52-017]

Kentucky West Virginia Gas Co.; Report of Refunds

September 10, 1990.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on September 6, 1990, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Supplemental Report of Refunds and Credits, made in accordance with the Stipulation and Agreement filed in the proceeding and approved by Commission Letter Order of May 3, 1990.

Kentucky West states that Article V of the Settlement Agreement approved on May 3, 1990, provided for the settlement rates in Docket Nos. RP86-52-000, *et al.* to be effective commencing February 1, 1990. Pursuant thereto, Kentucky West, on July 3, 1990, filed revised tariff sheets reflecting such settlement rates to be effective commencing February 1, 1990. By letter order dated August 20, 1990, the Commission accepted such tariff sheets to be effective on February 1, 1990.

Kentucky West further states that the bills paid by Kentucky West's GSS and transportation customers for the four months from February 1, 1990 through May 31, 1990, were calculated upon Kentucky West's rates that were in effect subject to refund in Docket No. RP89-146-000. Those rates were slightly higher than the rates which became effective for such period pursuant to the settlement approved in Docket Nos. RP86-52-000, *et al.* Therefore, under the provisions of the settlement, with respect to the GSS customers, Kentucky West has credited the difference to the direct billing amounts which Kentucky West is allowed to recover from those customers in Docket Nos. TQ89-1-46-000, *et al.* With respect to the transportation customers, Kentucky West has made refunds of such difference.

Kentucky West's supplemental report sets forth the calculations supporting the foregoing refunds and credits.

Kentucky West states that a copy of its filing has been served upon each of its jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214 (1989)). All such protests should be filed on or before September 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to the proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21659 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ91-1-5-000 TM91-1-5-000]

Midwestern Gas Transmission Co.; Rate Filing

September 10, 1990.

Take notice that on August 31, 1990, Midwestern Gas Transmission Company (Midwestern), filed the following revised tariff sheets to Volume No. 1 of its FERC Gas Tariff to be effective October 1, 1990:

Fifteenth Revised Sheet No. 5
Tenth Revised Sheet No. 6

The purpose of this filing is to reflect a Quarterly PGA rate adjustment to its sales rates for the period of October 1 through December 31. Additionally, Midwestern has revised the Annual Charge Adjustment to reflect the new ACA charge.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers on its system and affected state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 208 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the approximate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who had previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21645 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-25-000]

Mississippi River Transmission Corp., Proposed Change in FERC Gas Tariff

September 10, 1990.

Take notice that on September 6, 1990 Mississippi River Transmission Corporation (MRT) tendered for filing the following tariff sheets:

Second Revised Volume No. 1

Forty-Eighth Revised Sheet No. 4
Seventh Revised Sheet No. 4.1
Seventh Revised Sheet No. 4.2
Eighth Revised Sheet No. 4D
Alternate Forty-Eighth Revised Sheet No. 4
Alternate Seventh Revised Sheet No. 4.1
Alternate Seventh Revised Sheet No. 4.2
Alternate Eighth Revised Sheet No. 4D

Original Volume No. 1-A

Fifth Revised Sheet No. 2
Fifth Revised Sheet No. 3
Alternate Fifth Revised Sheet No. 2
Alternate Fifth Revised Sheet No. 3

MRT states that the primary sheets reflect a proposal to recover the FERC approved ACA charge of $.0019 per Mcf ($.0019 per MMBtu on MRT) on all applicable jurisdictional sales and transportation volumes as well as an additional surcharge amount of $.0003 per MMBtu to recover the additional expenses debited to MRT on the fiscal year 1990 billing effective October 1, 1990. The alternate sheets reflect the recovery of only the FERC approved ACA charge of $.0019 per Mcf ($.0019 per MMBtu on MRT).

MRT requests that these proposed tariff sheets become effective on October 1, 1990, and requests waiver of Section 154.22 and any other sections to allow the tariff sheets to become effective. MRT also states that copies of its filing have been served upon its jurisdictional sales customers, to affected shippers on the MRT system and to the State Commissions of Arkansas, Illinois and Missouri.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Seretary.

[FR Doc. 21660 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-185-000]

Proposed Change in FERC Gas Tariff; Mississippi River Transmission Corp.

Take notice that on September 5, 1990 Mississippi River Transmission Corporation (MRT) filed pursuant to section 4 of the Natural Gas Act and part 154 of the Regulations of the Federal Energy Regulatory Commission (Commission) thereunder, Forty-Seventh Revised Sheet No. 4, Sixth Revised Sheet No. 4.1 and Sixth Revised Sheet No. 4.2 to its FERC Gas Tariff, Second Revised Volume No. 1, and Fourth Revised Sheet No. 2, Fourth Revised Sheet No. 3 and Third Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1-A. An effective date of October 1, 1990 is proposed.

MRT states that the purpose of the filing is to reflect adjustments to MRT's jurisdictional sales and transportation rates resulting from a decrease in the contract demand quantity of Laclede Gas Company (Laclede) under MRT's Rate Schedule CD-1. MRT has filed under separate cover an application for an order authorizing the partial abandonment of service to Laclede in the amount of 6,181 MMBtu of daily contract demand. Laclede has requested a reduction in maximum daily contract demand to reflect reduced firm sales obligations resulting from its customers decisions to terminate purchases of all or some of their natural gas requirements served by Laclede. Laclede has informed MRT that it has no need for the service after October 1, 1990.

MRT requests that the Commission waive the notice requirements of its Regulations and grant any other waivers of its Regulations and the provisions of MRT's FERC Gas Tariff as may be necessary for the acceptance of the enclosed tariff sheets as proposed.

MRT states that a copy of this filing has been mailed to each of MRT's jurisdictional sales customers, to the State Commissions of Arkansas, Illinois and Missouri, and to affected shippers on the MRT system.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before September 17, 1990.

Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21654 Filed 9-13-90; 8:45 am]

BILLING CODE 6716-01-M

[Docket No. TM91-1-73-000]

Ozark Gas Transmission System; Proposed Changes in FERC Gas Tariff

September 10, 1990.

Take notice that Ozark Gas Transmission System ("Ozark") on August 31, 1990, tendered for filing the following revised tariff sheet in its FERC Gas Tariff, Original Volume No. 1:

Sixth Revised Sheet No. 5

The proposed effective date is October 1, 1990.

Ozark states that it is amending its transportation rate schedule to reflect its Commission-authorized Annual Charge Adjustment ("ACA") unit charge of $.0020. Ozark states that this filing is submitted in compliance with Section 154.38(d)(6)(iii) of the Commission's Regulations.

Ozark states that copies of this filing were served upon Ozark's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21647 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-182-000, TM91-1-28-000]

Change in Tariff, Panhandle Eastern Pipe Line Co.

September 10, 1990.

Take notice that on September 5, 1990 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing revised sheets to its FERC Gas Tariff, Original (Volume No. 1, as reflected in appendix No. 1, and to its FERC Gas Tariff, Original Volume No. 2, as reflected in appendix No. 2.

The proposed effective date of these revised tariff sheets is October 1, 1990.

Panhandle states that the Commission, by Order No. 472 issued May 29, 1987, implemented procedures providing for the assessment and collection from interstate pipelines, inter alia, of annual charges as required by the Omnibus Budget Reconciliation Act of 1986. Pursuant to Order No. 472, the Commission authorized the tracking for automatic pass through to pipeline customers of the annual charges. Section 20, Annual Charge Adjustment Provision, contained in the General Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1 provides for the tracking of such annual charges to Panhandle's customers.

Panhandle states that the instant filing has two primary purposes: (i) to permit the tracking of the ACA unit surcharge authorized by the Commission for fiscal year 1990; and (ii) to revise section 20 of the General Terms and Conditions of Panhandle's tariff to permit the crediting of Commission refunds of ACA charges from the prior fiscal year in instances in which the Commission's estimated fiscal year charge exceeds actual program costs for the same fiscal year and to permit the recovery of amounts which Panhandle is charged by the Commission in instances in which the Commission's fiscal year estimates fall short of actual program costs. The ACA Unit Surcharge authorized by the Commission for fiscal year 1990 is $0.0019 per Mcf, $0.0019 per dth converted to Panhandle's measurement basis. The ACA Unit Surcharge as adjusted to give effect to the 1989 adjustment is $0.0021 per Mcf, $0.0021 per dth converted to Panhandle's measurement basis. This additional increment added to the Commission-approved increment for fiscal year 1990 is based upon the 20% shortfall in the Commission's estimate for 1989 charges below the actual costs incurred by FERC during fiscal year 1989. Panhandle must pay FERC and 1989 adjustment amount concurrently with its payment for fiscal year 1990 and, absent Commission approval of its proposal herein, Panhadle would not have an opportunity for recovery of such adjustment amount from its customers.

Panhandle further states that it proposes to include in its rates by this filing, both the $0.0019 per dth ACA Unit Surcharge approved by the Commission for fiscal year 1990 and the additional increment of $0.0002 per dth necessary to give effect to the fiscal year 1989 adjustment, in total $0.0021 per dth in accordance with section 20 of the General Terms and Conditions of its FERC Gas Tariff, revised as proposed herein.

Finally, Panhandle states that it proposed to modify section 20.41 of the General Terms and Conditions to conform to § 154.38(d)(6)(i)(C) of the Commission's Regulations and that it purposes to provide in its ACA tariff provision for the adjustment of the ACA Unit Charge Rate to Panhandle's measurement basis.

Panhandle respectfully requests that the Commission grant such waivers as may be necessary for acceptance of the tariff sheets submitted herewith, to become effective October 1, 1990, as previously described; including, but not limited to, waiver of § 154.38(d)(6) of the Commission's Regulations Under the Natural Gas Act and section 20.41 of the General Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1.

Panhandle states that copies of this letter and enclosures are being served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on flie with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21652 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-3-28-000]

Proposed Changes in FERC Gas Tariff, Panhandle Eastern Pipe Line Co.

September 10, 1990.

Take notice that on August 31, 1990 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 3-C.7
Second Revised Sheet No. 3-C.8
Second Revised Sheet No. 3-C.9

The proposed effective date of these revised tariff sheets is October 1, 1990.

Panhandle states that the revised tariff sheets filed herewith reflect revisions to the Order No. 500 take-or-pay direct billing amounts approved by Commission Orders dated September 28, 1988, December 8, 1988, March 1, 1989 and May 17, 1989 in Docket No. RP88-240-000, and also by Commission Letter Order dated November 9, 1989 in Docket No. RP89-227-001, Docket No. TM90-2-28-001 and Docket No. TM90-6-28-000.

Panhandle further states that the revised tariff sheets referenced above reflect the second annual adjustment to carrying charges and monthly TOP Fixed Surcharges in accordance with section 24 of Panhandle's FERC Gas Tariff, Original Volume No. 1.

Panhandle states that copies of this letter and enclosures are being served on all affected jurisdictional sales customers and approriate state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Panhandle's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21655 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA90-7-000]

Texas Gas Gathering Co., Petition for Adjustment

September 10, 1990.

Take notice that on August 29, 1990, Texas Gas Gathering Company (Texas Gas Gathering) filed pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition for adjustment from § 284.123(b)(1)(ii) of the Commission's regulations to permit Texas Gas Gathering to use its tariff on file with the Railroad Commission of Texas (Railroad Commission) for services performed pursuant to section 311 of the NGPA. Texas Gas Gathering alleges that it is necessary for the Commission to issue this adjustment to remove major uncertainties associated with Texas Gas Gathering's performance of section 311(a)(2) transportation services.

In support of its petition Texas Gas Gathering states that it is an intrastate pipeline company which operates in the State of Texas and is a gas utility subject to the jurisdiction of the Railroad Commission. Texas Gas Gathering's transportation rates are subject to regulation by the Railroad Commission. Since Texas Gas Gathering does not render city-gate service, Texas Gas Gathering requests that it be granted an adjustment from the regulations appearing at subpart C of part 284 of the Commission's Regulations to permit Texas Gas Gathering to base its rates for section 311(a) services on the rate contained in a transportation tariff, which is currently on file with the Railroad Commission. Texas Gas Gathering anticipates the commencement of section 311 services on behalf of Natural Gas Pipeline Company of America in the near future for a transportation fee not to exceed $0.30 per MMBtu.

The regulations applicable to this proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with the provisions of Subpart K. Motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.** The petition for adjustment is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21649 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-181-000, TM91-1-17-000]

Proposed Changes in FERC Gas Tariff; Texas Eastern Transmission Corp.

September 10, 1990.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on September 5, 1990 tendered for filing as a part of its FERC Gas Tariff, Fifth Revised Volume No. 1 six copies of the following tariff sheets:

2nd Revised 23rd Revised Sheet Nos. 50.1 and 50.2
Twenty-Fourth Revised Sheet Nos. 50.3 and 50.4
2nd Revised 15th Revised Sheet No. 51
1st Revised Original Sheet Nos. 51.1 and 51.2
1st Revised Fifth Revised Sheet No. 474

The proposed effective date of the above tariff sheets is October 1, 1990.

Texas Eastern states that the Commission, by Order No. 472 issued May 29, 1987, implemented procedures providing for the assessment and collection from interstate pipelines, inter alia, of annual charges as required by the Omnibus Budget Reconciliation Act of 1986. Pursuant to Order No. 472, the Commission authorized the tracking for automatic pass through to pipeline customers of the annual charges. Section 29, Annual Charge Adjustment Clause (ACA), contained in the General Terms and Conditions, Fifth Revised Volume No. 1 of Texas Eastern's FERC Gas Tariff provides for the tracking of such annual charges to Texas Eastern's customers.

Texas Eastern states that the instant filing has two purposes: (i) To permit the tracking of the ACA unit surcharge authorized by the Commission for fiscal year 1990; and (ii) to revise section 29 of the General Terms and Conditions of Texas Eastern's tariff to permit the crediting of Commission refunds of ACA charges from the prior fiscal year in instances in which the Commission's estimated fiscal year charge exceeds actual program costs for the same fiscal year and to permit the recovery of amounts which Texas Eastern is charged by the Commission in instances in which the Commission's fiscal year estimates fall short of actual program costs. The ACA Unit Surcharge authorized by the Commission for fiscal year 1990 is $0.0019 per Mcf, $0.0018 per dth converted to Texas Eastern's measurement basis. The ACA Unit Surcharge as adjusted to give effect to the 1989 adjustment is $0.0022 per Mcf, $0.0021 per dth converted to Texas Eastern's measurement basis. The attached appendix A supports the derivation of such conversion to Texas Eastern's proposed rate. This additional increment added to the Commission-approved increment for fiscal year 1990 is based upon the 20% shortfall in the Commission's estimate for 1989 charges below the actual costs incurred by FERC during fiscal year 1989. Texas Eastern must pay FERC the 1989 adjustment amount concurrently with its payment for fiscal year 1990 and absent Commission approval of its proposal herein Texas Eastern would not have an opportunity for recovery of such adjustment amount from its customers.

Texas Eastern further states that it proposes to include in its rates by this filing, both the $0.0018 per dth ACA Unit Surcharge approved by the Commission for fiscal year 1990 and the additional increment of $0.0003 per dth necessary to give effect to the fiscal year 1989 adjustment, in total $0.0021 per dth in accordance with section 29 of the General Terms and Conditions of its FERC Gas Tariff, revised as proposed herein. Texas Eastern also proposes to track in its Rate Schedules SS-2 and SS-3 rates the effect of CNG Transmission Corporation's (CNG) revised ACA surcharge in its Rate Schedule GSS. CNG is filing revised tariff sheets to be effective October 1, 1990 reflecting the revised ACA surcharge. Section 4.F of Texas Eastern's Rate Schedule SS-2 and section 4.F of Texas Eastern's Rate Schedule SS-3 provide for an automatic rate adjustment to flow through any changes in CNG's GSS rates which underlie Texas Eastern's SS-2 and SS-3 rates. The attached appendix B supports the calculations tracking the changes in CNG's Rate Schedule GSS to Texas Eastern's Rate Schedules SS-2 and SS-3.

Finally, Texas Eastern states that it proposes to modify section 29.4 of the General Terms and Conditions to conform to the provisions of § 154.38(d)(6)(i)(C) of the Commission's Regulations.

Texas Eastern respectfully requests that the Commission accept the above referenced tariff sheets and grant any waiver of the Regulations as may be necessary to permit such accepted tariff sheets to become effective as proposed, including but not limited to waiver of § 154.38(d)(6) of the Commission's Regulations Under the Natural Gas Act and Section 29.4 of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Fifth Revised Volume No. 1.

Texas Eastern states that copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21653 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-175-000; TM91-1-30-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

September 10, 1990.

Take notice that Trunkline Gas Company (Trunkline) on September 5, 1990, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Second Revised Sheet No. 3-A.5
Second Revised Sheet No. 3-A.6

The proposed effective date of these revised tariff sheets is October 1, 1990.

Trunkline states that revised tariff Sheet Nos. 3-A.5 and 3-A.6 filed herewith reflect revisions to the Order No. take-or-pay direct billing amounts approved by Commission Orders dated September 28, 1988, December 8, 1988, February 17, 1989 and May 10, 1989 in Docket No. RP88-239-000 and orders dated September 29, 1989 and November 9, 1989 in Docket Nos. RP89-231-000, TM90-1-30-000, TM90-1-30-001, and TM90-3-30-000. The revised tariff sheets referenced above reflect the second annual adjustment to carrying charges and monthly TOP Fixed Surcharges as provided in Section 21.4(c) of Trunkline's FERC Gas Tariff, Original Volume No. 1.

Trunkline states that copies of this filing have been served on all affected jurisdictional customers and applicable State regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21648 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA91-1-11-001]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

September 10, 1990.

Take notice that on September 6, 1990 United Gas Pipe Line Company (United) tendered for filing tariff sheets:

Second Revised Volume 1

Seventh Revised Sheet No. 4
Seventh Revised Sheet No. 4A
Seventh Revised Sheet No. 4B
Fifth Revised Sheet No. 4D
Seventh Revised Sheet No. 4I

The proposed effective date of the above referenced tariff sheets in this docket is October 1, 1990. The above referenced tariff sheets are being filed pursuant to Section 154.305 of the Commission's regulations to reflect changes in United's purchased gas cost adjustment as provided in Section 19 of United's FERC Gas Tariff, Second Revised Volume No. 1.

United states that this PGA filing reflects technical adjustments and corrections to United's August 8, 1990 filing (August 8 filing). These adjustments and corrections do not affect the Current Adjustment portion of the August 8 filing. However, they do affect the Surcharge calculation. The revised Surcharge reported herein is reduced to 17.87¢ per mcf from 17.90¢ per Mcf as reported in the August 8 filing.

United states that the revised tariff sheets and supporting data are being mailed to its jurisdictional sales customers and to interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before September 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21662 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-147-010]

United Gas Pipe Line Co.; Tariff Filing

September 10, 1990.

Take notice that on August 31, 1990, United Gas Pipe Line Company (United) submitted for filing, as part of its FERC Gas Tariff, the following tariff sheets:

Second Revised Volume No. 1

Effective November 30, 1989

First Substitute Original Sheet No. 4N
Original Sheet No. 4N.1
Original Sheet No. 4N.2
Original Sheet No. 4N.3
Original Sheet No. 4N.4
Original Sheet No. 4N.5
Original Sheet No. 4N.6
First Revised Sheet No. 4O
First Revised Sheet No. 4P
First Revised Sheet No. 4Q

Second Revised Volume No. 1

Effective November 30, 1989

Second Substitute Original Sheete No. 4N
Substitute Original Sheet No. 4N.1
Substitute Original Sheet No. 4N.2
Substitute Original Sheet No. 4N.3
Substitute Original Sheet No. 4N.4
Substitute Original Sheet No. 4N.5
Substitute Original Sheet No. 4N.6

First Revised Volume No. 1

Effective May 1, 1989

Fifth Substitute Original Sheet No. 4-M
Fourth Substitute Original Sheet No. 4-N
Fifth Substitute Original Sheet No. 4-O
Fourth Substitute Original Sheet No. 4-P
Fifth Substitute Original Sheet No. 4-Q
Fourth Substitute Original Sheet No. 4-Q1
Fourth Substitute Original Sheet No. 4-R

United states that the filing was made only to current pagination of tariff sheets and does not effect the cost

United is seeking to recover nor does it effect the allocation of costs in Docket No. RP89-147.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before September 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21657 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-36-005; CP90-273-002]

Viking Gas Transmission Co.; Notice of Filing

September 10, 1990.

Take notice that on August 31, 1990, Viking Gas Transmission Company (Viking), P.O. Box 2511, Houston, Texas 77252, filed in the captioned proceeding the following tariff sheets to its Original Volume Nos. 1 and 2 of its FERC Gas Tariff, to be effective October 1, 1990:

Original Volume No. 1

First Revised Sheet No. 1
Eighth Revised Sheet No. 6
First Revised Sheet No. 10
Third Revised Sheet No. 11
Second Revised Sheet No. 12
First Revised Sheet Nos. 13-19
First Revised Sheet No. 21
First Revised Sheet No. 31
First Revised Sheet No. 40
Original Sheet Nos. 52-69
First Revised Sheet Nos. 70-71
Original Sheet Nos. 72-79
First Revised Sheet Nos. 80, 81
Original Sheet Nos. 81A-81I
First Revised Sheet Nos. 82-87
Original Sheet No. 87A
First Revised Sheet Nos. 88-94
First Revised Sheet No. 106
Original Sheet Nos. 107-129
Original Sheet Nos. 137-169

Original Volume No. 2

Second Revised Sheet Nos. 55-56
First Revised Sheet Nos. 57-58
First Revised Sheet Nos. 71-76, 87
First Revised Sheet Nos. 114-116

In addition, Viking is filing an original and ten copies of Second Revised Sheet No. 11 of Original Volume No. 1 of its FERC Gas Tariff to be effective November 1, 1989.

Viking states that the effectiveness of these tariff sheets is subject to the prompt issuance by the Commission of an order on rehearing, acceptable to the parties, of the Commission's July 10, 1990 order in the referenced dockets. (July 10 Order).

Viking states that this filing reflects the terms of a Stipulation and Agreement filed by Viking in Docket Nos. RP89-36, et al., on November 21, 1989 (the Stipulation), as clarified in Viking's initial and reply comments filed January 9 and January 19, 1990, respectively, and as modified by the Commission's July 10 Order. This filing includes the terms and conditions under which Viking will provide open-access transportation service pursuant to part 284 of the Commission's regulations and reduced base tariff rates for sales and transportation services. Viking is making this filing in anticipation of the Stipulation becoming effective pursuant to its terms.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers on its system and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before September 18, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21672 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF90-223-000]

West Medley Cogen Co.; Application for Commission Certification of Qualifying Status of Cogeneration Facility

September 10, 1990.

On August 30, 1990, West Medley Cogen Company, c/o Air Products and Chemicals Inc., Energy Systems, of 7201 Hamilton Blvd., Allentown, Pennsylvania 18195-1501, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Medley, Florida. The facility will consist of a coal fired boiler, an extraction/ condensing steam turbine generator, and an approximately one-half mile 230 kV transmission line. Thermal energy recovered from the facility will be used in the Tarmac Cement Plant for cement cooling, space heating and cooling, slurry preheating, and gypsum drying. The maximum net electric power production capacity of the facility will be 220 MW. The primary source of energy will be bituminous coal. Construction of the facility is expected to commence by January 1993.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-21661 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-49-000]

Williston Basin Interstate Pipeline Co.; Annual Charge Adjustment Filing

September 10, 1990.

Williston Basin Interstate Pipeline Company (Williston Basin), on August 31, 1990, submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

First Revised Volume No. 1

Twenty-seventh Revised Sheet No. 10

Original Volume No. 1-A

Twenty-first Revised Sheet No. 11
Twenty-sixth Revised Sheet No. 12

Original Volume No. 1-B

Fifteenth Revised Sheet No. 10
Fifteenth Revised Sheet No. 11

Original Volume No. 2

Twenty-ninth Revised Sheet No. 10
Twenty-first Revised Sheet No. 11B

The proposed effective date of the tariff sheets is October 1, 1990.

Williston Basin states that the instant filing reflects a revision to the Federal Energy Regulatory Commission's Annual Charge Adjustment (ACA) unit charge amount pursuant to the Commission's Statement of Annual Charges (18 CFR Part 382) and the General Terms and Conditions of Williston Basin's FERC Gas Tariff (First Revised Volume No. 1, Section 30; Original Volume No. 1-A, section 27 and Original Volume No. 1-B, Section 25). The filing incorporates an ACA surcharge of .190 cents per McF (.179 cents per dkt on the Williston Basin system), an increase of .02 cents per Mcf from the current amount, as authorized by the Commission.

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 September 17, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,
Secretary.

[FR Doc. 90-21650 Filed 9-13-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Procurement Operations

Notice of Unsolicited Financial Assistance Award to the American Energy Assurance Council (AEAC)

AGENCY: Office of Procurement Operations, Department of Energy.

ACTION: Notice of Unsolicited Financial Assistance Award.

SUMMARY: The Department of Energy (DOE) announces that pursuant to 10 CFR 600.7(b)(2)(i)(B) it is making a financial assistance award based on an unsolicited application satisfying the criteria of 10 CFR 600.14(e)(1) under Grant Number DE-FG01-90PE79073 to the American Energy Assurance Council (AEAC), for partial support to develop a consensus on national energy strategy.

Scope: The objective of this proposal is to develop consensus on national energy strategy among 12 energy-related constituencies which are represented by approximately 180 senior-level executives. The AEAC has (1) Conducted a comprehensive scoping survey on options for a national energy strategy, (2) conducted focus group interviews with 12 energy-related constituencies, and (3) held a national energy consensus experiment by bringing 180 senior level executives from each of the 12 energy-related constituencies together for a face-to-face negotiation session on national energy strategy. The assistance from DOE would enable AEAC to complete the analysis and reporting stage of the consensus experiment. The analysis and report will further DOE's efforts to develop its national energy strategy objectives. The AEAC is in a unique position to help identify elements of an energy strategy consensus to supplement and enhance the existing decisionmaking framework.

Based on the evaluation of relevance to the accomplishment of a public purpose, it is determined that the proposal offers the Department of Energy high technical merit and represents an innovative method and approach to build a consensus on a national energy strategy. The proposed project represents a unique idea that would not be eligible for financial assistance under a recent, current, or planned solicitation.

FOR FURTHER INFORMATION CONTACT: Please write the U.S. Department of Energy, Office of Procurement Operations, Attention: Lynne Warner, PR-322.1, 1000 Independence Avenue, SW, Washington, DC 20585.

Thomas S. Keefe,
Director, Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 90-21935 Filed 9-12-90; 3:20 pm]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OW-FRL-3830-6]

Section 106 Allotment Formula Work Group Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: On September 24-25, 1990, the section 106 Allotment Formula Work Group will meet to discuss revising the current section 106 allotment formula. Section 106 grants are available to State and interstate agencies and qualified Indian Tribes to support water pollution control program activities. (Section 106(a)(2) of the Clean Water Act requires that funds be allotted to State and interstate agencies on the basis of the extent of pollution.) The current section 106 allotment formula is 20 years old and may no longer reflect the extent of water pollution in the nation. The meeting will focus on developing a set of operational principles reflecting the purposes of section 106 grants to fund programs for the "prevention, reduction and elimination of pollution", and the requirements that allotments under section 106 reflect the extent of the pollution problem.

DATES: The meeting will begin on Monday, September 24, 1990, starting at 1 p.m. and ending at approximately 6 p.m. On Tuesday, September 25, 1990, the meeting will reconvene at 9 a.m. and end at approximately 3 p.m.

ADDRESSES: The meeting will be held at: The Doubletree Suite Hotel, Phoenix Gateway Center, 320 N. 44th St., Phoenix, Arizona 85008.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Wilbur, Acting Deputy Director, Analysis and Evaluation Division, Office of Water Regulations and Standards (WH-586), Office of Water, Environmental Protection Agency, rm. E-737 401 M Street, SW., Washington, DC 20460, (202) 382-5392, FAX No. (202) 382-5394.

SUPPLEMENTARY INFORMATION: Attendance by the public will be limited to approximately 30 people. Seats will be available on a first-come first-served basis. The Analysis and Evaluation Division will provide a summary of the meeting at a later date.

Dated: September 11, 1990.

Frederick D. Leutner,

Acting Director, Analysis and Evaluation Division.

[FR Doc. 90-21745 Filed 9-13-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3830-5]

Administrative Order on Consent De Minimis Settlement; Powersville Landfill Site

AGENCY: Environmental Protection Agency.

ACTION: Notice of administrative order on consent proposed *De Minimis* settlement.

SUMMARY: Under section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9622(g)(4) (CERCLA), The Environmental Protection Agency (EPA) has agreed to settle claims for past and future response costs at the Powersville Landfill Site, Peach County, Georgia, in a *De Minimis* Settlement with Eagle Bridges Company. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or withhold consent to the proposed settlement should such comments received disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Carolyn McCall, Investigation Support Assistant, Cost Recovery Section, Waste Programs Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 347-5059. Written comments may be submitted to the person above by 30 days from date of publication.

Dated: August 29, 1990.

Donald Guinyard,

Acting Director, Waste Management Division, EPA Region IV.

[FR Doc. 90-21746 Filed 9-13-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3830-4]

Administrative Order on Consent De Minimis Statement; Powersville Landfill Site

AGENCY: Environmental Protection Agency.

ACTION: Notice of administrative order on consent proposed *De Minimis* settlement.

SUMMARY: Under section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9622 (g)(4), (CERCLA), the Environmental Protection Agency (EPA) has agreed to settle claims for past and future response costs at the Powersville Landfill Site, Peach County, Georgia, in a *De Minimis* Settlement with the United States Department of Agriculture, Agricultural Research Service. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or withhold consent to the proposed settlement should such comments received disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Carolyn McCall, Investigation Support Assistant, Cost Recovery Section, Waste Programs Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland St., NE., Atlanta, Georgia 30365 (404) 347-5059. Written comment may be submitted to the person above by 30 days from date of publication.

Dated: August 29, 1990.

Donald Guinyard,

Acting Director, Waste Management Division, EPA Region IV.

[FR Doc. 90-21747 Filed 9-13-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3830-3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 27, 1990 through August 31, 1990 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-AFS-K61107-CA Rating EO2, Mount Vida Planning Area Intergrated Resource Management Plan, Implementation, Modoc National Forest, Warner Mountain Ranger District, Modoc County, CA.

Summary:

EPA expressed objection of potential degradation of water quality and loss of riparian habitat from multiple use activities such as timber harvesting and the application of herbicides. EPA also requested additional information on cumulative impacts, and air quality impacts due to prescribed burns.

ERP No. D-NPS-D60004-VA Rating EO2, Roanoke River/Blue Ridge Parkway Extension, Recreational and Interpretive Facilities Construction, Roanoke-Vinton City Limits to Smith Mountain Lake, Land Acquisition, Funding and COE Section 10 and 404 Permits, Bedford, Roanoke and Franklin Counties, VA.

Summary:

EPA has objections with the project as proposed due to the likelihood of significant impact on terrestrial and aquatic habitats and the potential for degradation of surface water. EPA requested additional information on alternative alignments, purpose, and need.

ERP No. D-UAF-E11024-SC Rating LO, Myrtle Beach Air Force Base Closure, 354th Tactical Fighter Wing, Implementation, Inactivation, Horry County, SC.

Summary:

EPA feels while there are a number of economic and societal ramifications associated with the proposed base closure, the impacts to the natural environment are within acceptable limits.

ERP No. D-USN-C11006-NJ Rating EC2, Naval Weapons Station Earle Trestle Replacement, Construction and Section 10 Permit, Sandy Hook Bay, Colts Neck, Monmouth County, NJ.

Summary:

EPA has environmental concerns with the project due to lack of discussion regarding compliance with spill prevention and countermeasure requirements. EPA requests that the final EIS address this issue.

Final EISs

ERP No. F-FAA-J51009-UT; Halls Crossing Airport Facility Replacement, Airport Layout Plan, Construction and Operation, Approval and Funding, San Juan County, UT.

Summary:

EPA recommends that the FAA require the airport sponsor to provide adequate long-term monitoring of noise sensitive recreational areas to assess the change in the ambient noise environment and the perceived impact to recreational users.

ERP No. F-FHW-H40139-MO; Rt-115 Extension, I-70 to MO-94 and Rt-115/I-70 Interchange Construction, Funding and 404 Permits, St. Charles City and St. Peters City, St. Charles County, MD.

Summary:

EPA continues to be concerned about the secondary and cumulative impacts, especially to the flood plain/floodway areas. EPA questions the conclusion that air quality will improve as traffic congestion is relieved.

ERP No. F-FRC-LO5196-ID; Twin Falls (FERC No. 18), Milner (FERC No. 2899), Auger Falls (FERC No. 4797) and Star Falls (FERC No. 5797) Hydroelectric Projects on the Mainstem of the Snake River, Construction, Operation, and Maintenance Licenses, Upper Snake River Basin, Twin Falls and Jerome Counties, ID.

Summary:

EPA continues to have environmental objections to the Auger Falls project with the staff-recommended mitigation. The Auger Falls project will likely result in significant water quality effects and wetland impacts. EPA concurs with the staff preferred alternative for the other projects.

ERP No. F-UAF-K12006-CA; Space Launch Complex 7 (SLC-7) Construction and Operation, South Vandenberg Air Force Base, Santa Barbara County, CA.

Summary:

Review of the final EIS was not deemed necessary. No formal letter was sent to the agency.

Dated: September 11, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-21744 Filed 9-13-90; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3830-2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075. Availability of Environmental Impact Statements Filed September 3, 1990 Through September 7, 1990, Pursuant to 40 CFR 1506.9.

EIS No. 900336, Draft EIS, COE, CA, Hanson Dam Flood Control and Recreation Project, Construction, Operation, and Maintenance, San Gabriel River, Los Angeles County, CA, *Due:* October 29, 1990, *Contact:* Raina Fulton (213) 894-0242.

EIS No. 900337, Draft EIS, AFS, CA, Lake Red Bluff Recreation Development, Implementation, Mendocino National Forest, Sacramento River, Tehama County, CA, *Due:* October 29, 1990, *Contact:* Arthur Quintana (916) 824-5196.

EIS No. 900338, Draft EIS, EPA, OR, Neskowin Regional Sanitary Authority Wastewater Facilities, Construction Grant, Section 404 Permit and NPDES Permit, Tillamook County, OR, *Due:* October 29, 1990, *Contact:* Gerald Opatz (206) 442-8505.

EIS No. 900339, Final EIS, AFS, ID, South Fork Salmon River Road Reconstruction, Warm Lake Highway to the confluence of the South Fork Salmon River, Implementation, Boise and Payette NFs, Valley County, ID, *Due:* October 15, 1990, *Contact:* John Hooper (208) 634-1469.

EIS No. 900340, Final EIS, AFS, NC, Grassy Gap and Wesser Timber Sales Management Plan, Implementation, Nantahala National Forest, Graham and Swain Counties, NC, *Due:* October 15, 1990, *Contact:* Pat Cook (704) 257-4237.

EIS No. 900341, Final EIS, AFS, OR, Deschutes National Forest, Land and Resource Management Plan, Implementation, Jefferson, Lake, Klamath and Deschutes Counties, OR, *Due:* October 15, 1990, *Contact:* Sally Collins (503) 388-8568.

Amended Notices

EIS No. 900286, Draft EIS, AFS, CA, Kings River Special Management Area (SMA), South Fork, Middle Fork Kings, Wild and Scenic Rivers, Implementation, Sierra and Sequoia National Forests, King River Ranger and Hume Lake Ranger Districts, Fresno County, CA, *Due:* October 15, 1990, *Contact:* Paul E. Barker, (209) 487-5155. Published FR 8-10-90—Review period extended.

Dated: September 11, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-21743 Filed 9-13-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

September 7, 1990.

Advisory Committee on Advanced Television Service Implementation Subcommittee Meeting

A meeting of the Implementation Subcommittee on the Advisory Committee on Advanced Television Service will be held on: October 4, 1990, 10 a.m. Commission Meeting Room (room 856), 1919 M Street, NW., Washington, DC.

The agenda for the meeting will consist:

1. Introduction.
2. Minutes of Last Meeting.
3. Report of Working Party 1. Policy and Regulation.
4. Report of Working Party 2. Transition Scenarios.
5. General Discussion.
6. Other Business.
7. Date and Location of Next Meeting.
8. Adjournment.

All interested persons are invited to attend. Those interested also may submit written statements at the meeting. Oral statements and discussion will be permitted under the direction of the Implementation Subcommittee Chairman.

Any questions regarding this meeting should be directed to Dr. James J. Tietjen at (609) 734-2237 or David R. Siddall at (202) 632-7792.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90-21762 Filed 9-13-90; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following groups of mutually exclusive applications for three new FM stations:

Applicant, city and state	File No.	MM docket No.
	I	
A. Evelyn Ray Rogers and Morris A. Rogers, d/b/a The Dunlin Group; Seaside, CA.	BPH-880629MC	90-382
B. Seaside Wireless, Ltd.; Seaside, CA.	BPH-880701MF	
C. Coastal Broadcasting Company; Seaside, CA.	BPH-880701MH	
D. Communications West, Inc.; Seaside, CA.	BPH-880701MI	
E. Threshold Communications; Seaside, CA.	BPH-880701MJ	
F. Catherine Oda Grodzins; Seaside, CA.	BPH-880701MK	
G. CAP Limited Partnership; Seaside, CA.	BPH-880701ML	
H. H.H.&L., Inc., d/b/a H.H.&L. Communications; Seaside, CA.	BPH-880701MM	
I. Jerry J. Collins; Seaside, CA.	BPH-880701MN	
J. Quadramedia, Inc.; Seaside, CA.	BPH-880701MO	
K. Golden State Broadcasters; Seaside, CA.	BPH-880701MP	
L. Barbara S. Greenstein; Seaside, CA.	BPH-880701MR	
M. Clintell Porter; Seaside, CA.	BPH-880701MS	
N. Seaside Rainbow Broadcasting Co.; Seaside, CA.	BPH-880701MU	
Issue Heading and Applicants		
1. Environmental, D, F		
2. Air Hazard, C, D, E, I, K		
3. Comparative, A-M		
4. Ultimate, A-M		
	II	
A. Northern Indiana Broadcasters, Inc.; Lagrange, IN.	BPH-880707MG	90-379
B. Dennis J. Kelly and Carol A. Kelly d/b/a Lagrange County Broadcasting Company; Lagrange, IN.	BPH-880707MI	
C. Cross Communications, Inc.; Lagrange, IN.	BPH-880707MK	
Issue Heading and Applicants		
1. Comparative, A, B, C		
2. Ultimate, A, B, C		
	III	
A. Navajo Broadcasting Company; Holbrook, AZ.	BPH-890118MF	90-377
B. Brad A. Heward; Holbrook, AZ.	BPH-890118MG	
Issue Heading and Applicants		
1. Comparative, A, B		
2. Ultimate, A, B		

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037 (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division.

[FR Doc. 90-21763 Filed 9-13-90; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Alfred Robert Abboud, Change in Bank Control Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a previous Federal Register Notice (FR Doc. 90-17202) published at page 30035 of the issue for Tuesday, July 24, 1990.

Under the Federal Reserve Bank of Dallas, the entry for Alfred Robert Abboud is amended to read as follows:

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Alfred Robert Abboud,* Houston, Texas; to acquire, directly and indirectly through A/C Limited Partnership, Houston, Texas, an additional 1.57 percent, for a total of 10.9 percent, of the voting shares of First City Bancorporation of Texas, Inc., Houston, Texas, and thereby indirectly acquire First City, Texas-Alice, Alice, Texas; First City, Texas-Aransa Pass, Aransa Pass, Texas; First City, Texas-Austin, Austin, Texas; First City, Texas-Beaumont, Beaumont, Texas; First City, Texas-Bryan, Bryan, Texas; First City Bank-Sioux Falls, Sioux Falls, Texas; First City, Texas-Corpus Christi, Corpus Christi, Texas; First City, Texas-Dallas, Dallas, Texas; First City, Texas-El Paso, El Paso, Texas; First City, Texas-Graham, Graham, Texas; First City, Texas-Houston, Houston, Texas; First City, Texas-Kountze, Kountze, Texas; First City, Texas-Lake Jackson, Lake Jackson, Texas; First City, Texas-Lufkin, Lufkin, Texas; First City, Texas-Madisonville, Madisonville, Texas; First City, Texas-Midland, Midland, Texas; First City, Texas-Orange, Orange, Texas; First City, Texas-San Angelo, San Angelo, Texas; First City, Texas-San Antonio, San Antonio, Texas; First City, Texas-Sour Lake, Sour Lake, Texas; First City, Texas-Tyler, Tyler, Texas.

Comments on this application must be received by September 28, 1990.

Board of Governors of the Federal Reserve System, September 10, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-21691 Filed 9-13-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

[File No. 892-3225]

IVF Australia, Ltd., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Connecticut based corporation and its two subsidiaries, all of whom are major providers of infertility services, expecially *in vitro*

fertilization, from misrepresenting in its advertising the success in achieving pregnancies or births.

DATES: Comments must be received on or before November 13, 1990.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael McCarey, FTC/H-294, Washington, DC 20580. (202) 326-3303.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules and Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules and Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

[File No. 892-3225]

In the matter of IVF Australia, Ltd., a corporation, IVF Australia (NY), Inc., a corporation, and IVF Australia (MA), Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of IVF Australia, Ltd., a corporation, IVF Australia (NY), Inc., a corporation, and IVF Australia (MA), Inc., a corporation, hereafter sometimes collectively referred to as proposed respondents or respondents, are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between IVF Australia, Ltd., by its duly authorized officer, IVF Australia (NY), Inc., by its duly authorized officer, and IVF Australia (MA), Inc., by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed respondent IVF Australia, Ltd., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 500 West Putnam Avenue, Greenwich, Connecticut 06830.

Proposed respondent IVF Australia (NY), Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 406 Boston Post Road, Port Chester, New York 10573.

Proposed respondent IVF Australia (MA), Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at Waltham Weston Hospital & Medical Center, Hope Avenue, Waltham, Massachusetts 02254.

2. Proposed respondents admit all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the attached draft complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents: (a) Issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agree-to order to proposed respondents' addresses as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representative, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the attached draft complaint and the following order. Proposed respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it become final.

Order

I.

It is ordered that respondents, IVF AUSTRALIA, LTD, a corporation, its successors and assigns, IVF Australia (NY), Inc., a corporation, its successors and assigns, and IVF Australia (MA), Inc., a corporation, its successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, sale or offering for sale of services relating to the treatment of infertility through *in vitro* fertilization, do forthwith cease and desist from representing, directly or by implication, that a percentage of respondents' patients have given birth or achieved pregnancy, unless:

A. The percentage represented accounts for all patients who received medication in an effort to stimulate ovulation in connection with the provision of in vitro fertilization services; or

B. Respondents disclose the basis used in calculating or arriving at the percentage represented. Such disclosure shall include the numerator and denominator used in calculating the percentage represented, and shall be made clearly and prominently, in close proximity to such percentage, and in a manner that can be easily understood by prospective purchasers of respondents' services.

II.

It is ordered that respondents, IVF Australia, Ltd., a corporation, its successors and assigns, IVF Australia (NY), Inc., a corporation, its successors and assigns, and IVF Australia (MA), Inc., a corporation, its successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, sale or offering for sale of services relating to the treatment of infertility, do forthwith cease and desist from representing, directly or by implication, that a number or percentage of respondents' patients give birth or achieve pregnancy, or have given birth or achieved pregnancies, unless such is the case, or otherwise misrepresent respondents' success rate in achieving births or pregnancies.

III.

It is further ordered that respondents shall maintain for a period of three (3) years after the date the representation was last made, and make available to the Federal Trade Commission upon request, business records supporting any claims of success in connection with their infertility treatment programs.

IV.

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in respondents which may affect compliance obligations arising out of this order.

V.

It is further ordered that respondents shall, within (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from IVF Australia, Ltd. of Greenwich, Connecticut and its two subsidiaries, IVF Australia (NY) and IVF Australia (MA). IVF Australia is a major provider of infertility services, especially *in vitro* fertilization.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission has alleged that IVF Australia misrepresented in its advertising that, based on its past experience, a woman who participates in a treament program consisting of:

1. Four IVF cycles has a 50 percent chance of giving birth as a result of the treatment program; and
2. One IVF cycle has a 28–33 percent chance of becoming pregnant as a result of that treatment cycle.

The Commission believes that these success rate claims overstated the likelihood of achieving either a live birth or a pregnancy and consequently misled consumers as to their actual chances of success. The claims overstated the actual success rate because IVF Australia failed to disclose to consumers that a significant number of unsuccessful outcomes were not included in the method of calculation used to determine success. It is important to note that the allegations do not concern the quality of the infertility services provided to consumers but address only the success rates claimed.

The proposed consent order seeks to address the alleged misrepresentations cited in the accompanying complaint by requiring IVF Australia to make disclosures regarding its success rate calculations. Part I of the proposed order prohibits success rate representations concerning infertility treatment unless:

1. The percentage represented in the success rate accounts for all patients who begin the program; or
2. The basis used to compute the percentage rate, including the numerator and denominator used to reach the success rate figure, is clearly and prominently disclosed.

Part II of the proposed order prohibits any misrepresentation of success in achieving pregnancies or births.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Benjamin I. Berman,
Acting Secretary.

[FR Doc. 90–21705 Filed 9–13–90; 8:45 am]

BILLING CODE 6750-01-M

[File No. 892 3144]

NME Hospitals, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of Federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a corporation based in Santa Monica, CA, that owns a medical center in Boca Raton, Fla., that operates an infertility clinic, to possess a reasonable basis for any future success rate claims for its *in vitro* fertilization procedures, and for claims of success in terms of either live births or pregnancies achieved through any of its infertility treatments.

DATES: Comments must be received on or before November 13, 1990.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael McCarey, FTC/H-294, Washington, DC 20580. (202) 326-3303.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with an accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the matter of NME Hospitals, Inc., a corporation, d/b/a West Boca Medical Center

[File No. 8923144]

Agreement Containing Consent Order to Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of NME Hospitals, Inc., d/b/a West Boca Medical Center, a corporation, hereafter sometimes referred to as proposed respondent or respondent, is willing to enter into a agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between NME Hospitals, Inc., d/b/a West Boca Medical Center, by its duly authorized officer, and counsel for the Federal Trade Commission that:

1. Proposed responent NME Hospitals, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 2700 Colorado Avenue, Santa Monica, California 90404.

2. Proposed respondent admits all the jurisdictional facts set forth in the attached draft complaint.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act, 5 U.S.C. 504.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the attached draft complaint, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and, except for the jurisdictional facts, does not constitute an admission of the facts by proposed respondent or an admission by the proposed respondent that the law has been violated as alleged in the attached draft complaint.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent: (a) Issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order to cease and desist in disposition of the proceeding; and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the attached draft complaint and the following order. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports to monitor respondent's compliance with this agreement and order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

It is ordered that respondent, NME Hospitals, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, sale or offering for sale of services relating to the treatment of infertility through *in vitro* fertilization, do forthwith cease and desist from representing, directly or by implication:

A. That its success rate in achieving pregnancies for its patients is higher than or compares favorably with the success rates of other providers of these services, unless at the time of making such representations, it possesses and relies upon a reasonable basis for making such comparison which shall, at a minimum, consist of results for its own patients that are based upon either the same or essentially equivalent test procedures for determining pregnancy that were used to produce the results with which the comparison is made.

B. That any of its patients have achieved pregnancies through respondent's treatment unless at the time of making such representation, respondent possesses and relies upon a reasonable basis for making such representation. Such reasonable basis shall consist of competent and reliable scientific evidence substantiating the representation. For any test to be "competent and reliable" it must be conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the relevant profession to yield accurate and reliable results and shall not consist solely of measuring or evaluating human chorianic gonadotrophin (hCG) risings.

It is ordered that respondent, NME Hospitals, Inc., a corporation, its successors and assigns, and respondent's officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, sale or offering for sale of services relating to the treatment of infertility, do forthwith cease and desist from misrepresenting, directly or by implication, the number of percentage of respondent's patients that give birth or achieve pregnancy, or have given birth or achieved pregnancies, or otherwise misrepresent respondent's past or present success rate in achieving births or pregnancies.

III.

It is further ordered that respondent shall maintain for a period of three (3) years after the date the representation was last made, and make available to the Federal Trade Commission upon request, business records supporting any claims of success in connection with its infertility treatment programs.

IV.

It is further ordered that, for a period of five years after the date of entry of this order, respondent shall notify the Commission at least thirty (30) days prior to any proposed change in respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in respondent which may affect compliance obligations arising out of this order.

V.

It is further ordered that respondent shall, within (60) days after service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with all requirements of this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from NME Hospitals, Inc., of San Diego, California, owner of a hospital, West Boca Medical Center in Boca Raton, Florida that operates an infertility clinic, the Fertility Institute of Boca Raton out of the hospital. The Fertility Institute of Boca Raton offers infertility services to the public including *in vitro* fertilization.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission has alleged that the Fertility Institute of Boca Raton failed to possess a reasonable basis for claims it made regarding its success rates in achieving pregnancies for its patients. The Institute claimed that it had achieved pregnancies for four of its first twelve *in vitro* fertilization (IVF) patients and that this rate of success was better that the national average for IVF clinics.

The Commission believes that these success rate claims were deceptive because the Institute had based its determination of pregnancy on the results of chemical tests that measure the risings of human chorionic gonadotrophins in the blood or urine of the patient. Such chemical tests are considered by experts in the field of *in vitro* fertilization to be unreliable by themselves for purposes of confirming an IVF induced pregnancy. Thus, at the time it made the claim, the Commission believes that the Institute lacked a reasonable basis for claiming that its patients had achieved pregnancy. Furthermore, when it claimed that its own success rate exceeded the national average, it lacked a reasonable basis for that claim as well, according to the Commission's complaint, because it had based its pregnancy claim on the results of chemical tests when the only source of national average figures, the United States IVF-ET Registry, was comprised of pregnancies confirmed by the more reliable method of ultrasound measurements (sonograms).

The proposed consent order seeks to address the alleged misrepresentations cited in the accompanying complaint by requiring NME Hospitals, Inc., for any infertility clinics that its owns or operates, to possess a reasonable basis for any future success rate claims for its *in vitro* fertilization procedures, which, in the case of comparisons with other success rates, shall consist of results that were based on the same or essentially equivalent tests that were used as a basis for the other rates (part I.A.). Furthermore, claims that pregnancies have been achieved for its *in vitro* fertilization patients must be based upon tests that are recognized within the infertility treatment industry as producing accurate and reliable results (part I.B). It must also possess a similar basis for claiming success in terms of either live births or pregnancies achieved through any of its infertility treatments (part II). The order further prohibits any other misrepresentations of success in achieving pregnancies or live births. (part II).

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their term.

Donald S. Clark,

Secretary.

[FR Doc. 90-21706 Filed 9-13-90; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Forms submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted to OMB since the last publication on August 10, 1990.

(For a copy of a package, call the FSA, Report Clearance Officer 202-252-5604)

Quarterly Performance Report—ORR 6—In order to meet the requirements of the Immigration and Nationality Act (INA), states are required to submit a quarterly report on cash and medical assistance and social service performance. Office of Refugee Resettlement (ORR), estimates the national refugee welfare dependency rate and cash assistance utilization rate from these reports and formulates program initiatives and budget requests. *Respondents:* State or local governments; *Number of Respondents:* 50; *Frequency of Response:* Quarterly; *Average Burden per Response:* (varies dependent upon method used to tabulate data); *Estimated Annual Burden:* 526.75 hours.

OMB Desk Clearance Officer: Shannah Koss McCallum.

Written comments and recommendations for the proposed information collection should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: August 24, 1990.

Sylvia E. Vela,

Deputy Associate Administrator, Office of Management & Information Systems.

[FR Doc. 90-21379 Filed 9-13-90; 8:45 am]

BILLING CODE 4150-04-M

Forms Submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the **Federal Register** submission for FSA.

(For a copy of the proposed rules below, call the FSA Reports Clearance Officer on 202 252-5604).

Information collection requirements in proposed regulations on wage withholdings; review and modification of support orders and notice of assigned support collected—New—State and local agencies: Notify parents about monthly child support collections; have procedures for review and modification of support orders; and notify parents of reviews and modifications. The legal system must record parental agreements avoiding wage withholdings. Employers must report dates on which wages are withheld so states can distribute collections. Number of *respondents*: 5,192; *Respondents*: Individuals/State or local governments/Businesses; *Frequency of Response*: response varies for each reporting requirement; Average Burden per response: .008341466 minutes; *Total Estimated Reported Burden*: 51,114 hours. Annual Recordkeeping Burden—Number of Recordkeepers: 54; Annual hours per Recordkeeper: 22.1666; Total Recordkeeping hours; 1,197.

OMB Desk Clearance Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New executive Office Building, Room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: September 4, 1990.

Naomi B. Marr,

Associate Administrator, Office of Management and Information Systems, FSA.

[FR Doc. 90-21603 Filed 9-13-90; 8:45 am]

BILLING CODE 4150-04-M

National Institutes of Health

Revision of NIH Guidelines Subcommittee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Revision of NIH Guidelines Subcommittee (a subcommittee of the Recombinant DNA Advisory Committee) on October 15, 1990. The meeting will be held at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814, starting at approximately 7 p.m. to adjournment at approximately 9:30 p.m.

The meeting will be open to the public to discuss the following proposed action under the *NIH Guidelines for Research Involving DNA Molecules* (51 FR 16958):

Revision of appendix K of the "NIH Guidelines" Regarding Establishment of Guidelines for Level of Containment Appropriate to Good Industrial Large Scale Practices (GILSP). In a letter dated June 28, 1990, the Industrial Biotechnology Association (IBA) and the Pharmaceutical Manufacturers Association (PMA) requested that the Recombinant DNA Advisory Committee revise appendix K of the *NIH Guidelines for Research Involving Recombinant DNA Molecules* to reflect a formalization of suitable containment practices and facilities for the conduct of large-scale experiments involving recombinant DNA-derived industrial microorganisms. In attachments to this request, there are proposed definitions and requirements pertaining to the requested changes. The Revision of the NIH Guidelines Subcommittee will report with a recommendation to the Recombinant DNA Advisory Committee during their meeting on October 16, 1990;

Other Matters To Be Considered by the Committee

Attendance by the public will be limited to space available. Members of the public wishing to speak at this meeting may be given such opportunity at the discretion of the Chair.

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Building 31, room 4B11, Bethesda, Maryland 20892, telephone (301) 496-9838, fax (301) 496-9839, will provide materials to be discussed at this meeting, roster of committee members, and substantive program information. A summary of the meeting will be available at a later date.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the *NIH Guidelines.* In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

Dated: September 10, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21710 Filed 9-13-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting of

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on October 22, 1990, in Conference Room 9, Building 31C, at National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 10 a.m. on October 22, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 10 a.m. on October 22 until adjournment. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Kamal K. Mittal, Executive Secretary, Allergy Immunology and Transplantation Research Committee, NIAID, NIH, Westwood Building, room 3A06, Bethesda, Maryland 20892, telephone (301-496-3528), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: August 29, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21621 Filed 9-13-90; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on October 15-17 1990, in Conference Room 7, Building 31C, at National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 10 a.m. on October 15, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisons set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public for review, discussion, and evaluation of individual grant applications and contract proposals from 10 a.m. until recess on October 15, and from 8:30 a.m. on October 16 until adjournment on October 17. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301-496-5717), will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Kamal K. Mittal, Executive Secretary, Allergy, Immunology and Transplantation Research Committee, NIAID, HIH, Westwood Building, room 3A07, Bethesda, Maryland 20892, telephone (301-496-3528), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: August 29, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21622 Filed 9-13-90; 8:45 am]

BILLING CODE 4140-01-M

National Institutes of Diabetes and Digestive and Kidney Diseases; Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the National Diabetes and Digestive and Kidney Diseases Advisory Council and its subcommittees, National Institute of Diabetes and Digestive and Kidney Diseases, on September 17-18, 1990, Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public September 17, from 8:30 a.m. to 12 noon and again on September 18, from 10:30 a.m. to adjournment to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552(c)(4) and 552(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the subcommittee and full Council meeting will be closed to the public for the review, discussion and evaluation of individual grant applications. The following subcommittees will be closed to the public on September 17, from 12 noon to 5 p.m.: Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urologic and Hematologic Diseases. The full Council meeting will be closed on September 18, from 8:30 a.m. to 10:30 a.m.

These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Executive Secretary, National Diabetes and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building, room 657, Bethesda, Maryland 20892, (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, Room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-6971.

(Catalog of Federal Domestic Assistance Program No. 13.847-849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: August 29, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21623 Filed 9-13-90; 8:45 am]

BILLING CODE 4140-01-M

National Library of Medicine; Meeting

Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine, on October 18-19, 1990, convening at 9 a.m. on October 18 and at 8:30 a.m. on October 19 in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on October 18 will be open to the public from 9 a.m. to 9:15 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sec. 552b(c)(9)(B), title 5, U.S.C., Public Law 92-463, the meeting will be closed on October 18 from 9:15 a.m. to approximately 5 p.m. and on October 19 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine. The presence of individuals associated with these publications could hinder fair and open discussion and evaluation of individual journals by the Committee members.

Mrs. Lois Ann Colaianni, Executive Secretary of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: 301-496-6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: August 29, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21624 Filed 9-13-90; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the following study sections for October 1990, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(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. 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 20892, telephone 301-496-7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	October 1990 meetings	Time	Location
Allergy & Immunology, Mr. Howard M. Berman, Rm. A19, Tel. 301-496-7380	Oct. 15-17	8:30	Holiday Inn, Bethesda, MD.
Bacteriology & Mycology-1, Dr. Timothy J. Henry, Rm. 236B, Tel. 301-496-7340	Oct. 10-12	8:30	The Savoy Suites Hotel, Washington, DC.
Bacteriology & Mycology-2, Dr. William Branche, Jr., Rm. 236A, Tel. 301-496-7682	Oct. 17-19	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine, Ms. Carol Campbell, Rm. 306B, Tel. 301-496-7031	Oct. 3-5	8:00	River Inn, Washington, DC.
Biochemical Endocrinology, Dr. Michael Knecht, Rm. 204, Tel. 301-496-7430	Oct. 3-5	8:00	NIH, Room 9, Bldg. 31C, Bethesda, MD.
Biochemistry, Dr. Adolphus P. Toliver, Rm. 318B, Tel. 301-496-7516	Oct. 24-26	8:30	The Savoy Suites Hotel, Washington, DC.
Bio-Organic & Natural Products Chemistry, Dr. Harold Radkte, Rm. 2A07, Tel. 301-496-7107	Oct. 18-20	9:00	Sea Lodge, San Diego, CA.
Biophysical Chemistry, Dr. John Beisler, Rm. 334, Tel. 301-496-1191	Oct. 18-20	8:30	Foggy Bottom Inn, Washington, DC.
Bio-Psychology, Dr. A. Keith Murray, Rm. 325, Tel. 301-496-7058	Oct. 1-3	9:00	The Savoy Suites Hotel, Washington, DC.
Cardiovascular, Dr. Gordon L. Johnson, Rm. 439A, Tel. 301-496-7316	Oct. 10-12	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Cardiovascular & Renal, Dr. Anthony Chung, Rm. 353, Tel. 301-496-7901	Oct. 4-5	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Cellular Biology and Physiology-1, Dr. Gerald Greenhouse, Rm. 336, Tel. 301-496-7396	Oct. 3-4	8:00	American Inn, Bethesda, MD.
Cellular Biology and Physiology-2, Dr. Gerhard Ehrenspeck, Rm. 1A05, Tel. 301-496-7681	Oct. 15-17	8:30	Holiday, Inn, Georgetown, DC.
Chemical Pathology, Dr. Edmund Copeland, Rm. 322, Tel. 301-496-7078	Oct. 10-12	8:00	Wequassett Inn, Chatham, Cape Cod, MA.
Diagnostic Radiology, Dr. Catharine Wingagte, Rm. 357, Tel. 301-496-7650	Oct. 10-12	8:30	Omni Georgetown Hotel, Washington, DC.
Endocrinology, Dr. Harry Brodie, Rm. 218, Tel. 301-496-7346	Oct. 10-12	8:30	Rosslyn Westpark Hotel, Arlington, VA.
Epidemiology & Disease, Control-1, Dr. Sooja Kim, Rm. 203C, Tel. 301-496-7246	Oct. 10-12	8:30	Ramada Inn, Bethesda, MD.
Epidemiology & Disease, Control-2, Dr. H. M. Stiles, Rm. 203B, Tel. 301-496-7246	Oct. 10-12	8:30	Ramada Inn, Bethesda, MD.
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 434, Tel. 301-496-7109	Oct. 23-25	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Experimental Immunology, Dr. Calbert Laing,, Rm. A27, Tel. 301-496-7238	Oct. 10-12	8:30	Holiday Inn, Chevy Chase, MD.
Experimental Therapeutics-1, Dr. Philip Perkins, Rm. 221, Tel. 301-496-7839	Oct. 17-19	8:30	Key Bridge Marriott, Arlington, VA.
Experimental Therapeutics-2, Dr. Marcia Litwack, Rm. 2A03, Tel. 301-496-8848	Oct. 25-26	8:30	Holiday Inn, Chevy Chase, MD.
Experimental Virology, Dr. Garrett V. Keefer, Rm. 206, Tel. 301-496-7474	Oct. 15-17	8:30	NIH, Room 8, Bldg. 31C, Bethesda, MD.
General Medicine A-1, Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797	Oct. 15-17	8:30	The Savoy Suites Hotel, Washington, DC.
General Medicine A-2, Dr. Mushtaq Khan, Rm. 354B, Tel 301-496-7140	Oct. 17-19	8:00	NIH, Room 7, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Daniel McDonald, Rm. 220, Tel. 301-496-7730	Oct. 10-12	8:00	The Savoy Suites Hotel, Washington, DC.
Genetics, Dr. David Remondini, Rm. 225, Tel. 301-496-7271	Oct. 18-20	9:00	Holiday Inn, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Rm. 1A03, Tel. 301-496-7494	Oct. 9-11	8:30	Ramada Inn, Bethesda, MD.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301-496-7508	Oct. 18-20	8:00	Hyatt Regency, Bethesda, MD.
Hematology-2, Dr. Jerrold Fried, Rm. 355B, Tel. 301-496-7508	Oct. 24-26	8:30	Holiday Inn, Georgetown, DC.
Human Development & Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025	Oct. 17-19	9:00	Holiday Inn, Chevy Chase, MD.
Human Development & Aging-2, Dr. Louis Quatrano, Rm. 305, Tel. 301-496-7640	Oct. 10-12	9:00	Ramada Inn, Bethesda, MD.
Human Development & Aging-3, Dr. Anita Sostek, Rm. 319C, Tel. 301-496-8814	Oct. 10-12	8:30	Holiday Inn, Georgetown, DC.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 222A, Tel. 301-496-7597	Oct. 22-23	8:30	The Savoy Suites Hotel, Washington, DC.
Immunobiology, Dr. William Stylos, Rm. A27, Tel. 301-496-7780	Oct. 17-19	8:30	Holiday Inn, Chevy Chase, MD.
Immunological Sciences, Dr. Anita Corman Weinblatt, Rm. A25, Tel. 301-496-2751	Oct. 17-19	8:30	Marriott Hotel, Pooks Hill, Bethesda, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 234, Tel. 301-496-7271	Oct. 4-6	8:30	Holiday Inn, Bethesda, MD.
Medical Biochemistry, Dr. Alexander Liacouras, Rm. 310, Tel. 301-496-7517	Oct. 11-13	8:30	Hyatt Hotel, Arlington, VA.
Medical Chemistry, Dr. Ronald Dubois, Rm. 2A06, Tel. 301-496-7107	Oct. 17-19	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Metabolic Pathology, Dr. Marcelina Powers, Rm. 435, Tel. 301-496-5251	Oct. 24-26	8:30	Holiday Inn, Chevy Chase, MD.
Metabolism, Dr. Krish Krishnan, Rm. 339A, Tel. 301-496-7091	Oct. 10-12	8:00	Holiday Inn, Chevy Chase, MD.
Metallobiochemistry, Dr. Edweard Zapolski, Rm. 335, Tel. 301-496-7733	Oct. 25-27	8:30	Holiday Inn, Georgetown, DC.
Microbial Physiology & Genetics-1, Dr. Martin Slater, Rm. 238, Tel. 301-496-7183	Oct. 24-26	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Microbial Physiology & Genetics-2, Dr. Gerald Liddel, Rm. 226, Tel. 301-496-7130	Oct. 17-19	8:30	Holiday Inn, Bethesda, MD.
Molecular & Cellular Biophysics, Dr. Patricia Jost, Rm. 326, Tel. 301-496-7060	Oct. 25-27	8:00	One Washington Circle Hotel, Washington, DC.
Molecular Biology, Dr. Robert Su, Rm. 233, Tel. 301-496-7830	Oct. 11-13	8:30	Holiday Inn, Chevy Chase, MD.
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233B, Tel. 301-496-7149	Oct. 4-6	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Neurological Sciences-1, Dr. Andrew Mariani, Rm. 319A, Tel. 301-496-7279	Oct. 10-12	8:00	Holiday Inn, Georgetown, DC.
Neurological Sciences-2, Dr. Stephen Gobel, Rm. 304, Tel. 301-496-8808	Oct. 16-18	8:30	Holiday Inn, Georgetown, DC.
Neurology A, Dr. Jane Hu, Rm. 303A, Tel. 301-496-7095	Oct. 25-27	8:30	Embassy Suites Hotel, St. Louis, MO.

Study section	October 1990 meetings	Time	Location
Neurology B-1, Dr. Jo Ann McConnell, Rm. 306A, Tel. 301-496-7846	Oct. 16-18	8:30	Hotel Washington, Washington, DC.
Neurology B-2, Dr. Herman Teitelbaum, Rm. 321, Tel. 301-496-7422	Oct. 16-18	8:30	Columbia Inn, Columbia, MD.
Neurology C, Dr. Kenneth Newrock, Rm. 232, Tel. 301-496-5591	Oct. 24-27	8:30	Omni Georgetown Hotel, Washington, DC.
Nursing Research, Dr. Gertrude McFarland, Rm. 352, Tel. 301-496-0558	Oct. 16-18	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Nutrition, Dr. Ai Lien Wu, Rm. 348, Tel. 301-496-7178	Oct. 8-10	8:30	Hyatt Regency Hotel, Bethesda, MD.
Oral Biology & Medicine-1, Dr. J. Terrell Hoffeld, Rm. 219A, Tel. 301-496-7818	Oct. 15-18	8:30	Holiday Inn, Capitol Hill, Washington, DC.
Oral Biology & Medicine-2, Dr. J. Terrell Hoffeld, Rm. 219B, Tel. 301-496-7818	Oct. 8-11	8:30	Holiday Inn, Capitol Hill, Washington, DC.
Orthopedics & Musculoskeletal, Ms. Ileen Stewart, Rm. 350, Tel. 301-496-7581	Oct. 3-5	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Pathobiochemistry, Dr. Zakir Bengali, Rm. 320, Tel. 301-496-7820	Oct. 17-19	8:30	Sheraton Potomac Inn, Rockville, MD.
Pathology A, Dr. Houston Baker, Rm. 337, Tel. 301-496-7305	Oct. 9-12	7:00 p.m.	Holiday Inn, Georgetown, DC.
Patholoby B, Dr. Martin Padarathsingh, Rm. A26, Tel. 301-496-7244	Oct. 10-12	8:00	Holiday Inn, Georgetown, DC.
Pharmacology, Dr. Joseph Kaiser, Rm. 206, Tel. 301-496-7408	Oct. 17-19	8:30	American Inn, Bethesda, MD.
Physical Biochemistry, Dr. Gopa Rakhit, Rm. 349A, Tel. 301-496-7120	Oct. 22-24	8:30	Holiday Inn, Georgetown, DC.
Physiological Chemistry, Dr. Jerry Critz, Rm. 339B, Tel. 301-496-7837	Oct. 18-20	8:30	Ramada Inn, Tysons Corner, VA.
Physiology, Dr. Michael A. Lang, Rm. 209, Tel. 301-496-7878	Oct. 17-19	8:30	Marbury Hotel, Georgetown, DC.
Radiation, Dr. Paul Strudler, Rm. 328, Tel. 301-496-7073	Oct. 22-24	8:30	Embassy Suites Hotel, Chevy Chase, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 210, Tel. 301-496-7318	Oct. 1-4	8:30	Holiday Inn, Bethesda, MD.
Reproductive Endocrinology, Dr. Abubakar A. Shaikh, Rm. 325B, Tel. 301-496-8857	Oct. 8-10	8:00	Holiday Inn, Crowne Plaza, Rockville, MD.
Respiratory & Applied Physiology, Dr. Everett Sinnett, Rm. 218A, Tel. 301-496-7320	Oct. 22-24	8:30	Holiday Inn, Bethesda, MD.
Sensory Disorders & Language, Dr. Samuel Rawlings, Rm. 309, Tel. 301-496-7550	Oct. 10-12	8:30	Holiday Inn, Capitol Hill, Washington, DC.
Social Sciences & Population, Dr. Samuel Rawlings, Rm. 310, Tel. 301-496-7072	Oct. 11-13	9:00	Embassy Square Hotel, Washington, DC.
Surgery & Bioengineering, Dr. Paul F. Parakkal, Rm. 437, Tel. 301-496-7506	Oct. 15-16	8:00	Holiday Inn, Bethesda, MD.
Surgery, Anesthesiology & Trauma, Dr. Keith Kraner, Rm. 439, Tel. 301-496-7771	Oct. 15-17	8:30	Holiday Inn, Bethesda, MD.
Toxicology-1, Dr. Alfred Marozzi, Rm. 205, Tel. 301-496-7570	Oct. 10-12	8:00	American Inn, Bethesda, MD.
Toxicology-2, Dr. Alfred Marozzi, Rm. 205, Tel. 301-496-7570	Oct. 24-26	8:00	American Inn, Bethesda, MD.
Tropical Medicine & Parasitology, Dr. Jean Hickman, Rm. 1A03, Tel. 301-496-1190	Oct. 17-19	8:30	Holiday Inn, Bethesda, MD.
Virology, Dr. Belinda Seto, Rm. 309, Tel. 301-496-7605	Oct. 17-19	8:30	Holiday Inn, Crowne Plaza, Rockville, MD.
Visual Sciences A-1, Dr. Anita Suran, Rm. 207, Tel. 301-496-7000	Oct. 17-19	8:00	Holiday Inn, Bethesda, MD.
Visual Sciences A-2, Dr. Allen Dearry, Rm. 319B, Tel. 301-496-7795	Oct. 17-19	8:30	One Washington Circle Hotel, Washington, DC.
Visual Sciences B, Dr. Leonard Jakubczak, Rm. 325C, Tel. 301-496-7251	Oct. 3-5	8:30	Embassy Suites Hotel, Washington, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: August 29, 1990.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 90-21625 Filed 9-13-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday, August 31, 1990.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package)

1. Feasibility Study of a National Survey of Ambulatory Surgery Centers—0920-0248—The purpose of this project is to develop the design for a national survey of patient visits to ambulatory surgery centers (ASCs). The resulting design will be tested and evaluated through actual data collection. Results will be used to implement a national survey of ASCs in the future. Respondents: Businesses or other for-profit; non-profit institutions: Number of Respondents: 115; Number of Responses per Respondent: 17; Average Burden per Response: 0.255 hour; Estimated Annual Burden: 492 hours.

2. Health Education Assistance Loan Program—Forms—0915-0034—The forms are needed for lenders to make application to the HEAL insurance program; to report accurately and timely on loan actions including the lender currently holding the loan, and to establish the repayment status of borrowers. The reports assist the PHS in protecting its investment in this loan insurance program. Respondents: Individuals or households, businesses or other for-profit, non-profit institutions.

	Number of respondents	Number of hours per response	Number of responses per respondent
Lenders:			
Application.	70	.25	1.
Manifest.	40	.083	Range 1-180.
Loan transfer statement.	70	.167	Range 1-115.

	Number of respondents	Number of hours per response	Number of responses per respondent
Borrower's status form:			
Borrowers	26,250	.167	1.
Employers	6,563	.083	4.

Estimated Annual Burden................7,558 hours

3. Cosmetic Risk Assessment: Exposure Survey—0910-0262—A database on cosmetic usage patterns in the United States will be used by Agency scientists in managing possible adverse health effects due to ingredients or contaminants in cosmetic products. Survey information will be used for constructing exposure esimates and designing scientific studies. Manufacturers, retailers, and users of cosmetic products may be affected. This submission is for an extension of the concept approval. Respondents: Individuals or household; Annual Reporting Burden: Since this is a concept clearance, definitive burden estimates are not yet available. These estimates will be provided when the study design and questionnaire are final and the final clearance request is submitted.

4. Establishment and Product Applications for Licenses for the Manufacture of Biological, Allergenic and Plasma Derivative Products, Blood and Blood Components—0910-0124—Sec. 351, PHS Act & 21 CFR 601.2 require all manufacturers of biological products to submit applications for review and approval to FDA prior to marketing a product. A separate license is issued to the manufacturer for each approved product application. The data is used to determine if the manufacturer is in compliance with license provisions of the regulations. Respondents: Businesses or other for-profit, non-profit institutions, small businesses or organizations.

	Number of respondents	Number of hours per response	Number of responses per respondent
Reporting:			
Forms FDA 2600, 2600b	100	2	2
Forms FDA 2599, 2599a	235	2.18	1
Form FDA 3066	10	6	4
Form FDA 3086	5	3	2
Form FDA 3096	8	2.5	2
Forms FDA 3098, 3098a, 3098b, 3098c, 3098d, 3098e	84	.66	3.8
Forms FDA 3210, 3213, 3214	115	12	2.25
Form FDA 3314	9	12.8	2
Recordkeeping: 21 CFR 600.12	459	171.58	1

Estimated Annual Burden..............83,661 hours

5. New Animal Drug Requirements for Medicated Free-Choice Feeds—21 CFR 510.455—0910-0205—Applications for approval of medicated free-choice feeds are submitted by certain segments of the medicated feed industry. The information is used by the Agency to determine whether the feeds so manufactured are safe and effective for labeled claims. This approval is for the information collection requirement wording in the regulation. Actual burden (25 hours per year) is included in 0910-0011. Respondents: Businesses or other for-profit, small businesses or organizations.

6. Application for Designation as a Federally Qualified Health Center.—New—Health centers will use the application guides to apply for designation as a Federally Qualified Health Center (FQHC). FQHCs are qualified to be reimbursed by Medicaid for 100 percent of reasonable costs for services eligible persons. Respondents: Non-profit institutions; Number of Respondents: 400; Number of Responses per Respondent: 1; Average Burden per Response: 4 hours; Estimated Annual Burden: 1,600 hours.

7. Grants for Geriatric Education Centers—0915-0128—Grantee instructions are required to submit a biannual audit report which is required by Section 705 of the Public Health Service Act. Respondents: Individuals or households; Number of Respondents: 35; Number of Responses per Respondent: 1; Average Burden per Response: 4* hours; Estimated Annual Burden: 140 hours. *This is an annualization of the biannual audit, it is expected to actually require 8 hours per audit.

8. Behavioral, Biochemical, Endocrine and Genetic Study of Alcohol Abusing Violent Offenders—NA—NIAAA requires information on genetic and biochemical determinants of alcoholism. To more closely examine these factors, NIAAA will study alcoholics with specific clinical characteristics and their relatives. Respondents: Individuals or households; Number of Respondents: 530; Number of Responses per Respondent: 1; Average Burden per Response: 8 hours; Estimated Annual Burden: 4,240 hours.

9. Annual Marriages and Divorce Statistical Report Forms—0920-0211—Annual final counts of marriages and divorces are essential to NCHS and the Bureau of the Census in evaluating validity of input to other activities, to the Social Security Administration in projecting program plans, and to a wide community of other known users. Respondents: State or local governments; Number of Respondents: 60; Number of Responses per Respondent: 1; Average Burden per Response: 1 hour; Estimated Annual Burden: 60 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3002, Washington, DC 20503.

Dated: September 10, 1990.

Phyllis M. Zucker,

Acting Deputy Assistant Secretary for Health (Planning and Evaluation).

[FR Doc. 90-21802 Filed 9-13-90; 8:45 am]

BILLING CODE 4160-17-M

Social Security Administration

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Social Security Administration publishes a list of information collection packages that have been submitted to the Office of Management and Budget (OMB) for clearance in compliance with Public Law 96-511, The Paperwork Reduction Act. The following clearance packages have been submitted to OMB since the last list was published in the **Federal Register** on August 31, 1990.

(Call Reports Clearance Officer on (301) 965-4149 for copies of package.)

1. Reporting Events—SSI—0960-0128—The information collected on the form SSA-8150-EV is used by the Social Security Administration to identify economic and social changes of Supplemental Security Income recipients which could potentially affect their eligibility for payments. The respondents are individuals who are receiving payments or representative payees who are responsible for managing a recipient's resources.

Number of respondents: 100,000
Frequency of response: 1
Average burden per response: 5 minutes
Estimated annual burden: 8,333 hours

2. Recapitulation of States' Report of Wages Paid—0960-0042—The information collected on the form SSA-3962 is used by the Social Security Administration to summarize data on State wage reports for periods prior to 1982 for employees covered under an agreement with SAA. In addition the data collected is used to control and verify wage totals on forms SSA-3963 and SSA-3964. The form is also used to control deposit information on form SSA-3961. The affected public consists of State Agencies and their political subdivisions.

Number of respondents: 52
Frequency of response: 29
Average burden per response: 12 minutes
Estimated annual burden: 301 hours

3. Statement of Funds You Received/Statement of Funds You Provided—0960-0481—The information collected on forms SSA-2854 and SSA-2855 is used by the Social Security Administration to verify an allegation that an applicant for Supplemental Security Income (SSI) payments has received or borrowed money on an informal basis with the express intent of reimbursing the lender. Verification of informal loan arrangements are used by SSI as a basis of determining eligibility for SSI payments. The respondents are representative payees of SSI recipients and recipients of SSI capable of managing their own resources.

Number of respondents: 40,000
Frequency of response: 1
Average burden per response: 10 minutes
Estimated annual burden: 6,667 hours
OMB Desk Officer: Allison Herron

Written comments and recomendations regarding these information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

Dated: August 7, 1990

Ron Compston,

Social Security Administration, Reports Clearance Officer.

[FR Doc. 90-21583 Filed 9-12-90; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-1917; FR-2606-N-89]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized and underutilized Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

EFFECTIVE DATE: September 14, 1990.

ADDRESSES: For further information, contact James Forsberg, Room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing-impaired and speech-impaired (202) 708-2565. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88-2503-OG (D.D.C.), HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property.

The Order requires HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which unutilized or underutilized Federal properties may be made available to the homeless. Under section 501(a), HUD is to collect information from Federal landholding agencies about such properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and the Administrator of General Services (GSA), which of those properties are suitable for facilities to assist the homeless. The Order requires HUD to publish, on a weekly basis, a Notice in the **Federal Register** identifying the properties determined as suitable.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit to HUD: (1) its intention to declare the property excess to the agency's need or to make the property available on an interim basis for use as facilities to assist the homeless; or (2) a statement of the reasons that the property cannot be declared excess or made available on an interim basis for use as facilities to assist the homeless.

First, if the landholding agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis the property will no longer be available.

Second, if the landholding agency declares the property excess to the agency's need, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law and the December 12, 1988 Order and December 14, 1988 Memorandum, subject to screening for other Federal use.

Homeless assistance providers interested in any property identified as suitable in this Notice should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17a-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit such written expressions of interest within 30 days from the date of this Notice. For complete details concerning the timing and processing of applications, the reader is encouraged to refer to HUD's Federal Register Notice on June 23, 1989 (54 FR 26421), as corrected on July 3, 1989 (54 FR 27975).

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: HQ-DA, Attn: DAEN-ZCI-P-Roberts Conte; Room 1E671 Pentagon, Washington, DC 20360-2600; (202) 693-4583; U.S. Air Force: H. L. Lovejoy, Bolling AFB, HQ-USAF/LEER, Washington, DC 20332-5000; (202) 767-4191; GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 501-0067; Dept. of Interior: Lola D. Knight, Department of Interior, 18th and C Sts. NW., Mailstop 5512, Washington, DC 20240; (202) 343-2704. (These are not toll-free numbers.)

Dated: September 7, 1990.

Paul Roitman Bardack,

Deputy Assistant Secretary for Economic Development.

Suitable Land (by State)

New Mexico

"H" Facility, Roswell
Roswell, NM, Co: Chaves
Location: Off U.S. Highway 285
Landholding Agency: GSA
Property Number: 549030007
Status: Excess
Comment: 7.998 acres with 420 sq. ft.; wood frame building and antenna tower; needs rehab; potential use for building—storage
GSA No: 7-W-NM-471-B

New York

Mobile Street Portion
Transmitter Facility
Sayville Inter. Flight Service Trans. Fac.
Islip, NY, Co: Suffolk
Location: Near Mobile Street
Landholding Agency: GSA
Property Number: 549030008
Status: Excess
Comment: 25.947 acres; potential utilities; potential environmental restrictions
GSA No: 2-U-NY-0590E

Suitable Buildings (by State)

Arkansas

U.S. Army Garrison
Fort Chaffee
3727 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030243
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3728 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030244
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3729 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030245
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3730 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030246
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3731 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030247
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3732 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030248
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital red cross office.

U.S. Army Garrison
Fort Chaffee
3733 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030249
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital exchamge.

U.S. Army Garrison
Fort Chaffee
3734 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030250
Status: Underutilized
Comment: 3386 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3735 1st Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030251
Status: Underutilized
Comment: 3386 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3737 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030252
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3738 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030253
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital mess hall.

U.S. Army Garrison
Fort Chaffee
3739 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030254
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3740 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030255
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital mess hall.

U.S. Army Garrison
Fort Chaffee
3741 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030256
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3742 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030257
Status: Underutilized
Comment: 5722 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab;

potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3743 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030258
Status: Underutilized
Comment: 1579 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3744 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030259
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3745 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030260
Status: Underutilized
Comment: 3629 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital ward.

U.S. Army Garrison
Fort Chaffee
3746 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030261
Status: Underutilized
Comment: 3386 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital warehouse.

U.S. Army Garrison
Fort Chaffee
3747 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030262
Status: Underutilized
Comment: 3408 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital warehouse.

U.S. Army Garrison
Fort Chaffee
3748 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030263
Status: Underutilized
Comment: 3372 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital warehouse.

U.S. Army Garrison
Fort Chaffee
3749 2nd Hospital Street
Fort Chaffee, AR, Co: Sebastian
Landholding Agency: Army
Property Number: 219030264
Status: Underutilized
Comment: 3618 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; potential utilities; most recent use—hospital warehouse.

Illinois

Bldg. 9
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030224
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restrictions.

Bldg. 11
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030225
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restrictions.

Bldg. 12
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030226
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restrictions.

Bldg. 13
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030227
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 14
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030228
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restrictions.

Bldg. 21
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030229
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 22
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030230
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 23
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030231
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 24
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030232
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 32
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030233
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 33
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030234
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 35
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030235
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 37
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030236
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 39
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030237
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 41
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030238
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 49
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030239
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 51
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030240
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 53
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030241
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 55
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030242
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 56
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030243
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 57
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030244
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 58
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030245
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 59
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030246
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 60
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030247
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 61
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030248
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 62
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030249
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 63
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030250
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 64
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030251
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 65
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030252
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 66
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030253
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 67
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030254
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 68
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030255
Status: Unutilized Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction;

Bldg. 69
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030256
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 70
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force

Property Number: 189030257
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 71
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030258
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 73
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: 189030259
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 74
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030260
Status Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 75
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number 189030261
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 77
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030262
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 78
Chanute Air Force Base
Chapman Courts
Rantoul, Il, Co.: Champaign
Landholding Agency: Air Force Force
Property Number: 189030263
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 79
Chanute Air Force Base
Chapman Courts
Rantoul, Il, Co.: Champaign
Landholding Agency: Air Force Force
Property Number: 189030264
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 80
Chanute Air Force Base
Chapman Courts
Rantoul, Il, Co.: Champaign
Landholding Agency: Air Force Force
Property Number: 189030265
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 81
Chanute Air Force Base
Chapman Courts
Rantoul, Il, Co.: Champaign
Landholding Agency: Air Force Force
Property Number: 189030266
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab. possible asbestos; possible easement restriction.

Bldg. 82
Chanute Air Force Base
Chapman Courts
Rantoul, Il, Co.: Champaign
Landholding Agency: Air Force Force
Property Number: 189030267
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 83
Chanute Air Force Base
Chapman Courts
Rantoul, Il, Co.: Champaign
Landholding Agency: Air Force Force
Property Number: 189030268
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 84
Chanute Air Force Base
Chapman Courts
Rantoul, Il, Co.: Champaign
Landholding Agency: Air Force Force
Property Number: 189030269
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab, possible asbestos; possible easement restriction.

Bldg. 87
Chanute Air Force Base
Chapman Courts
Rantoul, Il, Co.: Champaign
Landholding Agency: Air Force Force
Property Number: 189030270
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 89
Chanute Air Base
Chapman Courts
Rantoul, IL, Co.: Champaign
Landholding Agency: Air Force
Property Number: 189030271
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 92
Chanute Air Base
Chapman Courts
Rantoul, IL, Co.: Champaign
Landholding Agency: Air Force
Property Number: 189030272
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 93
Chanute Air Base
Chapman Courts
Rantoul, IL, Co.: Champaign
Landholding Agency: Air Force
Property Number: 189030273
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 95
Chanute Air Base
Chapman Courts
Rantoul, IL, Co.: Champaign
Landholding Agency: Air Force
Property Number: 189030274
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos: possible easement restriction.

Bldg. 96
Chanute Air Base
Chapman Courts
Rantoul, IL, Co.: Champaign
Landholding Agency: Air Force
Property Number: 189030275
Status: Unutilized
Comment: 2-unit residential building; wood frame: termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 97
Chanute Air Base
Chapman Courts
Rantoul, IL, Co.: Champaign
Landholding Agency: Air Force
Property Number: 189030276
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 99
Chanute Air Base
Chapman Courts
Rantoul, IL, Co.: Champaign
Landholding Agency: Air Force
Property Number: 189030277
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab;

possible asbestos; possible easement restriction.

Bldg. 103
Chanute Air Base
Chapman Courts
Rantoul, IL, Co.: Champaign
Landholding Agency: Air Force
Property Number: 189030278
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 107
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030279
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 111
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030280
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 112
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030281
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 113
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030282
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 119
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030283
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 122
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030284
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 123
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030285
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 114
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030286
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 126
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030287
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 130
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030288
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 132
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030289
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 133
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030290
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 134
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030291
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 135
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030292
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 136
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030293
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 138
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030294
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 140
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030295
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 141
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030296
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 145
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030297
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 146
Chanute Air Force Base

Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030298
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 150
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030299
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 152
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030300
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 154
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030301
Status: Unutilized
Comment: 2-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 2
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030302
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 4
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030303
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 6
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030304
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 7
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030305
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 8
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030306
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 125
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030307
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restrictions.

Bldg. 127
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030308
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 128
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030309
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 129
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030310
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 131
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030311
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 153
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030312
Status: Unutilized
Comment: 4-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 15
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030313
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 17
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030314
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 18
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030315
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 19
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030316
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 20
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030317
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 26
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030318

Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 27
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030319
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 29
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030320
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 30
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030321
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 31
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030322
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 38
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030323
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 40
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030324
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 42
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030325
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 43
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030326
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 44
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030327
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 45
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030328
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 47
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030329
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 52
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030330
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 54
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030331
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 72
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030332
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 85
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030333
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 86
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030334
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 90
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030335
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 91
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030336
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 102
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030337
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 106
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030338
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab;

possible asbestos; possible easement restriction.

Bldg. 114
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030339
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 115
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030340
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 120
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030341
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 144
Chanute Air Force Base
Chapman Courts
Rantoul, IL, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030342
Status: Unutilized
Comment: 1-unit residential building; wood frame; termite damage; needs major rehab; possible asbestos; possible easement restriction.

Bldg. 5
Chanute Air Force Base Annex
Chapman Courts
Rantoul, Il, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030343
Status: Unutilized
Comment: 2707 sq. ft.; 1 story wood frame; termite damage; possible asbestos; needs major rehab; possible easement restriction; most recent use—administrative office.

Bldg. 732
Chanute Air Force Base
Rantoul, Il, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030344
Status: Unutilized
Comment: 13336 sq. ft.; 2 story wood frame; needs structural repairs; most recent use—warehouse.

Bldg. 118
Chanute Air Force Base
Rantoul, Il, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030345
Status: Unitilized
Comment: 3996 sq. ft.; 1 story wood frame; needs structural repairs; most recent use—band facility.

Bldg. 107
Chanute Air Force Base
Falcon Street
Rantoul, Il, Co: Champaign
Landholding Agency: Air Force
Property Number: 189030346
Status: Unutilized
Comment: 17118 sq. ft.; 1 story wood frame; needs rehab; potential utilities; most recent use—cold storage.

Wyoming

Administration Bldg.
Fontenelle Camp
Fontenelle, WY, Co: Lincoln
Location: Approximately 24 miles southeast of Labarge, off State Road 372 and on County Road 316.
Landholding Agency: Interior
Property Number: 619030017
Status: Excess
Comment: 4464 sq. ft.; 2 story brick structure with a 2880 sq. ft. wood frame addition; needs rehab; possible asbestos; offsite use only.

Residential House
Fontenelle Camp
Fontenelle, WY, Co: Lincoln
Location: Approximately 24 miles southeast of Labarge, off State Road 372 and on County Road 316.
Landholding Agency: Interior
Property Number: 619030018
Status: Excess
Comment: 1200 sq. ft.; 1 story with basement; needs rehab; possible asbestos; off-site use only.

Universe of Properties:

Total=153
Suitable=149
Suitable Buildings=147
Suitable Land=2
Unsuitable=4
Unsuitable Buildings=4
Unsuitable Land=0
Number of Resubmissions=1

[FR Doc. 90-21553 Filed 9-13-90; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-00-4212-11; N-37313]

Realty Action; Lease/Purchase for Recreation and Public Purposes Clark County, NV

The following described public land in Las Vegas, Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the **Federal Register.**

Mount Diablo Meridian, Nevada

T. 19 S., R. 60 E.,
Sec. 32, W½NE¼NW¼.

Aggregating 20 acres (gross)

This parcel of land contains approximately 20 acres. The City of Las Vegas intends to use the land for a park site. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County.

2. Those rights for communication line purposes which have been granted to Central Telephone Company by Permit No. N-10593 under the Act of March 4, 1911.

3. Those rights for power distribution line purposes which have been granted to Nevada Power Company by Permit No. N-10394 under the Act of February 15, 1901.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register**.

Dated: September 7, 1990.

Gary Ryan,

Acting District Manager, Las Vegas, NV.

[FR Doc. 90-21627 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-00-4212-14; N-53110]

Realty Action; Non-Competitive Sale of Public Lands in Clark County, NV; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of correction.

SUMMARY: The notice of realty action published on page 22861 of the June 4, 1990 edition of the Federal Register (FR Doc. 90-12759), erroneously described the lands in Sec. 18 and Sec. 19, T. 19 S., R. 61 E., MDM. The correct legal description of the lands to be offered for sale to the City of North Las Vegas is as follows, in accordance with the dependent resurvey accepted on May 4, 1990:

Mount Diablo Meridian, Nevada

T. 19 S., R. 61 E.,

Sec. 13, N½, NE¼SW¼, SE¼;
Sec. 14, N½;
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 18, lots 5 to 20, inclusive;
Sec. 19, lots 5 to 18, inclusive;
Sec. 20;
Sec. 21, N½;
Sec. 23, N½NE¼, SW¼NE¼, E½NW¼;
Sec. 24, N½, NE¼SW¼, N½SE¼, SW¼SE¼.

T. 19 S., R. 62 E.,

Sec. 18, lots 1 to 4, inclusive, E½, E½W½;
Sec. 19, lots 1 to 4, inclusive, E½, E½W½;
Sec. 20.

Aggregating 7,534.27 acres (gross).

All other terms and conditions of the June 4, 1990 notice of realty action remain unchanged.

Dated: September 10, 1990.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 90-21628 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-00-4212-14; N-45233]

Realty Action; Non-competitive Sale of Public Lands in Clark County, NV

The following described public land in the town of Mesquite, Clark County, Nevada has been determined to be suitable for sale utilizing non-competitive procedures under the Act of October 27, 1986; 100 Stat. 3061 (Pub. L. 99-548).

T. 13 S., R. 70 E., M.D.M., Nevada

Section 13: SE¼NE¼, NE¼SE¼.

Comprising 80.0 acres of public land

These lands are being offered as a direct sale to the City of Mesquite as a result of Public Law 99-548, which directs the Secretary of the Interior to sell certain public lands to allow for community expansion. The lands will be sold at not less than fair market value as determined by an appraisal. A deposit of fifteen (15) percent of the appraised fair market value must be paid to the Bureau of Land Management, Las Vegas District Office, no later than thirty (30) days from sale offering.

The balance of the full purchase price shall be paid within 180 days of the City's posting of sale deposit.

The subject land is not needed for any federal purpose which is compatible with the applicable land use plan. The sale of this parcel would be in the public interest.

Conveyance of the available mineral estate except for oil, gas, sodium, potassium, sand and gravel will occur simultaneously with the sale of the land. The subject lands have no known mineral values, with the exeception of oil, gas, sodium and potassium. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a $50.00 non-returnable filing fee for conveyance of the available mineral interests.

Lands to be transferred from the United States will be subject to the following easements, reservations and exceptions.

1. Excepting and reserving to the United States of America a right-of-way for ditches and canals constructed pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

2. Mineral deposits, which only include oil, gas, sodium, potassium, sand and gravels, is reserved to the United States, together with the right to prospect for, mine and extract these minerals.

Publication of this notice in the Federal Register will segregate the public lands described above from all forms of appropriation under the public land laws, including the general mining laws for a period of 270 days from date of publication.

For a period of 45 days from date of first publication, interested parties may submit comments or request information from the District Manager, Las Vegas District, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126.

Dated: September 7, 1990.

Gary Ryan,

Acting District Manager, Las Vegas, NV.

[FR Doc. 90-21629 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-HC-M

[UT-020-00-4212-13; U-54864]

Realty Action; Exchange of Lands in Box Elder County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action. Exchange of Lands in Box Elder County, Utah.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1716):

T. 12N., R. 14W. SLM,
Section 1, Lot 3, SE¼NW¼;
Section 3, E½SE¼.
Containing 160.98 acres.

In exchange for these lands, the United States will acquire the following described lands from Robert Montgomery:

T. 12N., R. 14W., SLM,
Section 20, SW¼.
Containing 160.00 acres.

The exchange benefits the United States by allowing the disposal of an area with difficult management problems as identified in the Box Elder Resource Management Plan.

The terms and conditions applicable to the exchange are:

A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

The exchange is for the surface estate only on both the offered and selected lands.

There will be no change in forage allocation in the Dove Creek allotment as a result of this exchange.

The publication of this notice in the Federal Register will segregate the public lands described above for a period of 2 years from the date of first publication to the extent that they will not be subject to appropriation under the public lands laws, including the mining laws. As provided by the regulations in 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange, including the environmental analysis and the record of public discussions, is available for review at the Salt Lake District Office, 2370 South 2300 West, Salt Lake City, Utah 84119.

Deane H. Zeller,

District Manager.

[FR Doc. 90-21729 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-DQ-M

[UT-943-00-4212-13; U-61930]

Notice of Issuance of Land Exchange Conveyance Document; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands.

SUMMARY: This action informs the public of the conveyance of 43.16 acres of public land out of Federal ownership. This action will also open 40.00 acres of reconveyed lands to surface entry.

FOR FURTHER INFORMATION CONTACT: Mike Barnes, BLM Utah State Office, 324 South State Street, P.O. Box 45155, Salt Lake City, Utah 84145-0155, 801-539-4119.

SUPPLEMENTARY INFORMATION:

1. The United States has issued an exchange conveyance document to George Searle and Miles Searle, for the following described lands pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756; 43 U.S.C. 1716:

Salt Lake Meridian, Utah

T. 1 S., R. 24 E.,
Sec. 19, lot 5.
Containing 43.16 acres.

2. In exchange for these lands, the United States acquired the surface of the following described lands.

Salt Lake Meridian, Utah

T. 3 S., R. 23 E.,
Sec. 1, SW¼NW¼.
Containing 40.00 acres.

3. At 7:45 a.m., on October 15, 1990, the lands described in paragraph 2 will be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 7:45 a.m., on the date stated above, will be considered as simultaneously filed at the time. Those received thereafter will be considered in the order of filing.

4. The purpose of this exchange was to block and consolidate lands making them easier to manage. The public interest was served through the completion of this exchange.

5. The appraised value of both the public and private land transferred was equal at $6,500 each.

James M. Parker,

State Director.

[FR Doc. 90-21728 Filed 9-13-90; 8:45 am]

BILLING CODE 4310-DQ-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 22)]

Intrastate Rail Rate Authority; New Mexico

AGENCY: Interstate Commerce Commission.

ACTION: Extension of provisional recertification.

SUMMARY: By decision served March 13, 1990, the Commission provisionally recertified New Mexico, through its State Corporation Commission, to regulate intrastate rail rates, practices, and procedures. Pursuant to a request from New Mexico, the Commission extends the provisional recertification for another 180-days so that New Mexico can complete modifications of its standards and procedures and prepare an application for recertification in compliance with *State Intrastate Rail Rate Authority*, 5 I.C.C.2d 680 (1989).

DATES: New Mexico's provisional recertification is extended for 180 days from September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 275-7245. (TDD for hearing impaired: (202) 275-1721).

Decided: September 10, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90-21714 Filed 9-13-90; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 360X)]

CSX Transporation, Inc.; Abandonment Exemption, in Putnam County, IN

Applicant has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon its 9.69-mile line of railroad between milepost 159.8 (valuation station 8545+30), at Roachdale, and milepost 169.49 (valuation station 8034+00) at Russellville, in Putnam County, IN.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on October 14, 1990 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by September 24, 1990.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by October 4, 1990, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Lawrence H. Richmond, CSX Transportation, Inc., 100 North Charles Street, Baltimore, MD 21201.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C. 2d 377 (1989). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—offers of Finan. Assist.*, 4 I.C.C. 2d 164 (1987).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by September 19, 1990. Interested persons may obtain a copy of the EA from SEE by writing to it (room 3219, Interstate Commerce Commission, Washington, DC 20423) or by calling Elaine Kaiser, Chief, SEE at (202) 275–7684. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: September 5, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–21713 Filed 9–13–90; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55 (Sub-No. 342X)]

CSX Transportation, Inc.; Abandonment Exemption Between Athens and Little Hocking, in Athens and Washington Counties, OH

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, CSX Transportation, Inc.'s abandonment of a 27.57-mile line in Athens and Washington Counties, OH, subject to certain environmental and standard labor protective conditions.

DATES: Unless a formal expression of intent to file an offer of financial assistance is received, this exemption will be effective on October 14, 1990. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by September 24, 1990, petitions to stay must be filed by October 1, 1990, and petitions for reconsideration must be filed by October 9, 1990. Requests for a public use condition must be filed by September 24, 1990.

ADDRESSES: Send pleadings referring to Docket No. AB–55 (Sub-No. 342X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representatives: Lawrence H. Richmond, 100 N. Charles Street, Baltimore, MD 21201 and

Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359.

Decided: September 7, 1990.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–21712 Filed 9–13–90; 8:45 am]

BILLING CODE 7035–01–M

[1] *See Exemp. of Rail Line Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the Federal Register on December 22, 1987 (52 FR 48440–48446).

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a registration under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on February 2, 1990, Astra Pharmaceutical Products, Inc., 50 Otis Street, Westboro, MA 01581, made application to the Drug Enforcement Administration to be registered as an importer of Cocaine (9041) a basic class of controlled substance in Schedule II.

Astra Pharmaceutical Products, Inc., contends that the substance is necessary to provide for medical, scientific and other legitimate needs of the United States during an emergency where domestic supplies of such substance is found to be inadequate and that competition among domestic manfacturers of the controlled substance is inadequate and will not be rendered adequate by the registration of additional manufacturers under section 303 of the Controlled Substances Act (21 U.S.C. 823).

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, 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 October 15, 1990.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42(b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42(a), (b), (c), (d), (e) and (f) are satisfied.

Dated: September 4, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90–21794 Filed 9–13–90; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and machanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., room S-3014, Washington, DC 20210.

New General Wage Determinations Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page numbers(s).

Volume III

Utah:	
UT90-6	p. 368e, p. 368f.
UT90-7	p. 368g, pp. 368h-368j.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Connecticut:	
CT90-1 (Jan. 5, 1990)	p. 63, pp. 64-65.
Florida:	
FL90-17 (Jan. 5, 1990)	p. 143, pp. 144-145.
Massachusetts:	
MA90-1 (Jan. 5, 1990)	p. 399, pp. 401, 408.
Pennsylvania:	
PA90-1 (Jan. 5, 1990)	p. 909, pp. 910-913, pp. 916-917.
PA90-2 (Jan. 5, 1990)	p. 921, p. 922.

Volume II

Arkansas:	
AR90-1 (Jan. 5, 1990)	p. 3, p. 4.
Illinois:	
IL90-12 (Jan. 5, 1990)	p. 161, p. 162.
IL90-14 (Jan. 5, 1990)	p. 185, p. 186.
Indiana:	
IN90-2 (Jan. 5, 1990)	p. 249, pp. 250, 252-254.
IN90-4 (Jan. 5, 1990)	p. 279, pp. 280, 282-283.

Volume III

Colorado:	
CO90-4 (Jan. 5, 1990)	p. 125, p. 126.
CO90-6 (Jan. 5, 1990)	p. 132e, p. 132f.
North Dakota:	
ND90-2 (Jan. 5, 1990)	p. 229, p. 231
Utah:	
UT90-1 (Jan. 5, 1990)	p. 343, pp. 347, 351-352.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 6th day of Sept. 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-21350 Filed 9-13-90; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-24, 497; TA-W-24, 498]

Exxon Company, USA Denver, Co; Midland, TX

Dismissal of Applications for Reconsideration Pursuant to 29 CFR

90.18 applications for administrative reconsideration were filed with the Director of the Office of trade Adjustment Assistance for workers at the Exxon Company, USA, Denver, Colorado and Midland, Texas. The reviews indicated that the applications contained no new substantial information which would bear imporatntly on the Department's determinations. Therefore dismissal of the applications were issued.

TA-W-24, 497; Exxon Company, USA, Denver, Colorado (September 7, 1990)
TA-W-24, 498; Exxon Company, USA, Midland, Texas (September 7, 1990).

Signed at Washington, DC this 10th day of September 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-21725 Filed 9-13-90; 8:45 am]

BILLING CODE 4510-30-M

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 September 24, 1990.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 24, 1990.

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, 601 D Street, NW., Washington, DC 20213.

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

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
ACA Lumber, Inc. (Company)	Beaver, WA	09/4/90	08/24/90	TA-W-24,790	Cedar lumber.
Almet/Lawnlite, Inc. (IUE)	Vernon, CA	09/4/90	08/22/90	TA-W-24,791	Aluminum outdoor furniture.
Boutique Knit Mills (Workers)	Woodside, NY	09/4/90	08/23/90	TA-W-24,792	Ladies sweaters.
Cemco Products, Inc., American Bath (Wkrs)	Horizon City, TX	09/4/90	08/22/90	TA-W-24,793	Bathroom vanities.
Cross Cotton Mills, Inc. (Workers)	Marion, NC	09/4/90	08/23/90	TA-W-24,794	Cotton and synthetic yarn.
Forest Ridge Co. (Workers)	Centralia, WA	09/4/90	08/24/90	TA-W-24,795	Shakes and shingles.
General Electric Aerospace (IUE)	Pittsfield, MA	09/4/90	08/17/90	TA-W-24,796	Circuit boards.
General Electric Aerospace (IAMAW)	Utica, NY	09/4/90	08/21/90	TA-W-24,797	Sheet metal and circuit boards.
General Electric (Company)	Mattoon, IL	09/4/90	08/20/90	TA-W-24,798	Lighting products.
Medford Corp. (IWA)	Medford, OR	09/4/90	08/20/90	TA-W-24,799	Plywood.
National Cooperative Refinery Assoc. (Wkrs)	McPherson, KS	09/4/90	08/14/90	TA-W-24,800	Crude oil, natural gas.
Oil Industry Supply Co., Inc. (Company)	Pleasantville, PA	09/4/90	08/20/90	TA-W-24,801	Oilfield equipment.
Roy Pettit Chevron (Company)	Midland, TX	09/4/90	08/01/90	TA-W-24,802	Oil and gas.
Schindler Elevator Corp. (IBEW)	Randolph, NJ	09/4/90	08/19/90	TA-W-24,803	Elevator and escalators.
Simonds Industries, Inc. (USWA)	Newcomerstown, OH	09/4/90	08/24/90	TA-W-24,804	Industrial files.
Taunton Silversmith Ltd. (IUE)	Taunton, MA	09/4/90	08/16/90	TA-W-24,805	Silverplated holloware sets.
U-Brand Corp. (IAM)	Ashland, OH	09/4/90	08/17/90	TA-W-24,806	Pipe fittings.
U-Brand Corp. (IAM)	Shelby, OH	09/4/90	08/17/90	TA-W-24,807	Pipe fittings.
Wamco Lab. (Company)	Casper, WY	09/4/90	08/16/90	TA-W-24,808	Oilfield services.
Wilson Industries, Downhole Div. (Co.)	Elk City, OK	09/4/90	08/21/90	TA-W-24,809	Oilfield equipment.
Wilson Industries, Houston Engineers (Company)	Elk City, OK	09/4/90	08/21/90	TA-W-24,810	Oilfield equipment.

[FR Doc. 90-21723 Filed 9-13-90; 8:45 am]

BILLING CODE 4510-30-M

Notice of Determinations 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 herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 1990.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-24,555; The Kittinger Co., Buffalo, NY
TA-W-24,687; GBC Industries, Cinnaminson, NJ
TA-W-24,578; Lawn-Boy, Inc., Plymouth, WI
TA-W-24,575; G.T.I. of Ohio, Inc., Englewood, CO
TA-W-24,595; Canton Castings, Inc., Canton, OH

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-24,617; Oklahoma Pipe Threaders, Wynnewood, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-24,627; Washita Valley Enterprises, Inc., Wynnewood, OK

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-24,610; Leica, Inc., Buffalo, NY

A certification was issued covering all workers separated on or after June 25, 1989.

TA-W-24,572; Fawn Industries, Inc., Rocky Mount, NC

A certification was issued covering all workers separated on or after April 17, 1989.

TA-W-24,589; Cluett Shirt Group (Alatex), Andalusia, AL

A certification was issued covering all workers separated on or after June 2, 1990.

TA-W-24,744; Health-Tex, Inc., Gadsden, AL

A certification was issued covering all workers separated on or after June 13, 1989.

TA-W-24,537; Tipperary Corp., Denver, CO

A certification was issued covering all workers separated on or after June 5, 1989.

TA-W-24,573; General Tire, Inc., Mayfield, KY

A certification was issued covering all workers separated on or after June 20, 1989.

TA-W-24,525; Hilltop Clothing, Inc., Brownsville, PA

A certification was issued covering all workers separated on or after May 22, 1989.

TA-W-24,544; Comptec, Inc., Custer, WA

A certification was issued covering all workers separated on or after May 30, 1989.

TA-W-24,567; Breed Automotive Manufacturing, Inc., Boonton Township, NJ

A certification was issued covering all workers separated on or after June 1, 1989.

I hereby certify that the aforementioned determinations were issued duirng the month of August 1990. Copies of these determinations are available for inspection in room 6434, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons to write to the above address.

Dated: September 10, 1990.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 90-21724 Filed 9-13-90; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-74]

Advisory Committee on the Future of the U.S. Space Program; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the Advisory Committee on the Future of the U.S. Space Program (hereafter referred to as the "Advisory Committee").

DATES: September 28, 1990, 8 a.m. to 6 p.m.; and September 29, 1990, 8:30 a.m. to 1 p.m.

ADDRESSES: National Aeronautics and Space Administration, room 7002, Federal Office Building 6, 400 Maryland Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. James D. Bain, Code ADA-1, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-2409.

SUPPLEMENTARY INFORMATION: The Vice President, in his capacity as head of the National Space Council, has determined that it is appropriate for the National Aeronautics and Space Administration to establish the Advisory Committee to look into the future of the U.S. space program. The Advisory Committee will report to the Vice President and the NASA Administrator on the future of the U.S. space program, to include various projects, objectives, and methods to implement those projects and objectives for the coming decades. The Advisory Committee is chaired by Mr. Norman R. Augustine and is composed of 12 members, selected from a cross section of qualified individuals with an extensive knowledge of space activities and broad technical and managerial expertise.

The meeting will be open to the public up to the seating capacity of the room, which is approximately 60 persons including Advisory Committee members and other participants. It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Interested members of the public are encouraged to send written comments regarding the work of the Advisory Committee to Mr. Norman R. Augustine, Chairman and Chief Executive Officer, Martin Marietta Corporation, 6801 Rockledge Drive, Bethesda, MD 20817.

Type of Meeting: Open.

Agenda:

Friday, September 28, 1990.

8 a.m.—Introductory Remarks.

8:15 a.m.—Overview of NASA Centers and Discussion of Issues and Interactions with Centers Directors.

6 p.m.—Adjorun.

Saturday, September 29, 1990.

8:30 a.m.—Review of Studies on Space Programs and Discussions on Their Implications.

1 p.m.—Adjourn.

Dated: September 10, 1990

John W. Gaff,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 90-21701 Filed 9-13-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before October 29, 1990. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending: 1. Defense Logistics Agency (N1-361-90-1). Routine and facilitative records relating to installation services.

2. Department of Agriculture, Extension Service (N1-33-90-1). Comprehensive Schedule.

3. Department of Commerce, Bureau of Export Administration, Office of Antiboycott Compliance (N1-476-90-7). Comprehensive Schedule.

4. Executive Office of the President, Office of National Drug Control Policy (N1-429-90-1). Facilitative records of the National Drug Policy Board, 1985-89.

5. Office of Economic Opportunity (N1-381-90-2). Legal services records and contract proposals.

6. Department of Justice, Immigration and Naturalization Service (N1-85-90-5). Litigation case files and legislative reference files.

7. Small Business Administration, Office of Administrative Services (N1-309-90-2). Grant records, audiovisual records, and facilitative records.

8. Department of State, Office of Operations and Bureau of African Affairs (N1-59-90-15). Routine and facilitative records.

9. Department of State, Bureau of Personnel, Office of International Trade and Resources, and Under Secretary for Economic Affairs (N1-59-90-16). Routine and facilitative records.

10. Department of State, Office of Security (N1-59-90-17). Routine and facilitative records and reference files.

11. Department of State, Bureau of Public Affairs (N1-59-90-18). Routine and facilitative records relating to the international exchange program.

12. Department of State, Bureau of Far Eastern Affairs and Deputy Under Secretary for Economic Affairs (N1-59-90-19). Routine and reference files.

13. Department of State, U.S. Embassy Rome (N1-84-90-2). Claims files.

Dated: September 7, 1990.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 90-21693 Filed 9-13-90; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL COMMUNICATIONS SYSTEM

Meeting; Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee

A meeting of the Industry Executive Subcommittee of the National Security Telecommunications Advisory Committee will be held on Wednesday, November 7, 1990. The meeting will be held at the MITRE-Hayes Building, 7525 Colshire Dr., McLean, VA 27006. The meeting will start at 9 a.m. The agenda is as follows:

A. Opening remarks.
B. Administrative remarks.
C. Briefings on industry and Government activities.

Due to the requirement to discuss classified information, in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202) 692-9274 or write the Manager, National Communications System, Washington, DC 20305-2010.

Terrence N. Danner,

Captain, USN, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 90-21711 Filed 9-13-90; 8:45 am]

BILLING CODE 3610-05-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before October 15, 1990.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506, (202-786-0494), and Mr. Daniel Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue NW., room 310, Washngton, DC 20506, (202) 786-0494, from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries is subject to 44 U.S.C. 3504(h).

Category: Extension

Title: Application, Evaluation, and Report of NEH Travel to Collections Grants.

Form Number: OMB No. 3130:0065.

Frequency of Collection: Twice yearly. Applicants apply only when they need support.

Respondents: Humanities researchers.

Use: Application for funding.

Estimated Number of Respondents: 1,820.

Frequency of Response: 4.51.

Estimated Hours for Respondents to Provide Information: 4.81 per respondent.

Estimated Total Annual Reporting and Recording Burden: 8,750 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 90-21748 Filed 9-13-90; 8:45 am]

BILLING CODE 7536-01-M

Grants: Availability for Fiscal Year 1991

AGENCY: Institute of Museum Services, NFAH.

ACTION: Grant application availability notice for fiscal year 1991.

This grant application announcement applies to the General Operating Support (GOS), Conservation Project Support (CP), Conservation Assessment Program (CAP), Museum Assessment Program (MAP), Museum Assessment Program II (MAP II), Museum Assessment Program III (MAP III) and Professional Services Program (PSP) awards under 45 CFR part 1180 for fiscal year 1990.

NATURE OF PROGRAM: Museums meeting the definitions in 45 CFR 1180.3 may apply for these programs. The definition of "Museum" includes (but is not limited to) the following institutions if they satisfy the other provisions of this section: Aquariums and zoological parks; botanical gardens and arboretums; nature centers; museums relating to art, history (including historic buildings), natural history, science and technology; and planetariums. The purpose of these awards is to ease the financial burden borne by museums as a result of their increased use by the public and to help them carry out their educational role, as well as other functions.

GOS

IMS makes awards under the GOS program to museums to maintain, increase, or improve museum services through support for basic general operating expenses.

CP

Awards are made through the Conservation Project Support Program (CP) to assist with the conservation of museum collections, both living and non-living.

CAP

Awards are made through CAP to provide an overall assessment of the condition of a museum's environment and collections to identify conservation needs and priorities. CAP is a non-competitive, one-time funding opportunity, offered on a first-come, first-served basis. It is administered in cooperation with the National Institute for Conservation. See 45 CFR part 1180, subpart D.

MAP

The Museum Assessment Program funds an overall assessment of a museum's operations. The Museum Assessment Program II funds an assessment of the museum's collection-related policies. The Museum Assessment Program III provides as assessment of the public dimension of museum operations. All of the Museum Assessment Programs are non-competitive, one-time funding opportunities, offered on a first come, first-served basis. The Museum Assessment Programs are administered in cooperation with the American Association of Museums through a memorandum of understanding. See 45 CFR part 1180, subpart D.

PSP

This program provides matching funds to professional museums associations for projects that serve the museum community.

Section 206 of the Museum Services Act, title II of Public Law 94-462, as amended, contains authority for these programs. (20 U.S.C. 965)

Deadline Date for Transmittal of Applications: Applications must be mailed or hand-delivered by the deadline date:

Program	Deadline
GOS	November 2, 1990.
CP	January 25, 1991.
CAP	December 7, 1990.
MAP I	October 26, 1990. April 26, 1991.
MAP II	January 25, 1991. July 26, 1991.
MAP III	August 16, 1991.
PSP	April 5, 1991.

For GOS, CP and PSP

Applications that are sent by mail must be addressed to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., room 609, Washington, DC 20506.

An applicant must be prepared to show one of the following as proof of timely mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other dated proof of mailing acceptable to the Director of IMS.

If any application is mailed through the U.S. Postal Service, the Director does not accept either of the following as proof of mailing: (1) A private metered postmark; or (2) a mail receipt that is not date-cancelled by the U.S. Postal Service.

Applications that are hand-delivered must be taken to the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., room 609, Washington, DC 20506. Hand-delivered applications will be accepted between 9 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. An application that is hand-delivered will not be accepted after 4:30 p.m. on the deadline date.

For MAP I, MAP II and MAP III

Applicants must apply to IMS through the American Association of Museums. IMS supplies the AAM with application forms and instructions. These are forwarded by AAM to applicant museums. The Director of IMS approves applications meeting the MAP and MAP II requirements on a first-come, first-served basis (i.e., in the order in which an application is received and has been determined to have met applicable requirements). Applications will be approved for awards, subject to the availability of funds. If a museum's MAP, MAP II or MAP III application is received on or before the indicated dates, it will be processed together with other MAP, MAP II, or MAP III applications received during that period. Applications received after the indicated dates will be processed during the subsequent MAP, or MAP II periods. There is only one deadline for MAP III. In no event will MAP applications received after April 27, 1990, MAP II applications received after July 27, 1990, or MAP III applications received after August 16, 1991 be processed for Fiscal Year 1991 awards. Applicants should contact the American Association of Museums, 1225 Eye St., NW., Washington, DC 20005, for application packets.

For CAP

Applicants must apply to IMS through the National Institute for Conservation (NIC). IMS supplies the NIC with applications forms and instructions. These are forwarded by NIC to applicant museums. The Director of IMS approves applications meeting the CAP requirements on a first-come, first-served basis (i.e., in the order in which an application is received and has been determined to have met applicable requirements). Applications will be approved for awards, subject to the availability of funds. Applications must be received by December 7, 1990. Applications for FY 1991 awards which cannot be funded will not be carried over to the next fiscal year. All unfunded applicants who wish to receive an award in the subsequent year, must reapply. Interested parties should contact the National Institute for Conservation, 3299 K St. NW., suite 403, Washington, DC 20007 for applications.

Program Information

GOS program regulations are contained in 45 CFR XI 1180.7 (1988) and related provisions.

CP program regulations are contained in 45 CFR 1180.20 (1988) and related provisions.

CAP and MAP program regulations are contained in 45 CFR 1180, subpart D (1988).

PSP program regulations are contained in 45 CFR 1180, subpart E (1988)

Further program information may be found in the Application forms and accompanying instructions in the Application. See paragraph on Application Forms.

Available Funds: As of publication time, funds for fiscal year 1991 have not been appropriated. Figures given in this section pertain to available funds for the 1990 fiscal year.

GOS

For FY 1990, $17,625,000 was available for this program. The maximum grant was $75,000 in FY 90 and is determined each year by the National Museum Services Board. Most museums that are funded will receive a smaller amount. (45 CFR 1180.9) IMS normally does not make grants for more than 10 percent of a museums' most recently completed fiscal year's non-federal operating income (See 45 CFR 1180.16(b)).

CP

For FY 1990, $2,650,000 was available for this program. Normally, IMS makes matching conservation grants of no more than $25,000 in Federal funds. Unless otherwise provided by law, if the Director determines that exceptional circumstances warrant, the Director, with the advice of the Board, may award a Conservation Project Support grant which obligates in excess of $25,000 in Federal funds. The Director may make such a determination with respect to a category of Conservation grants by notice published in the **Federal Register**. IMS awards Conservation Project Support grants only on a matching basis. At least 50 percent of the costs of a project must be met with non-federal funds. (See 45 CFR 1180.20 (f)).

CAP

For FY 1990, $550,000 was available for this program.

MAP, MAP II, MAP III

For FY 1990, $400,000 was available for this program.

PSP

For FY 1990, $250,000 was available for this program. This program provides matching funds for cooperative agreements that generally do not exceed $50,000.

Funding Priorities for Conservation Project Support Program: The National Museum Services Board, by notice published in the **Federal Register**, may establish priorities among the types of projects. IMS Conservation Project Support guidelines identify four broad categories of museum collections: Non-living; systematics/natural history collections; living collections/animals; and living collections/plants. For each of the categories, with the exception of living collections/animals, the funding priority is a general conservation survey of collections and environmental conditions including, development of institutional long-range conservation plans. For living collections/animals the funding priority is research for improved conservation techniques.

Application Forms: IMS mails application forms and program information in a General Operating Support, Conservation Project Support and Professional Services Program application packets to museums and other institutions on its mailing list. Applicants may obtain application packets by writing or telephoning the Institute of Museum Services, 1100 Pennsylvania Avenue, NW., room 609, Washington, DC 20506, (202/786–0539).

To receive an application for the Conservation Assessment Program contact the National Institute for Conservation, 3299 K Street, NW., suite 403, Washington, DC 20007, (202/625–1495).

To receive an application for the Museum Assessment Programs contact the American Association of Museums, 1225 Eye St., NW., Washington, DC 20005, (202/289–1818).

FURTHER INFORMATION: For further information contact Mamie Bittner, Public Information Officer, Institute of Museum Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. Telephone: (202) 786–0536.

(Catalogue of Federal Domestic Assistance No. 45.301 Institute of Museum Services)

Dated: September 10, 1990.

Daphne Wood Murray,

Director, Institute of Museum Services.

[FR Doc. 90–21749 Filed 9–13–90; 8:45 am]

BILLING CODE 7036-01-M

NATIONAL SCIENCE FOUNDATION

Panel for Instrumentation and Instrument Development for the Biological and Behavioral Sciences; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel Meeting for Instrumentation and Instrument Development.

Date and Time: Thursday, October 4, 1990 from 9 a.m.–6 p.m.; Friday, October 5, 1990 from 8:30 a.m.–6 p.m.

Place: Wyndham Bristol Hotel, Potomac I room, 2430 Pennsylvania Avenue NW., Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: Dr. Robley Light, Program Director or Anthony Boccanfuso, Program Associate Instrumentation and Instrument Development, Washington, DC 20550, Telephone: 202/357–7652.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for Instrumentation equipment.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90–21637 Filed 9–13–90; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Population Biology and Physiological Ecology Advisory Panel Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Population Biology and Physiological Ecology.

Date and Time: October 3–5, 1990; 8:30 a.m. to 5 p.m. each day.

Place: Room 1242, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Carol B. Lynch, Program Director, Population Biology and Physiological Ecology, (202) 375–9728, room 215, National Science Foundation, Washington, DC 20550.

Purpose of Meeting: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR DOC. 90–21638 Filed 9–13–90; 8:45 am]

BILLING CODE 7555-01-M

Systematic Biology Advisory Panel Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.

Date and Time: October 1–3, 1990; 8:30 a.m. to 5 p.m. each day.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Terry L. Yates, Program Director, Systematic Biology (202) 375–9588, room 215, National Science Foundation, Washington, DC 20550.

Purpose of Meeting: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR DOC. 90–21634 Filed 9–13–90; 8:45 am]

BILLING CODE 7555-01-M

Proposal Review Panels; Notice of Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G Street NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, engineering, and science education. The agenda is to review and evaluate proposals as part of the selection process for awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

CONTACT PERSON: M. Rebecca Winkler, Committee Management Officer, room 208, 357–7363.

Dated: September 10, 1990.

M. Rebecca Winkler,

Committee Management Officer.

Committee name	Date(s) and time	Location
Special Emphasis Panel for Teacher Preparation and Enhancement. Agenda: Teacher Enhancement Prog.	10/04/90 7:30 p.m. to 9 p.m. 10/06/90 8:30 a.m. to 5 p.m.	Holiday Inn Crowne Plaza, 775 12th Street NW., Washington, DC.
Advisory Review Panel for Engineering Research Centers. Agenda: Site Visit	10/01/90 8:30 a.m. to 5 p.m. 10/03/90 8:30 a.m. to 5 p.m.	Duke University, Durham, NC.

Committee name	Agenda	Date(s) and time	Room[1]
Special Emphasis Panel for Cross-Disciplinary Activities.	Small Scale Panel	10/02/09—8:30 a.m. to 5 p.m.	543.
Advisory Panel for Ocean Sciences Research	US Science Support Prg.	10/01/90—9:00 a.m. to 5 p.m. 10/02/90—9:00 a.m. to 5 p.m.	540B.

[1] At 1800 G Street, NW., Washington, DC

[FR Doc. 90–21636 Filed 9–13–90; 8:45 am]

BILLING CODE 7555-01-M

Earth Sciences Proposal Review Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Continental Dynamics Review Panel.

Date: October 2, 3, and 4, 1990.

Time: 8:30 a.m. to 5:30 p.m. each day.

Place: The National Science Foundation, Room 543, 1800 G. Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact person: Dr. Ian D. MacGregor, Head, Major Project Section Division of Earth Sciences, Room 602, National Science Foundation, Washington, DC 20550 (202) 357–9591.

Purpose of meeting: To provide advice and recommendations concerning support for research in the Continental Dynamics Program, Division of Earth Sciences.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and

(6) of 5 U.S.C. (c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-21640 Filed 9-13-90; 8:45 am]

BILLING CODE 7555-01-M

Ecology Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecology.

Date and time: October 3-5, 1990; October 3, 1 p.m. 5 p.m.; October 4 & 5, 8:30 a.m.-5 p.m.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of meeting: Part Open.

Closed 10/03/90, 1 p.m.-5 p.m.; 10/04/90, 8:30 a.m.-12 noon, and 2:20 p.m.-5 p.m.; 10/05/90, 8:30 a.m.-5 p.m.

Open 10/04/90, 1 p.m.-2:30 p.m.

Contact person: Dr. O. James Reichman, Program Director, Ecology (202) 357-9734, Room 215, National Science Foundation, Washington, DC 20550.

Purpose of meeting: To provide advice and recommendations concerning support for research ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards. Open on 10/04/90, 1 p.m.-2:30 p.m., to discuss long-range planning in ecology.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-21641 Filed 9-13-90; 8:45 am]

BILLING CODE 7555-01-M

Ecosystem Studies Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecosystem Studies.

Date and Time: October 4 and 5, 1990; 8:30 a.m. to 5 p.m. each day.

Place: Room 536, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of meeting: Closed.

Contact Person: Dr. James E. Schindler, Program Director, Ecosystem Studies (202) 357-9596, Room 215, National Science Foundation, Washington, DC 20550.

Purpose of Meeting: To provide advice and recommendations concerning support for research in ecosystem studies.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 90-21642 Filed 9-13-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-482]

Wolf Creek Nuclear Operating Corp.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-42, issued to Wolf Creek Nuclear Operating Corporation (the licensee), for operation of the Wolf Creek Generating Station, Unit No. 1, located in Coffey County, Kansas.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TS) relating to the primary coolant heatup and cooldown pressure/temperature limit curves and the Cold Overpressure Mitigation System (COMS) setpoint curve effective up to seven Effective Full Power Years (EFPY). These changes are required by 10 CFR part 50 Appendix H and Technical Specification 4.4.9.1.2.

The proposed action is in accordance with the licensee's application for amendment dated June 20, 1988, and as supplemented by letters dated May 22, June 8, and August 1, 1990.

The Need for the Proposed Action

The heatup and cooldown limit curves define the range of acceptable operations for the reactor. The redefined limits ensure that the margin or protection against non-ductile failure (margin lost due to progressive in-service irradiation embrittlement of the reactor pressure vessel) is maintained by Appendix G requirements of 10 CFR part 50. This is accomplished by limiting the maximum allowable RCS pressures for operations at low RCS temperatures to compensate for the reduced ductility of the pressure vessel. This reduction in maximum allowable pressure (leading to lower pressure stresses for the vessel) for RCS T-avg less than 350 °F reduces the probability or possibility that the composite minimum Appendix G limits for the reactor pressure vessel will be challenged or exceeded.

The COMS pressure operated relief valve (PORV) pressure/temperature setpoint limit curve is used to ensure that the PORV operational setpoint pressures are set such that a PORV actuation during a cold overpressure transient will prevent the RCS pressure from exceeding the composite 10 CFR part 50 appendix G pressure limits.

Appendix H of 10 CFR part 50 requires that surveillance capsules be periodically removed from the reactor vessel and examined to predict radiation induced embrittlement of the reactor vessel. The revisions proposed to the TS as discussed above, have resulted from examination of the "U" capsule removed from the Wolf Creek reactor vessel during the first refueling outage.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed revisions to the TS and concludes that these revisions are acceptable because the licensee has used acceptable methodologies that conform to the requirements of appendices G and H to 10 CFR part 50. The major impact of the revised curves is a redefining of the range of acceptable operations. The revised range of operations compensates for inservice radiation induced embrittlement of the Wolf Creek reactor pressure vessel in a conservative manner. The revised curves are more restrictive (i.e., decreases the maximum allowed reactor coolant system pressure at any heatup or cooldown rate for the same measured reactor coollant system temperature). Incorporating the revised curves into the Wolf Creek TS, along with the change to limit the reactor coolant system heatup rate to less than or equal to 60 °F per hour for indicated reactor collant system T-avg less than 200 °F, will maintain the margin of safety required to prevent non-ductile failure of the reactor pressure vessel as required by appendix G of 10 CFR part 50 for all modes of plant operation. Therefore, the proposed changes do not increase the probability or consequences of accidents, no changes are being made in any types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on August 19, 1988 (53 FR 31777). No request for hearing or petition for leave to intervene was filed following this notice.

With regard to potential nonradiological impacts, the proposed change to the TS involves systems located within the restricted area as defined in 10 CFR part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Wolf Creek Generating Station, Unit No. 1, dated June 1982 (NUREG–0878).

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to preapre an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated June 20, 1988, and as supplemented on May 22, June 8, and August 1, 1990, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 6th day of September 1990.

For the Nuclear Regultory Commission.

George F. Dick, Jr.,

Acting Director, Project Directorate IV-2, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90–21618 Filed 9–13–90; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Federal Procurement Policy Office

Irrevocable Letters of Credit; Draft Policy Letter

AGENCY: Office of Federal Procurement Policy (OFPP).

ACTION: Solicitation of public comment on a draft OFPP Policy Letter on Use of Irrevocable Letters of Credit.

SUMMARY: Over the last several months, OFPP has been reviewing the issue of access to bonding and considering alternatives to present bonding practices to increase access to Federal construction contracts. One alternative, recommended as a result of a previous **Federal Register** notice requesting public comments, was to allow use of letters of credit in lieu of sureties on bonds. We have concluded that this is a recommendation that warrants serious consideration and are therefore publishing for public comment a draft Policy Letter that would allow the use of irrevocable letters of credit.

COMMENT DATE: Comments must be received on or before November 13, 1990.

ADDRESS AND INFORMATION CONTACT: Comments be sent to Carol Dennis, Deputy Associate Administrator, Office of Federal Procurement Policy, Office of Management and Budget, room 9001, 725 17th Street, NW., Washington, DC 20503. Information or questions may be addressed to Ms. Dennis on (202) 395–3300.

Dated: September 10, 1990.

Allan V. Burman,

Administrator.

Policy Letter No. 90–Y

To the Heads of Executive Departments and Establishments

Subject: Use of Irrevocable Letters of Credit

1. *Purpose.* This Policy Letter establishes Government-wide policies for use of irrevocable letters of credit (ILsC) in lieu of sureties for Federal construction contracts requiring Miller Act bonds (40 U.S.C. 270).

2. *Discussion.* The Miller Act requires the use of performance and payment bonds for Federal construction contracts in excess of $25,000. The Federal Procurement Regulations (FPR), which were cancelled upon issuance of the Federal Acquisition Regulation (FAR) in 1984, permitted the use of irrevocable letters of credit for Miller Act purposes. Specifically, section 1–10.204–2 of the FPR stated:

> Any person requied to furnish a bond has the option, in lieu of furnishing surety or sureties thereon, of depositing an * * * irrevocable letter of credit, in an amount equal to the penal sum of the bond.

The FAR did not retain the FPR language and, as a result, ILsC have not been used for Miller Act purposes for several years.

During the past year, this Office has reexamined surety bond issues to improve access to Federal procurement for small businesses, while protecting the Government's interests.

As a result of that review, it has been concluded that: (1) Irrevocable letters of credit serve the same function and provide the same redeemable value as bonds, postal orders and certified checks, (2) Federal agencies are authorized to accept such letters, and (3) their usage in lieu of sureties should help to achieve greater access by small and small disadvantaged businesses to Federal construction contracts. For these reasons, the previous policy—as reflected in the FPR—is being reinstated.

3. *Policy.* It is the policy of the Federal Government to permit the use of irrevocable letters of credit, in lieu of sureties, on Federal construction contracts subject to the requirements of 40 U.S.C. 270.

4. *Requirements.* In implementing this policy, the following requirements will be met:

a. The contracting officer is responsible for assuring that ILsC are adequate to protect the interests of the United States as well as the legitimate interests of affected subcontractors and suppliers.

b. The contracting officer is responsible for exercising full discretion in accepting or rejecting ILsC, so long as such actions are taken on the same basis as bonds (or other acceptable assets) are accepted or rejected. At a minimum, the credit worthiness of the issuing institution must be assessed; and a credit report on the issuing institution may be required.

c. It is intended that ILsC may be employed to guarantee performance, payment, or both. If both performance and payment are guaranteed, separate letters of credit may be necessary or appropriate, as determined by the contracting officer. Sequential letters of credit may be required for projects of lengthy duration.

d. ILsC must be issued by Federally-insured financial institutions, in favor of the contracting agency, and in the format of the sample letter of credit which is attached.

5. *Responsibilities.*

a. The Federal Acquisition Regulatory Council shall ensure that Government-wide regulations to conform to the policies established herein are promulgated within 60 days of the effective date of this Policy Letter. The regulations will address how to evaluate the credit worthiness of the issuing financial institution. The regulations will be effective for a three year period and will contain a sunset provision to that effect.

b. The heads of departments and agencies shall implement the policies contained herein, and initiate any necessary staff training upon the effective date of the implementing regulations.

6. *Information Contact.* Information about this Policy Letter may be obtained by contacting Carol R. Dennis, Deputy Associate Administrator, Office of Federal Procurement Policy, 725 17th Street NW., Washington DC 20503. Telephone (202) 395-3300.

7. *Effective Date.* This Policy Letter is effective October 15, 1990.

8. *Sunset Date.* This Policy Letter will expire September 14, 1993.

Allan V. Burman,

Administrator.

Sample Letter of Credit Form

Issue Date ______

Irrevocable Letter of Credit No. ______

For contract no. ______

TO: Beneficiary (U.S. Government agency)
Beneficiary's address

We hereby establish this Irrevocable Letter of Credit in favor of the aforesaid addressee ("Beneficiary") for drawings up to United States $______ effective immediately. This Letter of Credit is issued, presentable and payable at our office at (issuing bank's address) ______ and expires with our close of business on ______, 19__.

The term "Beneficiary" includes any successor by operation of law of the named Beneficiary, including, without limitation, any liquidator, rehabilitator, receiver, or conservator.

We hereby undertake to promptly honor your sight draft(s) drawn on us, indicating our Credit No. ______, for all or part of this Credit if presented at our office specified in paragraph one on or before the expiry date or any automatically extended expiry date.

Except as expressly stated herein, this undertaking is not subject to any agreement, condition or qualification. The obligation of ______ (issuing bank) ______ under this Letter of Credit is the individual obligation of ______ (issuing bank) ______, and is in no way contingent upon reimbursement with respect thereto.

It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for one year from the expiry date hereof, or any future expiration date, unless 30 days prior to any expiration date we notify you by registered mail that we elect not to consider this Letter of Credit renewed for any such additional period.

This Letter of Credit is subject to and governed by the laws of the Uniform Commercial Code in the state of ______ and the 1983 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce (Publication 400) and, in the event of any conflict, the laws of the state of ______ will control. If this Credit expires during an interruption of business as described in Article 19 of said Publication No. 400, the bank hereby specifically agrees to effect payment if this Credit is drawn against within 30 days after the resumption of business.

Very truly yours,

______

Issuing Bank

[FR Doc. 90-21670 Filed 9-13-90; 8:45 am]

BILLING CODE 3110-01-M

Proposed Policy Letter on Service Contracting; Invitation for Public Comment

AGENCY: Executive Office of the President, Office of Management and Budget, Office of Federal Procurement Policy.

ACTION: The Office of Management and Budget (OMB) is requesting comments on a proposed new Office of Federal Procurement Policy (OFPP) Policy Letter dealing with Service Contracting.

SUMMARY: This OFPP Policy Letter establishes policy for the Government's acquisition of services by contract. It promotes quality, economy and innovation through the use of performance-based contracting methods.

Each year the Government contracts for a significant amount of services. During FY 1989, for example, service contracting amounted to over $70 billion. However, the Government may not be obtaining sufficient performance for the money expended, due to the use of inappropriate contracting methods.

Problems found to result from such inappropriate methods are:

- Unnecessarily vague statements of work, which increase costs or make it difficult to control costs;
- Insufficient use of fixed price and incentive fee pricing arrangements for repetitive requirements, resulting in increased costs and poor incentives to improve performance; and
- Nonexistent or inadequate contract administration plans, which lead to unauthorized commitments by the Government and delayed contract completion.

Performance based service contracting methods should improve the Government's ability to acquire services of the requisite quality and to assess contractor performance and price. Such methods focus on:

- Defining statements of work to describe "what" work should be performed rather than "how" it should be performed. This approach encourages bidders/offerors to develop innovative, efficient and cost effective means for performing the required level of service. It concentrates on achieving results rather than on documenting a contractor's activities. "How to" statements of work can result in contractors' complying with contractual requirements, but failing to accomplish the desired end results.
- Developing formal measurement criteria to assess actual performance against predetermined performance standards. Contractors are then assigned full responsibility for quality performance. This approach facilitates the use of fixed price contracts, with the concomitant benefit of reducing the Government's risk and contract administration burden. Nonexistent or inadequate quality assurance plans make it impossible for the Government accurately to assess contractor performance and provide effective incentives.
- Using evaluation and selection procedures which emphasize attracting the most competent contractors in addition to obtaining the lowest price. Such procedures should also provide offerors maximum flexibility in proposing efficient and innovative methods of performance. Inattention to quality-related factors may lead to the selection of contractors with marginal capability who submit the lowest prices but then perform at unsatisfactory levels.
- Incorporating incentive provisions and quality assurance deduction schedules into the contracts to motivate contractors to perform at maximum efficiency. Lack of such terms may discourage the most competent entities from competing, competitors from dedicating their best personnel, or awardees from putting forth their best efforts.

In view of the diversity of services acquired by the Government, no one acquisition methodology or set of performance based contracting methods can be universally applied. The proper acquisition strategy depends on the level of expertise needed, the agency's ability to state its requirements objectively, and the contractor's ability to manage the risks. However, in implementing performance-based service contracting methods, the prevailing strategy for many acquisitions of "lowest price and minimal acceptable quality" will be replaced by an approach that emphasizes quality of performance along with price.

This Policy Letter is being published pursuant to the authority of section 6.(a) of the Office of Federal Procurement Policy Act, as amended (41 U.S.C. 405), which authorizes the Administrator, OFPP, to prescribe Government-wide

procurement policies he considers appropriate.

The policy Letter directs that Government-wide regulations be promulgated to implement the policies contained therein in the first quarterly Federal Acquisition Circular issued after 120 days after the Policy Letter's effective date.

DATES: Comments must be received on or before November 13, 1990.

ADDRESSES: Comments should be submitted to the Office of Management and Budget, Office of Federal Procurement Policy, Room 9001, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Stanley Kaufman, Deputy Associate Administrator, Office of Federal Procurement Policy, 725 17th Street, NW, Washington, DC 20503. Telephone (202) 395-6803.

Dated: September 10, 1990.

Allan V. Burman,

Administrator.

Policy Letter 90-X

To the Heads of Executive Agencies and Departments

Subject: Service Contracting

1. *Pupose.* This Policy Letter establishes policy for the Government's acquisition of services by contract. It emphasizes the use of performance requirements and standards in defining contract requirements and quality-assurance procedures, and in source selection. This approach provides the means to ensure that the appropriate performance quality level is achieved, and that payment is made only for services which meet contract standards.

2. *Authority.* This Policy Letter is issued pursuant to section 6(a) of the Office of Federal Procurement Policy (OFPP) Act, as amended, codified at 41 U.S.C. section 405.

3. *Definitions*

(a) "Performance-based contracting" means structuring all aspects of an acquisition around the purpose of the work to be performed as opposed to either the manner by which the work is to be performed or broad and imprecise statements of work.

(b) "Services" are defined as the performance of identifiable tasks rather than the delivery of an end item of supply. "Services" also include tasks that are delivered under a contract where the primary purpose of the contract is to provide supplies. For the purpose of this Policy Letter, requirements for construction and architect-engineer services are excluded.

4. *Background.* Each year the Government contracts for a significant amount of services. Such services range from the routine maintenance of facilities or equipment to highly sophisticated technical and management assistance activities. Attempts to apply contracting methods which are inappropriate to the services being acquired have often resulted in unsatisfactory performance and contract administration problems, as reflected in several internal agency investigations and evaluations, General Accounting Office Reports, and OFPP studies. These reports criticized unnecessarily vague statements of work, insufficient use of firmer pricing arrangements, the lack of quantifiable performance standards, and the inadequacy of quality assurance surveillance. The use of performance-based service contracting methods enhances the Government's ability to acquire services of the requisite quality and to ensure adequate contractor performance.

5. *Policy.* It is the policy of the Federal Government that: (1) agencies use performance-based contracting methods to the maximum extent practicable when acquiring services, and (2) agencies carefully select acquisition and contract administration strategies, methods, and techniques that best accommodate the requirements. In addition, agencies shall justify the use of other than performance-based contracting methods when acquiring services, and document affected contract files.

(a) Statement of work. When preparing statements of work, agencies shall, to the maximum extent practicable, describe the work in terms of "what" is to be the required output rather than "how" the work is to be accomplished.

(b) Quality assurance. Agencies shall, to the maximum extent practicable, assign contractors full responsibility for quality performance. Agencies shall develop formal, measurable (i.e., in terms of quality, timeliness, quantity) performance standards and surveillance plans to facilitate the assessment of contractor performance and the use of performance incentives and deduction schedules. Agencies shall, to the maximum extent practicable, avoid relying on cumbersome and intrusive process-oriented inspection and oversight programs to assess contractor performance.

(c) Selection procedures. Agencies shall use competitive negotiations for acquisitions where the quality of performance over and above the minimum aceptable level will enhance agency mission accomplishment and be worth the increase in corresponding cost. This approach will apply to most technical and professional services. In such instances, contracting activities shall give careful consideration to developing evaluation and selection procedures which utilize quality-related factors (e.g., technical or management capability). Such factors shall receive increased emphasis to the extent requirements are more complex and less able to be clearly defined. The desired relative importance among these factors and between these factors and price shall be determined. Also, technical leveling and technical transfusion serve to discourage contractors from proposing innovative methods of performance. To protect against these problems, special attention shall be directed to limiting opportunities for offerors to discuss their proposals and submit revisions based on these discussions. Sealed bidding shall be used when the goal of the acquisition is to achieve the desired service at the lowest price with minimum stated acceptable quality.

(d) Contract type. Contract types most likely to motivate contractors to perform at optimal levels shall be chosen. Fixed price contracts are appropriate for services that can be objectively defined and for which risk of performance is manageable. In most instances, services that are routine, frequently acquired, and require no more than a minimal acceptable level of performance fall into this category. For such acquisitions, performance-based statements of work and measurable performance standards and surveillance plans shall be developed and fixed price contracts shall be preferred over cost reimbursement contracts. Cost reimbursement contracts are appropriate for services that can only be defined in general terms and for which the risk of performance is not reasonably manageable. Complex or unique services for which quality of performance is paramount frequently fall into this category. Furthermore, to the maximum extent practicable, contracts shall include incentive provisions to ensure that contractors are rewarded for good performance and quality assurance deduction schedules to discourage unsatisfactory performance. These provisions shall be based on measurement against predetermined performance standards and surveillance plans.

(e) Repetitive requirements. When acquiring services which previously have been provided by contract, agencies shall rely on the experience gained from the prior contract to incorporate performance-based acquisition methods. For such follow-on requirements, statements of work shall further describe the services in terms of "what" is to be performed, and performance standards and surveillance plans shall be more definitive than those for the prior acquisition. Where appropriate, conversion from a cost reimbursement to fixed price arrangement shall be accomplished and, whenever possible, incentive provisions and quality assurance deduction schedules shall be introduced.

(f) Multiyear contracting. Agencies with statutory multiyear authority shall consider the use of such authority when acquiring services. The use of such authority will increase competition by offering a more stable, long term contracting environment. It will also encourage offerors to invest in the development and implementation of innovative and efficient methods of performance by ensuring recoupment of these investments. Solicitations proposing the use of multiyear contracting shall consider requiring contractor proposals to contain termination schedules. Agencies must have sufficient budget authority to cover such charges.

6. *Responsibilities.*

(a) Federal Acquisition Regulatory Council. The Federal Acquisition Regulatory Council shall ensure that Governmentwide regulations to conform to the policies established herein are promulgated in the first quarterly Federal Acquisition Circular issued 120 days after the effective date of this Policy Letter. These regulations shall include a framework for individually tailoring the source selection method, type of contract and contract administration techniques to fit the requirement, and for agencies to document the reason(s) for not using performance based contracting methods as prescribed by that framework.

(b) Heads of agencies. Heads of agencies shall implement the policies established herein and initiate any necessary staff training upon the effective date of this Policy Letter.

7. *Information contact.* For information regarding this Policy Letter contact Stanley Kaufman, Deputy Associate Administrator, Office of Federal Procurement Policy, 725 17th Street NW., Washington, DC 20503, telephone (202) 395-6803.

8. *Effective date.* This Policy Letter is effective 30 days after the date of issuance.

Allan V. Burman,

Administrator.

[FR Doc. 90-21668 Filed 9-13-90; 8:45 am]

BILLING CODE 3110-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of SF 87 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces the reclearance of an information collection. Standard Form 87, Fingerprint Chart, is completed by applicants for Federal positions throughout the Government. OPM uses the information to conduct the checks of the FBI fingerprint files that are required by Executive Order 10450, Security Requirements for Government Employment, issued April 27, 1953, or required or authorized under other authorities.

It is estimated that 51,000 individuals will respond annually for a total burden of 10,200 hours. For copies of this proposal call C. Ronald Trueworthy on (202) 606-2261.

DATES: Comments on this proposal should be received by October 15, 1990.

ADDRESSES: Send or deliver comments to—Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building NW., Room 3235, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Peter Garcia, (202) 367-3800.

U.S. Office of Personnel Management.

Constance Berry Newman,

Director.

[FR Doc. 90-21700 Filed 9-13-90; 8:45 am]

BILLING CODE 6325-01-M

OVERSIGHT BOARD

Oversight Board Meeting

AGENCY: Oversight Board.

ACTION: Meeting.

DATES: Thursday, September 20, 1990, 2 p.m.-3 p.m.

ADDRESSES: Office of Personnel Management Auditorium, 1900 E Street NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Diane M. Casey, Vice President, Office of Public Affairs, Oversight Board, 1777 F St. NW., Washington, DC 20232, (202) 786-9672.

SUPPLEMENTARY INFORMATION: Discussion Agenda:

Results from first series of regional advisory board meetings.

Closed session to follow.

Dated: September 11, 1990.

Diane M. Casey,

Office of Public Affairs.

[FR Doc. 90-21694 Filed 9-13-90; 8:45 am]

BILLING CODE 2222-01-M

RAILROAD RETIREMENT BOARD

Determination of Quarterly Rate of Excise Tax for Railroad Retirement Supplemental Annuity Program

In accordance with directions in Section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C., 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each work-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning October 1, 1990, shall be at the rate of 26 cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning October 1, 1990, 33.5 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 66.5 percent of the taxes collected under such sections 3211(b) and 3221(c) plus 100 percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

Dated: September 7, 1990.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 90-21630 Filed 9-13-90; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

September 10, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Acme-Cleveland Corp.
Common Stock, No Par Value (File No. 7-6205)
Amdura Corp.
Common Stock, $1.00 Par Value (File No. 7-6206)
Calton, Inc.
Common Stock, $0.01 Par Value (File No. 7-6207)
Columbia Savings & Loan
Common Stock, $1.00 Par Value (File No. 7-6208)
Crossland Savings FSB
$1.8125 Cum. Conv. A Preferred Stock, No Par Value (File No. 7-6209)
Esselte Business Systems
Common Stock, $1.00 Par Value (File No. 7-6210)
Galoob (Lewis) Toys
Common Stock, $0.01 Par Value (File No. 7-6211)
Geneva Steel
Class A Common Stock, No Par Value (File No. 7-6212)
Georgia Gulf Corp.
Common Stock, $0.01 Par Value (File No. 7-6213)
Home Owners Savings
Common Stock, $0.01 Par Value (File No. 7-6214)
Interco, Inc.
Common Stock, $0.01 Par Value (File No. 7-6215)
LVI Group
Common Stock, $0.50 Par Value (File No. 7-6216)
Mesa Offshore Trust UBI
Common Stock, No Par Value (File No. 7-6217)
MHI Group
Common Stock, $0.10 Par Value (File No. 7-6218)
NBI, Inc.
Common Stock, $0.10 Par Value (File No. 7-6219)
RTZ Corp. plc

American Depository Receipts (File No. 7-6220)
Royal International Optical
Common Stock, $0.10 Par Value (File No. 7-6221)
United Dominion Industries, Ltd.
Common Stock, No Par Value (File No. 7-6222)
Vestron, Inc.
Common Stock, $0.01 Par Value (File No. 7-6223)
Hein-Werner Corp.
Common Stock, $1.00 Par Value (File No. 7-6224)
Seitel, Inc.
Common Stock, $0.01 Par Value (File No. 7-6225)
Schult Homes Corp.
Common Stock, No Par Value (File No. 7-6226)
United-Guardian, Inc.
Common Stock, $0.10 Par Value (File No. 7-6227)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 1, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 21731 Filed 9-13-90; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

September 10, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

CII Financial, Inc.
Common Stock, Without Par Value (File No. 7-6201)
LG&E Energy Corp.
Common Stock, Without Par Value (File No. 7-6202)
Transcontinental Realty Investors, Inc.
Common Stock, $.01 Par Value (File No. 7-6203)
Galactic Resources, Ltd.
Common Stock, No Par Value (File No. 7-6204)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before October 1, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-21732 Filed 9-13-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17731; 811-4341]

September 7, 1990.

Citius-Delta Fund, Inc.; Application

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Citius-Delta Fund, Inc.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 2, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 4, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 575 Fifth Avenue, 17th Floor, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, an open-end investment company organized as a Maryland corporation, registered under the 1940 Act on June 27, 1985, and filed a registration statement on Form N-1A under the 1940 Act and the Securities Act of 1933 with respect to an indefinite number of shares on September 27, 1985, which registration statement was never declared effective. Applicant privately placed 2,723,405 of its shares with four overseas institutional investors on July 2, 1985, June 19, 1987, and July 1, 1988.

2. On January 10, 1990, Applicant's board of directors passed a resolution calling for the dissolution of Applicant. On the same date, all of Applicant's shareholders consented to such dissolution, and on February 1, 1990, all shareholders redeemed their shares. At the time of the liquidating distribution, Applicant's net asset value per share was $10.08 representing an aggregate net asset value of $10,372,750.00.

3. Applicant retains no assets and all expenses associated with the liquidation will be paid by its investment adviser, BV Capital Management, Inc., a subsidiary of Bayerische Vereinsbank, a West German bank.

4. Applicant intends to dissolve under Maryland corporate law. Applicant is not a party to any litigation or administrative proceeding and has no remaining shareholders. Applicant is not engaged, nor proposes to engage, in any business activities other than those

necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-21733 Filed 9-13-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17732; 811-4342]

Citius-Epsilon Fund, Inc.; Application

September 7, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Citius-Epsilon Fund, Inc.

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on August 2, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 4, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 575 Fifth Avenue, 17th Floor, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, an open-end investment company organized as a Maryland corporation, registered under the 1940 Act on June 27, 1985, and filed a registration statement on Form N-1A under the 1940 Act and the Securities Act of 1933 with respect to an indefinite number of shares on September 27, 1985, which registration statement was never declared effective. Applicant privately placed 800,000 of its shares with two overseas institutional investors on July 2, 1985.

2. On January 10, 1990, Applicant's board of directors passed a resolution calling for the dissolution of Applicant. On the same date, both of Applicant's shareholders consented to such dissolution, and on February 1, 1990, all shareholders redeemed their shares. At the time of the liquidating distribution, Applicant's net asset value per share was $9.96 representing an aggregate net asset value of $11,956,267.

3. Applicant retains no assets and all expenses associated with the liquidation will be paid by its investment adviser, BV Capital Management, Inc., a subsidiary of Bayerische Vereinsbank, a West German bank.

4. Applicant intends to dissolve under Maryland corporate law. Applicant is not a party to any litigation or administrative proceeding and has no remaining shareholders. Applicant is not engaged, nor proposes to engage, in any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-21734 Filed 9-13-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17733, International Series; Rel. No. 150, File No. 812-7565].

September 7, 1990.

Exel Limited; Application

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Exel Limited.

RELEVANT 1940 ACT SECTIONS: Section 6(c).

SUMMARY OF APPLICATION: Applicant seeks an order exempting it from all provisions of the 1940 Act in connection with the offering and sale of its equity and debt securities in the United States.

FILING DATE: The application was filed on July 24, 1990, and amended on August 31, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 4, 1990, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, c/o Edward Hansen, Cahill Gordon & Reindel, 80 Pine Street, New York, New York 10005.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Stephanie M. Monaco, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is a Cayman Islands corporation and an insurance holding company engaged in the general insurance business through its wholly-owned Bermuda subsidiary, X.L. Insurance Company, Ltd. ("X.L."). Applicant's assets consist almost entirely of all of the capital stock of X.L. and it has no other business operation.

2. Applicant believes that X.L. is the largest insurance company headquartered in Bermuda. At May 31, 1990, its net assets were $995.5 million. X.L. writes general liability, directors' and officers' and professional liability insurance above certain minimum attachment points. For the fiscal year ending November 30, 1989, X.L.'s premium income was $338.1 million. Applicant has 109 shareholders, all of whom are policyholders of X.L. except for six employees.

3. Applicant's insurance operations are subject to regulation and supervision in Bermuda. X.L. is organizing a subsidiary in the Republic of Ireland which will conduct general insurance business in the European Community and which will be subject to regulation

and supervision in Ireland as an insurance company. The insurance laws and regulations of each country impose minimum solvency and liquidity or reserve standards and auditing and reporting requirements. The regulatory bodies charged with administering these laws have broad powers to supervise, investigate, and intervene in the business operations of insurance companies. Applicant intends to maintain its insurance operations in Bermuda and, following commencement of business, in the Republic of Ireland.

4. In order to permit certain of its shareholders to sell their shares, Applicant wishes to register such shares under the Securities Act of 1933 for offer and sale in the United States. Thus, the initial public offering of Applicant's shares would be made pursuant to an underwritten secondary public offering. In the longer term, Applicant wishes to have access to the United States securities and capital markets and may seek to offer and sell equity or debt securities, in addition to the proposed secondary public offering.

Applicant's Legal Analysis

5. Applicant maintains that granting the requested exemption is necessary or appropriate in the public interest because compliance with the 1940 Act would be incompatible with the conduct of an insurance business. If the exemption were denied, Applicant would have no access to the United States' financial markets and United States investors would be deprived of a potentially valuable investment opportunity.

6. Applicant submits that granting the requested relief is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicant's insurance business is conducted in a regulatory environment comparable to the one in which United States insurance companies operate, and Applicant's investors thus would have the protection afforded by the applicable regulatory bodies in each country in which Applicant operates. In addition, investors would receive the protections provided by the registration and disclosure provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934.

Applicant's Condition

As a condition to the requested relief, Applicant will comply with the proposed amendments to Rule 6c-9 under the 1940 Act as they are currently proposed by the SEC, and as they may be reproposed, adopted or amended.[1]

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-21735 Filed 9-13-90; 8:45 am]

BILLING CODE 8010-01-M

[1] Applicant has filed, as an exhibit to the applicant, an executed copy of Form N-6C9, as it is presently proposed to be amended, and will refile such form when it is adopted.

[Rel. No. 35-25147]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 7, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 1, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Eastern Utilities Associates (70-6583)

Eastern Utilities Associates ("EUA"), One Liberty Square, P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed a post-effective amendment to its application-declaration pursuant to sections 6(a), 7 and 12(c) of the Act and Rule 50(a)(5) thereunder.

By orders dated December 6, 1979 (HCAR No. 21329), May 5, 1981 (HCAR No. 22039), November 1, 1982 (HCAR No. 22685), September 14, 1984 (HCAR No. 23421), May 6, 1986 (HCAR No. 24087) and November 17, 1988 (HCAR No. 24747), the Commission authorized EUA to issue and sell, through December 31, 1990, up to 3.8 million shares of its common stock under EUA's Dividend Reinvestment and Common Share Purchase Plan ("Plan"), under an exception from competitive bidding. Common stock to be issued and sold by EUA under the Plan would be authorized but unissued shares, and EUA reserved the right to purchase such shares on the open market. As of August 15, 1990, EUA has issued and sold 3,660,336 shares of its authorized common stock under the Plan.

EUA now proposes to issue and sell, through December 31, 1992, the 139,664 shares of common stock remaining of the 3.8 million shares previously authorized and up to an additional 1 million shares of its common stock under the Plan. Common stock issued and sold by EUA under the Plan will be either authorized but unissued shares or shares purchased by EUA on the open market. EUA proposes to issue and sell the shares of its common stock under the Plan under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder.

Consolidated Natural Gas Company (70-7286)

Consolidated Natural Gas Company ("Consolidated"), CNG Tower, Pittsburgh, Pennsylvania 15222-3199, a registered holding company, has filed a post-effective amendment to its application-declaration filed under sections 6(a), 7, 9(a), 10 and 12(c) of the Act and Rule 42 thereunder.

By orders dated October 30, 1986 (HCAR No. 24224) and December 20, 1988 (HCAR No. 24781), Consolidated was authorized, through December 31, 1990, to purchase on the open market up to 4 million shares of its outstanding common stock, $2.75 par value ("Common Stock"), and to reissue from time-to-time the purchased shares held as treasury stock. As of June 30, 1990, Consolidated purchased 1,576,800 shares of Common Stock at an average price of $35.26, leaving an additional 2,423,200 authorized to be purchased, and reissued 339,389 shares of Common Stock held as treasury stock to Consolidated's employee benefit plans.

Consolidated now proposes to purchase, through December 31, 1993, the remaining 2,423,200 shares of the 4 million shares of Common Stock previously authorized, and to reissue from time-to-time the purchased shares held as treasury stock for general corporate purposes and to Consolidated's employee benefit plans.

American Electric Power Company Inc. (70-7713)

Columbus Southern Power Company ("CSPC"), 215 North Front Street, Columbus, Ohio 43215, an electric public-utility subsidiary company of American Electric Power Company, Inc., 1 Riverside Plaza, Columbus, Ohio, 43215, a registered holding company, and its wholly owned subsidiary company, Simco Inc. ("Simco"), have filed an application-declaration under sections 6(a)(2), 7 and 12(c) of the Act and Rule 46 thereunder.

By order dated June 5, 1987 (HCAR No. 24405), the Commission authorized CSPC to acquire a promissory note from Peabody Coal Company ("Peabody") in connection with the sale of certain real property interests and fixed assets by CSPC to Peabody. As a result of this transaction, Simco presently has cash and accounts receivable far in excess of its foreseeable capital needs.

Simco now proposes to amend its Amended Articles of Incorporation to: (1) Reduce the par value of its authorized shares of common stock to $0.10 per share; (2) change each of its outstanding shares of common stock, par value $100 per share, into a common share, par value $0.10 per share; and (3) reduce the stated capital of its common stock to $9,000. In addition, Simco proposes to declare and pay to CSPC dividends out of paid-in-capital from time-to-time until the aggregate amount of such dividends equals $4.5 million.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

FR Doc. 90-21736 Filed 9-13-90; 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 within 30 days of this publication in the **Federal Register**. 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: William Cline, Small Business Administration, 1441 L Street, NW., room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Loan Closing Documents.
Form Nos: SBA Forms 147, 148, 159, 160, 160A, 529A, 928, 1059.
Frequency: On occasion.
Description of Respondents: SBA Loan Applicants.
Annual Responses: 17,000.
Annual Burden: 51,000.

Title: Settlement Sheet.
Form Nos: SBA Form 1050.
Frequency: On occasion.
Description of Respondents: SBA Loan Applicants.
Annual Responses: 17,000.
Annual Burden: 34,000.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 90-21750 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

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 within 30 days of this publication in the **Federal Register**. 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: William Cline, Small Business Administration, 1441 L Street, NW., room 200, Washington, DC 20416, Telephone: (202) 653-8538.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Excutive Office Building, Washington, DC 20503.

Title: Supplemental Guaranty Agreement—Preferred Lender Program.
Form No.: SBA Form 1347.
Frequency: Biennially.
Description of Respondents: SBA Preferred Lenders.
Annual Responses: 200.
Annual Burden: 300.

Title: Lender Transcript of Account.
Form No.: SBA Form 1149.
Frequency: On occasion.
Description of Respondents: SBA quaranty lenders.
Annual Responses: 3,482.
Annual Burden: 3,482.

Title: Disaster Home/Business Loan Inquiry Record.
Form No.: SBA Form 700.
Frequency: On Occasion.
Description of Respondents: Applicants for SBA Disaster Assistance as a result of Administratively declared disasters.
Annual Responses: 1,057.
Annual Burden: 267.

Title: Contract Progress Report of Certificate of Competency.
Form No.: SBA Form 104A.i
Frequency: Monthly.
Description of Respondents: Small Business Contractors.
Annual Responses: 12,000.
Annual Burden: 6,000.

Title: Small Business Investment Companies—accountant's Opinions.
Form No.: n/a.
Frequency: Annually.
Description of Respondents: Small Business Investment Companies.
Annual Responses: 389.
Annual Burden: 1,556.

William Cline,

Chief, Administrative Information Branch.

[FR Doc. 90-21751 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

SMALL BUSNIESS ADMINISTRATION

[License No. 09/09-0245]

License Surender; Crosspoint Investment Corp.

Notice is hereby given that Crosspoint Investment Corporation, One First Street, Los Altos, CA 94022, has surrendered its license to operate as a small business investment company under section 301(c) of the Small Business Investment Act of 1958, as amended (the Act). Crosspoint Investment Corporation was licensed by the Small Business Administration on September 26, 1979.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on August 13, 1990 and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 31, 1990.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 90-21752 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Hartford, will hold a public meeting at 9 a.m. on Wednesday, September 26, 1990, at the Days Inn, 900 East Main Street, Meriden, Connecticut, to discuss such matters as may be presented by members, staff of the Small Business Administration or others present.

For further information, write or call Michael P. McHale, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut 06106, telephone (203) 240-4670.

Dated: September 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-21753 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Atlanta, will hold a public meeting at 12 p.m. on Thursday, October 4, 1990, to 12 noon on Friday, October 5, 1990, at the Holiday Inn, I-75 at Exit 33, Cordele, Georgia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Wilfred A. Stone, District Director, U.S. Small Business Administration, 1720 Peachtree Road, NW., 6th Floor, Atlanta, Georgia 30309, phone (404) 347-4749.

Dated: September 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-21754 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region V Advisory Council, located in the geographical area of Indianapolis, will hold a public meeting at 9:30 a.m. on Tuesday, October 16, 1990, at the North Meridian Inn, 1530 North Meridian Street, Indianapolis, Indiana, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Robert D. General, District Director, U.S. Small Business Administration, 429 North Pennsylvania Street, suite 100, Indianapolis, Indiana 46204-1873, phone (317) 226-7275.

Dated: September 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-21755 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Louisville, will hold a public meeting from 9:30 a.m. to 3 p.m. on Tuesday, October 2, 1990, at the Executive West Hotel, Louisville, Kentucky, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call William Federhofer, District Director, U.S. Small Business Administration, 600 Dr. Martin Luther King, Jr. Place, room 188, Louisville, Kentucky 40202, phone (502) 582-5971.

Dated: September 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-21756 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Jackson, will hold a public meeting from 9 a.m. to 2 p.m. on Friday, September 21, 1990, at the Biloxi Beach Motor Inn, Biloxi, Mississippi, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Jack Spradling, District Director, U.S. Small Business Administration, 101 West Capitol Street, suite 400, Jackson, Mississippi 39201, phone (601) 965-5371.

Dated: September 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-21757 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Charlotte, will hold a public meeting at 1 p.m. on Monday, September 24, 1990, at the Radisson Hotel, Asheville, North Carolina, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Gary A. Keel, District Director, U.S. Small Business Administration, 222 South Church Street, suite 300, Charlotte, North Carolina 28202, phone (704) 371-6561.

Dated: September 5, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-21758 Filed 9-13-90; 8:45 am

BILLING CODE 8025-01-M

Region IV Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Columbia, will hold a public meeting at 10 a.m. on Wednesday, October 10, 1990, at Hook's Restaurant, 6098

Highway 501, Conway, South Carolina, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call John C. Patrick, Jr., District Director, U.S. Small Business Administration, Post Office Box 2786, Columbia, South Carolina 29202, phone (803) 765-5339.

Dated: September 6, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-21759 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, will hold a public meeting at 10:30 on Thursday, September 27, 1990, at Suzannas Restaurant (Lague Inn), Berlin, Vermont, to discuss such matters as may be presented by members, staff of the Small Business Administration or others present.

For further information, write or call Kenneth A. Silvia, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602, telephone (802) 828-4422.

Dated: September 11, 1990.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 90-21760 Filed 9-13-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 90-056]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC). The meeting will be held on Thursday, November 1, 1990, in the Britannia Room of the Hotel Queen Mary, Long Beach, CA. The meeting is scheduled to run from 9 a.m. to 5 p.m. Attendance is open to the public. The agenda follows:

1. Subcommittee Reports
   (a) Personnel Manning and Licensing
   (b) Tug-Barge Construction, Certification and Operations
   (c) Port Facilities and Operations
   (d) Personnel Safety and Workplace Standards
2. Other Topics of Discussion

With advance notice, and at the discretion of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the TSAC Executive Director no later than the day before the meeting. Written statements or materials may be submitted for presentation to the Committee at any time; however, to ensure distribution to each Committee member, 20 copies of the written material should be submitted to the Executive Director by October 22, 1990.

FOR FURTHER INFORMATION CONTACT: Ms. Jo Pensivy, Executive Director, Towing Safety Advisory Committee, room 2414, U.S. Coast Guard Headquarters (G-MP-4), 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-1406.

Dated: September 6, 1990.

J.D. Sipes,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 90-21773 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

System Capacity Advisory Committee Meetings

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of System Capacity Advisory Committee Meeting.

SUMMARY: Notice is hereby given of the first meeting of the System Capacity Advisory Committee.

DATES: The meeting will be held October 4-5, 1990, from 9 a.m. to noon and from 1 p.m. to 4 p.m.

ADDRESSES: The meeting will be held in the MacCracken room, 800 Independence Avenue, SW., Wshington, DC.

FOR FURTHER INFORMATION CONTACT: The Office of System Capacity and Requirements (ASC), 800 Independence Avenue, SW., Washington, DC 20591; telephone 202-267-3784.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. II), notice is hereby given of a meeting of the System Capacity Advisory Committee to be held at the Federal Aviation Administration, Washington, DC.

The agenda for the October 4-5, 1990, meeting is as follows:

1. Report of the Subcommittee on aviation System Capacity of the Research, Engineering, and Development Advisory Committee.
2. Report of the Working Groups:
   (a) Technology.
   (b) Airport Development.
   (c) Finance.
   (d) Noise.

Attendance at the October 4-5 meeting is open to the interested public but limited to space available. Any member of the public may present a written statement to the Committee at any time. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact James McMahon in the Office of System Capacity and Requirements, 800 Independence Avenue, SW., Washington, DC 20591, telephone 202-267-3784.

Issued in Washington, DC, September 10, 1990.

Edward T. Harris,

Director of System Capacity and Requirements.

[FR Doc. 90-21690 Filed 9-13-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Date: September 10, 1990.

Public Information Collection Requirements Submitted to OMB for Review

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0032

Form Number: CF 5125

Type of Review: Extension

Title: Application for Withdrawal of Bonded Stores for Fishing Vessel and Certification of Use

Description: The document is used by the master of fishing vessels for the conditionally free withdrawal of supplies to be used during the voyage from bonded warehouses. It allows for consecutive arrivals in the United States. It is also used to certify the proper disposition of these supplies.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 500
Estimated Burden Hours Per Response: 5 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 42 hours
Clearance Officer: Dennis Dore (202) 535–9267, U.S. Customs Service, Paperwork Management Branch, Room 6316, 1301 Constitution Avenue, NW., Washington, DC 20229.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 90–21698 Filed 9–13–90; 8:45 am]

BILLING CODE 4820–02–M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 7, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0978
Form Number: IRS Form 9066
Type of Review: Revision
Title: Generic IRS Customer Satisfaction Questionnaire
Description: The data collected will be used to get an indication of whether the IRS is providing satisfactory service to its customers, the taxpayers. This information will be used by IRS managers to determine if current programs and service are meeting taxpayers' needs. The need for further evaluation of our service and programs will be indicated by this effort.
Respondents: Individuals, Farms, Businesses or other for-profit, Small businesses or organizations
Estimated Number of Respondents: 250,000
Estimated Burden Hours Per Respondent: 3 minutes
Frequency of Response: On occasion
Estimated Total Reporting Burden: 12,500 hours
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–21633 Filed 9–13–90; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review

September 10, 1990.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for reveiw and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0087
Form Number: IRS Forms 1040–ES, 1040–ES(NR) and 1040–ES(Espanol)
Type of Review: Revision
Title: Estimated Tax for Individuals (3 forms): (1) U.S. Citizens and Residents; (2) For Nonresident Aliens; and (3) For Use in Puerto Rico (in Spanish)
Description: Form 1040–ES is used by individulas (including self-employed) to make estimated tax payments if their estimated tax due is $500 or more. IRS uses the data to credit taxpayers accounts and to determine if the estimated tax has been properly computed and timely paid.
Respondents: Individuals or households
Estimated Number of Respondents/Recordkeepers: 14,563,250
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping, 1 hr., 25 min.
Learning about the law or the form, 18 min.
Preparing the form, 1 hr., 2 min.
Copying, assembling, and sending the form to IRS, 10 min.
Frequency of Response: Quarterly
Estimated Total Reporting/Recordkeeping Burden: 119,563,243 hours
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW. Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90–21634 Filed 9–13–90; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

[No. 90-1670]

Applications for Permission To Organize a Federal Savings Association

September 5, 1990.

AGENCY: Office of Thrift Supervision.

ACTION: Notice.

SUMMARY: The public is advised that the Office of Thrift Supervision (OTS) has submitted, with revision, an information collection request, "Applications for Permission to Organize a Federal Savings Association" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35).

The information provided on this application will be used by the OTS to evaluate the application in light of appropriate regulatory criteria and to determine whether the application meets eligibility requirements. Anyone desiring to organize a Federal association must submit an application. We estimate it will take approximately 145 hours per respondent to complete the information collection.

DATES: Comments on the information collection request are welcome and should be received on or before October 1, 1990.

ADDRESSES: Comments regarding the paperwork-burden aspects of the request should be directed to: Office of

Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Office of Thrift Supervision.

The Office of Thrift Supervision would appreciate commenters sending copies of their comments to the information contact provided below.

Request for copies of the proposed information collection requests and supporting documentation are obtainable at the Office of Thrift Supervision address given below: Director, Information Services Division, Communications Services, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Phone: 202-416-2751.

FOR FURTHER INFORMATION CONTACT: Cindy L. Hausch, Financial Analyst, Corporate Activities Division, (202) 906-7488, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

By The Office of Thrift Supervision.

Timothy Ryan,

Director.

[FR Doc. 90-21626 Filed 9-13-90; 8:45 am]

BILLING CODE 6720-01-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit "Islamic Art and Patronage: Selections from Kuwait" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Walters Art Gallery, Baltimore, Maryland, beginning on or about December 9, 1990 to on or about February 17, 1991, the Kimbell Art Museum, Fort Worth, Texas, beginning on or about March 16, 1991 to on or about May 12, 1991, the Emory University Museum of Art and Archaeology, Atlanta, Georgia, beginning on or about June 19, 1991 to on or about September 23, 1991, the Virginia Museum of Fine Arts, Richmond, Virginia, beginning on or about November 4, 1991 to on or about January 19, 1992, and the Saint Louis Museum of Art, Saint Louis, Missouri, beginning on or about February 15, 1992 to on or about April 11, 1992, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: September 10, 1990.

Alberto J. Mora,

General Counsel.

[FR Doc. 90-21675 Filed 9-13-90; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619-6975, and the address is U.S. Information Agency, 310 Fourth Street SW., room 700, Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 55, No. 179
Friday, September 14, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11:30 a.m., Friday, September 14, 1990.

PLACE: 2033 K St., NW., Washington, DC, 8th Floor Hearing Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 90–21900 Filed 9–12–90; 12:34 pm]

BILLING CODE 6351-01-M

FEDERAL COMMUNICATIONS COMMISSION

September 12, 1990.

The Federal Communications Commission will hold an Open Meeting on the subject listed below on Wednesday, September 19, 1990, which is scheduled to commence at 9:00 a.m., in Room 856, at 1919 M Street, NW. Washington DC.

Item No., Bureau, and Subject

1—Common Carrier—Title: Policy and Rules Concerning Rates for Dominant Carriers (CC Docket No. 87–313), *Report and Order.* Summary: The Commission will consider the adoption of a *Report and Order* that provides a new incentive-based system of regulating local exchange carriers beginning January 1, 1991.

2—Common Carrier—Title: Represcribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers (CC Docket 89–624), *Order.* Summary: The Commission will consider the adoption of an *Order* represcribing the authorized unitary rate of return for the interstate services of local exchange carriers.

3—Chief Engineer—Title: An Inquiry Relating to Preparation for the International Telecommunication Union World Administrative Radio Conference for Dealing with Frequency Allocations in Certain Parts of the Spectrum. (Gen. Docket No. 89–554) Summary: The Commission will consider whether to adopt a Second Notice of Inquiry in this proceeding.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Issued: September 12, 1990.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

[FR Doc. 90–21937 Filed 9–12–90; 3:44 pm]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATIONS COMMISSION

September 12, 1990.

The Federal Communications Commission will hold a Closed Meeting in Room 814 on the subjects listed below on Wednesday, September 19, 1990, following the Open Meeting, which is scheduled to commence at 9:00 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Item No., Bureau, and Subject

1—General Counsel—Further action in the Chicago, Illinois, UHF television comparative renewal proceeding (MM Docket No. 83–575, 83–576).

2—General Counsel—Application for review in the Mount Vernon, Indiana FM proceeding (MM Docket No. 88–84).

3—General Counsel—Application for review in the Bradenton, Florida, comparative TV proceeding (Docket No. 87–532).

4—General Counsel—Eight Applications for Review in the Orlando, Florida television proceeding (MM Docket No. 85–216).

These items are closed to the public because they concern Adjudicatory Matters. (See 47 CFR 0.603(j).)

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
The Secretary
General Counsel and members of his staff
Director, Office of Public Affairs and members of his staff

Action by the Commission September 7, 1990, Chairman Sikes; Commissioners Quello, Marshall, Barrett, and Duggan voting to consider these matters in closed session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Steve Svab, Office of Public Affairs, telephone number (202) 632–5050.

Issued: September 12, 1990.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

[FR Doc. 90–21938 Filed 9–12–90; 3:44 pm]

BILLING CODE 6712-01-M

INTER-AMERICAN FOUNDATION BOARD

Meeting

TIME AND DATE: September 27, 1990, 5:30–9:00 p.m.

PLACE: 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

STATUS: Open except for the portion specified as closed session as provided in 22 CFR 1004.4.

MATTERS TO BE CONSIDERED:

1. Approval of May 2, 1990, Board Meeting Minutes.
2. Approval of Revised By-Laws.
3. Designation of Board of Directors' Presidential Search Committee and Discussion of Search Procedures. Closed Session as provided in 22 CFR Part 1004.4.
4. Designation by Chairman of Interim President.
5. Review of Board Travel Policy and Procedures.
6. Recommendations and Discussion of SPTF Disbursements in Nicaragua.
7. Discussion of proposed FY 1992 Budget.
8. President's Report.

CONTACT PERSON FOR MORE INFORMATION: Charles M. Berk, Secretary to the Board of Directors, (703) 841–3812.

Dated: September 10, 1990.

Charles M. Berk,
Sunshine Act Officer.

[FR Doc. 90–21946 Filed 9–12–90; 3:44 pm]

BILLING CODE 7025-01-M

LEGAL SERVICES CORPORATION

Board of Directors Meeting; Notice

TIME AND DATE: A meeting of the Board of Directors will be held on September 23–24, 1990. The meeting will commence at 1:00 p.m.

PLACE: The Oxford Alexis Hotel, 1600 Seventeenth Street, The Sage Room, Denver, CO, 303–628–5400.

STATUS OF MEETING: Open [A portion of the meeting may be closed, subject to a vote by a majority of the Board of Directors, to discuss personnel, privileged or confidential, personal, investigatory and litigation matters under the Government in the Sunshine Act [54 U.S.C. 552b (c) (2), (4), (5), (7), and (10) and 45 CFR 1622.5 (a), (c), (d), (e), (f), and (h)].

MATTERS TO BE CONSIDERED:

1. Approval of Agenda.
2. Approval of Minutes.
   —July 30, 1990
   —August 9, 1990
3. Welcoming Remarks by Frederic K. Conover, President, Colorado Bar Association.
4. Chairman's Remarks.
   (a) Status Report on Reauthorization, Appropriations and Confirmation Hearings.
   (b) Discussion of Future Board Meeting Schedule.
   (c) Report on Symposium of Twenty-Five Years of Federally Funded Legal Services.
   (d) Committee Selection.
5. President's Report.
   (a) Status Report on the Corporation.
   (b) Report on Reduction in Funding of California Rural Legal Assistance.
6. Discussion and Consideration of Reauthorization and Reform Proposals.
7. Report on Budgetary Matters.
   (a) Discusison of Corporation's Fiscal Year (FY) 1990. Consolidated Operating Budget.
   (b) Status of FY 1991 Appropriations.
   (c) Discussion of Proposed FY 1992 Budget Mark.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863-1839.

Date Issued: September 12, 1990.

Maureen R. Bozell,

Corporation Secretary.

[FR Doc. 90-21952 Filed 9-12-90; 3:45 pm]

BILLING CODE 7050-01-M

RESOLUTION TRUST CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Board of Directors of the Resolution Trust Corporation will meet in open session on Tuesday, September 18, 1990 beginning at 2 p.m. to consider the following matters:

Summary Agenda:

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

A. *Memorandum re:*
Proposed Amendments to the Bylaws of the Resolution Trust Corporation.

Discussion Agenda:

A. *Report re:*
Submission of Final Report regarding the Review of the 1988 FSLIC Assistance Agreements.

The meeting will be held in the Auditorium of the RTC Building located at 801—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Resolution Trust Corporation, at (202) 416-7282.

Dated: September 11, 1990.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 90-21834 Filed 9-11-90; 4:57 pm]

BILLING CODE 6714-01-M

Corrections

Federal Register
Vol. 55, No. 179
Friday, September 14, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 90-040]

RIN 0579-AA20

Animal Welfare; Standards

Correction

In proposed rule document 90-19223 beginning on page 33448 in the issue of Wednesday, August 15, 1990, make the following corrections:

On page 33492, in the first column, in the 23rd line, after "animals held for", add "quarantine. Several commenters requested that we define the word".

On page 33504, in the first column, in the fifth line from the bottom, "Current" should be added before "§ 3.85(b)".

On page 33505, in the first column, beginning in the 10th line, delete "that the nonhuman primates were provided water within that 4 hours before".

§ 3.3 [Corrected]

On page 33514, in the first column, in § 3.3(b), in the ninth line add "doors" between "windows" and "vents".

§ 3.7 [Corrected]

On page 33516, in the third column, in § 3.7(c)(4), in the sixth line "official" should read "officials".

§ 3.10 [Corrected]

On page 33517, in the first column, in § 3.10(a), on the 13th line "steam" should read "stream" and on the 15th line, "stream" should read "steam".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Groundfish and Crab Fisheries of the Bering Sea and Aleutian Islands Area, Groundfish Fisheries of the Gulf of Alaska, and Pacific Halibut Fisheries Off the State of Alaska

Correction

In notice document 90-19964 beginning on page 34724 in the issue of Friday, August 24, 1990, make the following correction:

On page 34725, in the first column, the last line of the first full paragraph should read "effective in January 1992."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 90N-0275]

Barr Laboratories, Inc.; Proposal To Refuse To Approve Abbreviated New Drug Applications for Conjugated Estrogrens Tablets; Opportunity for a Hearing

Correction

In notice document 90-19864 beginning on page 34613 in the issue of Thursday, August 23, 1990, make the following corrections:

1. On page 34616, in the second column, in the second complete paragraph, in the seventh line, the citation should read "21 U.S.C. 355(j)(7)(B)(i)".
2. On page 34617, in the first column, in the second paragraph, in the sixth line, "Bhavanani" should read "Bhavnani".
3. On page 34618, in the last line of the first column, "Director of" should read "Division of".
4. On the same page, in the third column, in the first complete paragraph, in the eighth line, the citation should read "21 U.S.C. 355(j)(3)(A)", and in the third from last line "21 U.C.S." should read "21 U.S.C.".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Program Announcement and Proposed Funding Priority for Cooperative Agreements for Area Health Education Center Programs

Correction

In notice document 90-21290 beginning on page 37562 in the issue of Wednesday, September 12, 1990, make the following correction:

On page 37563, in the second column, under SPECIAL CONSIDERATION FOR FISCAL YEAR 1991 in the fifth line remove "disadvantaged".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26327; Notice No. 90-21]

RIN 2120-AD59

Operation Over the High Seas and Within the North Atlantic Minimum Navigation Performance Specification Airspace

Correction

In proposed rule document 90-20793 beginning on page 36592 in the issue of Wednesday, September 5, 1990, in the first column, under "DATES", "January 3, 1990" should read "January 3, 1991"

BILLING CODE 1505-01-D

federal register

Friday
September 14, 1990

Part II

Department of Justice

Bureau of Prisons

28 CFR Part 524

Control, Custody, Care, Treatment and Instruction of Inmates; Central Inmate Monitoring; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 524

Control, Custody, Care, Treatment and Instruction of Inmates; Central Inmate Monitoring

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document the Bureau of Prisons is amending its rule on Central Inmate Monitoring. The Bureau of Prisons monitors and controls the transfer, temporary release, and community activities of certain inmates who present special needs for management. Changes in this amendment include a clarification of the two types of Witness Security Cases, changes in eligibility criteria, clarification of clearance procedures, and nomenclature and editorial changes. This amendment is intended to update provisions of the Central Inmate Monitoring program and to ensure the continued safe and orderly running of Bureau institutions.

EFFECTIVE DATE: September 14, 1990.

ADDRESSES: Office of General Counsel, Bureau of Prisons, HOLC Room 760, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 307-3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is amending its rule on Central Inmate Monitoring. A final rule on this subject was published in the **Federal Register** May 20, 1982 (47 FR 22002) and was amended in the **Federal Register** June 11, 1984 (49 FR 24105). For the convenience of the reader, the entire text of the rule is being published. A summary of the changes follows.

In the second sentence of § 524.70, the word "approval" is revised to read "clearance" to reflect Bureau procedure. In § 524.71 the phrase "Community Programs Managers" is revised to read "Community Corrections Managers" to reflect that change in title. In § 524.72, paragraph (a) is revised to incorporate the provisions of former paragraphs (a) and (b). Former paragraphs (c) through (i) of § 524.72 become paragraphs (b) through (h). New § 524.72(b) is revised to remove the reference to RICO conviction and to raise the dollar figures for monetary value of the offense used to determine eligibility from $1,000,000 and $500,000 to $5,000,000 and $1,000,000 respectively. In § 524.72(e) the heading "Disruptive groups" is revised to read "Security threat groups", the phrase "any penal" is replaced by "either state or federal penal", and in the last sentence the word "disruptive" is revised to read "security threat". These terminology changes specify more accurately the basis for this central inmate monitoring assignment. New § 524.72(g) is revised to include assignment for inmates for whom there is no identifiable threat, but who are to be separated at the request of the Federal Judiciary or Federal prosecutors. New § 524.72(h) is revised to include assignment for members of a terrorist group with a potential for violence, and also to revise the phrase "paragraphs (a)-(h)" to read "paragraphs (a)-(g)".

In § 524.73(a) the phrase "Community Programs Manger" is revised to read "Community Corrections Manager". To reflect current Bureau procedure, § 524.73(a) specifies that classification takes effect when proper notification is made. This ordinarily means when appropriate entries have been made into the Bureau's computer system. Section 524.73(b) identifies the case manager as the person responsible for ensuring notification is made to the affected inmate. This had been the responsibility of the institution's CIM coordinator. This paragraph now also specifies that witness security cases will be notified through a commitment interview. In § 524.73(b), the phrase ", with the original form placed in the inmate privacy folder" is removed to reflect current Bureau procedure. Former paragraph (c) of § 524.73 is designated as paragraph (d), and a new paragraph (c) is added which specifies that unsentenced inmates in pre-trial custody do not require notification. Inmates in pre-trial custody may receive a classification for reasons of security. Notification to the inmate of this classification serves no practical purpose, as it is made solely for management purposes and has no adverse effect on these inmates. For example, an unsentenced inmate's access to community activities remains under the control of the court. In new paragraph (d), references to interim and final classification are removed in order to reflect current Bureau procedure. References in this paragraph (d) to placing the original form in the inmate privacy folder are also removed.

Section 524.74 on CIM classifications is revised to incorporate provisions of former §§ 524.74 and 524.75 on final and interim CIM classifications, and specific references to final and interim classifications are deleted from the revised section. This reflects current Bureau procedures. Paragraph (a) of new § 524.74, is revised to state that an inmate's participation in the Department of Justice Witness Security Program is voluntary. Paragraph (d) of new § 524.74 derives from paragraph (a) of former § 524.75, and states that the Central Office is the reviewing authority for all future separation cases for witness security cases. Paragraph (e) of new § 524.74 allows for the classification of pre-trial inmates as central inmate monitoring cases. The intent of such classification is to provide for the protection of designated pre-trial inmates. Paragraph (f) of new § 524.74 derives from paragraph (d) of former § 524.75, and further specifies that an inmate not notified of a change in the classification by the reviewing authority within 60 days from the date of the initial notification may consider the CIM classification final. Paragraph (b) of former § 524.75 is no longer necessary because Bureau procedure does not include provision for interim classification. Appeal procedures referred to in paragraph (b) are now covered in new § 524.77. Paragraph (c) of former § 524.75 is incorporated into new § 524.74(d).

Former § 524.76 is redesignated as § 524.75. New § 524.75 is amended in paragraph (a) by revising the word "approval to read "clearance", in paragraph (b)(1) by adding the parenthetical phrase "(including satellite camp, except as provided for in *paragraph (e)(1) of this section)*", in paragraph (b)(2) by revising the phrase "community treatment centers" to read "community corrections centers," and in paragraph (d) by revising the phrase "Inmate Monitoring Branch" to read "Inmate Monitoring Section", and includes "escorted trips" as requiring Central Office clearance. Paragraph (e) of former § 524.76 is modified as new § 524.75(e)(1) and now specifies the Warden may give clearance for transfer of sole separation cases to satellite camp of the Warden's institution, paragraph (f) of former § 524.76 is now covered in new § 524.75(c), (d) and (e)(4), paragraph (g) of former § 524.76 is incorporated into new § 524.75(f), paragraph (h) of former § 524.76 is incorporated into new § 524.75(e)(2) and (f), and paragraph (i) of former § 524.76 is removed as this procedure is no longer necessary, since new § 524.75(c) sets forth the standard for clearance. Section 524.75(e)(3) allows the Warden to give clearance for local furlough medical trips (day) for state prisoners and separation cases, and § 524.75(e)(5) allows the Warden to give clearance for temporary release for local one day writs to the United States Marshals for witness security cases. New § 524.75(g) specifies that inmates in pretrial status who are classified solely under the separation assignment, only require review by the Warden or designee for temporary or permanent releases.

In new § 524.76 (formerly § 524.77), the first sentence of paragraph (a) is revised to eliminate overly specific details relating to program review. The intent of the paragraph is unchanged. Paragraph (b) of new § 524.76 is revised to clarify that participation in the Department of Justice Witness Security Program is voluntary, and to incorporate the nomenclature change for the Central Office Inmate Monitoring Section. In new § 524.77 (formerly § 524.78), references to interim and final classifications are removed to reflect current Bureau procedure, and in the last sentence the word "complaints" is revised to read "appeals" for the sake of clarity. New § 524.77 also provides that witness security cases may choose to address their concerns directly to the Inmate Monitoring Section, Central Office, rather than use the Administrative Remedy Procedure.

In new § 524.78 (formerly § 524.79), the heading is revised to read "CIM classification of recommitted offenders", and references to parole/mandatory release violation or new conviction are removed as being redundant. In paragraph (c) of new § 524.78, the case manager is identified as the person responsible for ensuring the inmate is provided notification of classification actions, and the reference to interim classification is deleted.

Because these changes impose no further restrictions on inmates and deal with agency procedures designed to help ensure the continued protection of inmates, the Bureau finds good cause for exemption from the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing the previously cited address. These comments will be considered, but will receive no response in the **Federal Register**. For ease of review, the entire text of the rule is being republished.

The Bureau of Prisons has determined that this rule is not a major rule for the purpose of E.O. 12291. After review of the law and regulations, the Director, Bureau of Prisons has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), does not have a significant impact on a substantial number of small entities.

List of Subjects in 28 CFR Part 524

Prisoners.

Dated: September 10, 1990.

J. Michael Quinlan,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), subchapter B of 28 CFR chapter V is amended as set forth below.

SUBCHAPTER B—INMATE ADMISSION, CLASSIFICATION, AND TRANSFER PART 524—CLASSIFICATION OF INMATES

1. The authority citation for 28 CFR part 524 is revised to read as follows, and all other authority citations within the part are removed:

Authority: 5 U.S.C. 301; 18 U.S.C. 3521-3528, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to conduct occurring on or after November 1, 1987), 5006-5024 (Repealed October 12, 1984 as to conduct occurring after that date), 5039; 21 U.S.C. 848; 28 U.S.C. 509, 510; 28 CFR 0.95-0.99.

2. Subpart F of 28 CFR part 524 is revised to consist of §§ 524.70 through 524.78 as follows:

Subpart F—Central Inmate Monitoring System

Subpart F—Central Inmate Monitoring System

§ 524.70 Purpose and scope.

The Bureau of Prisons monitors and controls the transfer, temporary release (e.g., on writs), and community activities of certain inmates who present special needs for management. Such inmates, known as central inmate monitoring (CIM) cases, require Central Office and/or Regional Office clearance for transfers, temporary releases, or community activities recommended by the Warden. This monitoring is not for the purpose of precluding inmates classified as central inmate monitoring cases from transfers, from temporary releases, or from participation in community activities, when the inmate is otherwise eligible, but rather is to provide protection for all concerned and to contribute to the safe and orderly running of federal institutions.

§ 524.71 Responsibility.

Authority for actions relative to the Central Inmate Monitoring Program is delegated to the Assistant Director, Correctional Programs Division, to Regional Directors, and to Wardens. Each of these persons shall designate a CIM coordinator (for the Central Office, each Regional Office, and each institution, respectively). Community Corrections Managers are designated CIM coordinators for inmates confined at contract facilities.

§ 524.72 Central inmate monitoring assignments.

Central inmate monitoring cases are classified according to the following assignments.

(a) *Witness Security Cases:* Individuals who agree to cooperate with law enforcement, judicial, or correctional authorities, frequently place their lives or safety in jeopardy by being a witness or intended witness against persons or groups involved in illegal activities. Accordingly, procedures have been developed to ensure the safety of these individuals. There are two types of Witness Security Cases: Department of Justice (authorized by the Attorney General under Title V of Public Law 91-452) and Bureau of Prisons Witness Security Cases (authorized by the Assistant Director, Correctional Programs Division).

(b) *Sophisticated criminal activity:* Inmates who have been involved in sophisticated, large-scale criminal activity. Examples of sophisticated criminal activity include drug offenses, property offenses, white collar offenses, or a criminal history of involvement in such offenses. An inmate may be classified to this assignment when all the following minimum criteria are met:

(1) The offender was a principal figure or prime motivator in the criminal organization or activity from which substantial income or resources could be obtained; and

(2) The monetary value of the offense totaled $5,000,000 or more for drug offenses, and $1,000,000 or more for property offenses or white collar offenses. The realization of a lesser amount of net illicit gain by the inmate for property or white collar offenses does not mitigate the amount of loss or potential loss which may have been incurred by the victim(s).

(c) *Threats to government officials:* Inmates who have made threats to government officials or have been identified in writing by the U.S. Secret Service as requiring special surveillance.

(d) *Broad publicity:* Inmates who have received widespread publicity (for example, national media coverage) as the result of their criminal activity or notoriety as public figures.

(e) *Security threat groups:* Inmates who belong to or are closely affiliated with groups (e.g., prison gangs), which have a history of disrupting operations and security in either state or federal penal (which includes correctional and detention facilities) institutions. This assignment also includes those persons who may not be confined in the same institution with a specified security threat group(s).

(f) *State prisoners:* Inmates, other than Witness Security cases, who have been accepted into the Bureau of Prisons for service of their state sentences. This assignment includes cooperating state witnesses and regular state boarders.

(g) *Separation:* Inmates who may not be confined in the same facility with other specified individuals who are presently housed in federal custody or who may come into federal custody in the future. Factors to consider in classifying an individual to this assignment include, but are not limited to, testimony provided by or about an individual (in open court, to a grand jury, etc.), and whether the inmate has exhibited aggressive behavior towards other specific individuals, either in the community or within the institution. This assignment also includes those inmates who have provided authorities with information concerning the unauthorized or illegal activities of others. This assignment may also include inmates for whom there is no identifiable threat, but who are to be separated from others at the request of the Federal Judiciary or Federal Prosecutors.

(h) *Special supervision:* Inmates who require special management attention, but who do not ordinarily warrant assignment in paragraphs (a)–(g) of this section. For example, this assignment may include an inmate with a background in law enforcement or an inmate who has been involved in a hostage situation. Others may include those who are members of a terrorist group with a potential for violence. Placement in this assignment may be made only upon the authorization of a Regional Director or the Assistant Director, Correctional Programs Division.

§ 524.73 Procedures.

Staff shall use the following procedures in making central inmate monitoring classifications:

(a) An inmate may be classified at any time as a central inmate monitoring case by a Community Corrections Manager or by appropriate staff at the Central Office, Regional Office, or institution. This classification takes effect when proper notification is made.

(b) The case manager shall ensure that the affected inmate is notified in writing as promptly as possible of the classification and the basis for it. Witness security cases will be notified through a commitment interview. The notice of the basis may be limited in the interest of security or safety. For example, in separation cases under § 524.72, notice will not include the names of those from whom the inmate must be separated. On the other hand, in sophisticated criminal activity cases under § 524.72, adequate notice shall include specific reference to the sophisticated criminal activity; that is, the crime or crimes for which the inmate was convicted, or explicit and reliable information of other sophisticated criminal activity. The inmate shall sign for and receive a copy of the notification form. If the inmate refuses to sign the notification form, staff witnessing the refusal shall indicate this fact on the notification form and then sign the form.

(c) Inmates in pre-trial custody do not require notification.

(d) When an inmate's name is ordered removed for any reason from the Central Inmate Monitoring System (for example, because the reviewing authority either disapproves the CIM classification or approves removal of a CIM classification based on new information), the appropriate staff member shall ensure that the relevant portions of the inmate central file are either removed or, when part of a larger document, are amended to clearly reflect removal of the CIM assignment. The form providing for notification of the central inmate monitoring classification, the summary sheet, supportive documentation, and the written basis for removal are to be retained in the inmate privacy file. Staff shall notify the inmate in writing of the removal of the specific CIM classification. The inmate shall sign for and receive a copy of this notification form. If the inmate refuses to sign the notification form, staff witnessing the refusal shall indicate this fact on the form and then sign the form.

§ 524.74 CIM classifications.

A CIM classification may be made where the basis for the classification is well established at the time of the initial review. The inmate is to be notified of the CIM classification(s) and of the right to appeal the classification(s) through the Administrative Remedy Procedure.

(a) Witness security cases are designated by the Central Office. An inmate's participation in the Department of Justice Witness Security Program is voluntary. A commitment interview and an admission and orientation interview are to be conducted with the witness security inmate to ensure that the inmate understands the conditions of confinement within the Bureau of Prisons. Central Office classification of an individual as a witness security case, under either the Department of Justice or Bureau of Prisons, does not require additional review, and overrides any other CIM assignment.

(b) State prisoners accepted into the Bureau of Prisons from state or territorial jurisdictions are designated by appropriate staff in the Central Office or Regional Office. All state prisoners are automatically included in the Central Inmate Monitoring System to facilitate designations, transfers, court appearances, and other movements. Central Office or Regional Office classification of an individual as a state prisoner does not require additional review.

(c) Designated staff in the Central Office or Regional Office may assign an inmate to any other CIM classification which they are authorized to make, based upon substantive information. Staff in the Central Office or Regional Office shall notify the appropriate institution CIM coordinator of the classification.

(d) A classification may be made at any level to achieve the immediate effect of requiring prior clearance for an inmate's transfer, temporary release, or participation in community activities. A review by designated staff is required to determine whether a sound basis exists for the classification. Staff making this initial classification shall forward to the reviewing authority complete information regarding the inmate's classification. Reviewing authorities for CIM classification are:

(1) Designated staff in the Central Office Inmate Monitoring Section who review classification decisions for all future separation assignments for witness security cases and for any combination of assignments involving a witness security case.

(2) The Warden who reviews CIM classification decisions for all separation assignments except for uncommitted separation.

(3) Designated staff in the Regional Office who review CIM classification decisions for all other central inmate monitoring assignments and for any combination of assignments, except for those involving a witness security case.

(e) Pre-trial inmates may be classified as central inmate monitoring cases to effect appropriate security concerns (e.g., separation, special security and special supervision). Designated staff at institutions are authorized to make these assignments, based upon substantive information.

(f) The reviewing authority shall examine the appropriateness of the CIM classification, ordinarily within 60 days of the date the inmate was initially notified of the classificiation. The reviewing autority shall notify the institution's CIM coordinator in writing of the outcome of the review. An inmate not notified of a change in the classification by the reviewing authority within 60 days from the date of the initial notification may consider the CIM classification final.

§ 524.75 CIM activities clearance.

(a) An inmate classified as a Central Inmate Monitoring case may not be transferred (except for medical emergencies), may not be given a temporary release, and may not participate in community activities without prior clearance from the appropriate reviewing authority.

(b) Clearance by the Central Office or Regional Office (depending upon CIM classification) is required prior to the inmate's participation in the following activities:

(1) Transfer to another federal facility (including satellite camp, except as provided for a in paragraph (e)(1) of this section);

(2) Transfer to non-federal facilities or contract community corrections centers (for continued service of federal sentence);

(3) Temporary release (e.g., on writ) to federal, state, and/or local jurisdictions;

(4) Furloughs;

(5) Escorted trips outside commuting distance of the institution; and

(6) Work or Study Release.

(c) Except as provided in the following paragraphs of this section, the Regional Director or designee shall be the clearance authority on all transfers, temporary releases, and participation in community activities for inmates assigned central inmate monitoring status.

(d) The Central Office Inmate Monitoring Section shall be the clearance authority on all transfers, temporary releases, escorted trips, and participation in community activities for witness security cases.

(e) The Warden may give clearance to CIM cases for the following activities:

(1) Transfer of sole separation cases to satellite camp of Warden's institution;

(2) Local escorted medical trips (other than witness security cases);

(3) Local furlough medical trips (day) for the following CIM assignments: state prisoners and separation cases;

(4) Local non-medical escorted trips for separation cases.

(5) Temporary release for local one day writs to the United States Marshals for witness security cases.

(f) The Warden may give clearance to transfer a CIM inmate, including witness security cases, to a local hospital for emergency medical care not available at the institution.

(g) Inmates in pre-trial status, who are classified solely under the separation assignment, only require review by the Warden or his designee for temporary or permanent releases.

§ 524.76 Review of CIM status.

(a) Except for witness security and state prisoner assignments, the Warden shall ensure that the status of an inmate's CIM assignment is considered at each program review. When staff believe that removal or modification of a CIM classification is appropriate, the institution's CIM coordinator and the appropriate reviewing authority are to be notified. Only the reviewing authority shall determine if removal or modification of the CIM classification is appropriate. The institution's CIM coordinator shall ensure that the inmate is notified of any decision made by the reviewing authority.

(b) Participation of an inmate in the Department of Justice Witness Security Program is voluntary. An inmate classified as a witness security case because of his participation in the Department of Justice Witness Security Program may request removal from this assignment at any time. Staff shall forward to the Central Office Inmate Monitoring Section a request by a witness security inmate for removal from the witness security program. An inmate may not be removed from the CIM assignment as a witness security case without the acknowledgement of the Department of Justice.

(c) A state prisoner accepted into the Bureau of Prisons from a state or territorial jurisdiction shall keep the CIM assignment "state prisoner" while solely in service of the state sentence.

§ 524.77 Appeals of central inmate monitoring classification.

An inmate may at any time appeal (through the Administrative Remedy Procedure) the inmate's classification as a central inmate monitoring case. Federal inmates housed in non-federal facilities do not have access to the Administrative Remedy Procedure. Inmates in this states who wish to appeal their CIM status may forward their appeals by private correspondence to the appropriate Regional Office. Inmates identified as witness security cases may choose to address their concerns directly to the Inmate Monitoring Section, Central Office, rather than use the Administrative Remedy Procedure.

§ 524.78 CIM classification of recommitted offenders.

An inmate who is recommitted to federal custody, who at the time of release was classified as a CIM case, shall retain this classification pending a review of the CIM status. Except for witness security cases, this review ordinarily is completed as part of the classification process. Review for witness security cases is completed by the Inmate Monitoring Section at the time that an institution is designated.

(a) When staff determine that the inmate's removal as a CIM case is appropriate, staff shall forward their recommendation, and the justification for this recommendation to the appropriate reviewing authority for a final decision on the CIM classification. The inmate retains the CIM classification pending a decision by the reviewing authority.

(b) When staff determine that modification (addition or deletion of one or more CIM assignments) of the CIM classification is appropriate, staff shall forward their recommendation, and the justification for this recommendation to the appropriate reviewing authority for a decision on modification of the CIM classification. The inmate retains the CIM classification pending a decision by the reviewing authority.

(c) When removal from, modification of, or continuation as a CIM case is indicated, or when a classification is effected, the case manager shall ensure that the inmate is provided notification of the action. The case manager shall also ensure that an inmate is provided notification of any subsequent decision by the rviewing authority to either modify or remove the inmate's CIM assignment.

[FR Doc. 90-21671 Filed 9-13-90; 9:24 am]

BILLING CODE 4410-05-M

federal register

Friday
September 14, 1990

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 205
Guidelines for State Licensing of Wholesale Prescription Drug Distributors; Final Rule

21 CFR Part 205
Applicability to Blood and Blood Components Intended for Transfusion; Guidelines for State Licensing of Wholesale Prescription Drug Distributors

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 205

[Docket No. 88N-0258]

RIN 0905-AC81

Guidelines for State Licensing of Wholesale Prescripton Drug Distributors

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to implement those sections of the Prescription Drug Marketing Act of 1987 (PDMA) that require FDA to issue regulations setting forth guidelines for State licensing of wholesale drug distributors. The guidelines prescribe minimum standards, terms, and conditions for the storage and handling of prescription drugs for human use (hereinafter prescription drugs) and for the establishment and maintenance of records of their distribution. PDMA prohibits wholesale distribution of prescription drugs in interstate commerce unless the wholesale distributor is licensed by a State in accordance with these guidelines. In this rule, FDA has tentatively determined that PDMA does not apply to the distribution of blood and blood components intended for transfusion. In a separate notice elsewhere in this issue of the **Federal Register**, FDA invites further comment on this matter.

EFFECTIVE DATE: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Diane P. Goyette, Center for Drug Evaluation and Research (HFD-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8049.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 13, 1988 (53 FR 35325), FDA published a proposed rule to issue guidelines for State licensing of wholesale drug distributors as required by the Prescription Drug Marketing Act of 1987 (Pub. L. 100-293, 102 Stat. 95). PDMA amends the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 *et seq.*) to provide, among other things, that no person may engage in the wholesale distribution in interstate commerce of drugs subject to section 503(b) of the act (21 U.S.C. 353(b)) (prescription drugs for human use), unless such person is licensed by the State in accordance with federally prescribed minimum standards. PDMA requires that these minimum standards be established in "guidelines" issued by FDA regulation. The guidelines must prescribe minimum standards, terms, and conditions for the storage and handling of prescription drugs and for the establishment and maintenance of records of their distribution (21 U.S.C. 353(e)(2)).

The State licensing guidelines established by this regulation should not be confused with FDA guidelines issued under the agency's rules governing administrative practices and procedures (21 CFR 10.90). Guidelines issued under § 10.90 suggest procedures or present standards of general applicability that are not legal requirements, but that one can rely on as acceptable to FDA. Such guidelines allow persons to choose alternate courses of conduct that comply with the general standards or suggested procedures. In contrast, PDMA directs that the guidelines issued by this regulation "* * * shall *prescribe requirements* for the storage and handling of (prescription) drugs and for the establishment and maintenance of records of (their) distribution * * *" (emphasis added). Moreover, PDMA requires that wholesale drug distributors who distribute human prescription drugs in interstate commerce be licensed in accordance with the minimum requirements set forth in these guidelines (21 U.S.C. 353(e)(2)). Thus, the guidelines prescribed by this regulation are binding substantive rules that have the force and effect of law.

Unless express reference is made to guidelines issued under § 10.90 (as in paragraph 25, below), all references to guidelines in this document are made to these "Guidelines for State Licensing of Wholesale Prescription Drug Distributors" established under the requirements of PDMA.

The PDMA prohibition against interstate distribution of prescription drugs by persons who are not licensed by the State in accordance with these Federal guidelines takes effect 2 years after the date of publication of this final rule. Any person who distributes prescription drugs in violation of this prohibition is subject to imprisonment for not more than 10 years or a fine of not more than $250,000, or both (21 U.S.C. 333(b)(1)).

In developing the guidelines, FDA followed the recommendation of the House of Representatives' Committee on Energy and Commerce that it consider the "Model Regulations for Wholesale Drug Distribution" issued by the National Association of Boards of Pharmacy (NABP). FDA also considered the "Proposed Uniform Standards of Practice for Wholesale Drug Distribution," which have been adopted by the National Wholesale Druggists' Association (NWDA).

Additionally, FDA has carefully considered the approximately 50 comments received on the proposed rule. The comments came from members of Congress, trade associations, professional groups, individual pharmaceutical manufacturing firms, wholesale drug distributors, chain drug store companies, State boards of pharmacy, individual hospital and retail pharmacies, and pharmacists. Highlights of this final rule and the agency's economic analysis are followed by a summary and discussion of the comments in section VII below.

II. Highlights of the Final Rule

This final rule establishes guidelines for State licensing of wholesale prescription drug distributors as required under PDMA. The guidelines provide minimum requirements for the storage and handling of prescription drugs and for the establishment and maintenance of records of their distribution. The guidelines ensure that all prescription drug wholesalers who distribute drugs in interstate commerce will operate according to these minimum standards while leaving States discretion to impose stricter licensing requirements. In response to comments and further internal deliberations, the final rule modifies certain provisions of the proposal to meet these objectives better. The major provisions of the final rule are summarized as follows:

1. *Scope.* The final rule applies to all wholesale distributors of human prescription drugs in interstate commerce.

2. *Definitions.* Section 205.3 sets forth definitions as they apply to this final rule. The distribution of drug samples by manufacturers' representatives, distributors' representatives, and the distribution of blood and blood components intended for transfusion by registered blood establishments are excluded from the definition of wholesale distribution in the final rule. These activities are, therefore, not subject to the licensing requirements under the guidelines.

3. *Wholesale drug distributor licensing requirement.* Section 205.4 of the final rule sets forth the requirement that a wholesale distributor conducting interstate transactions in a State be licensed by the State. This requirement is mandated by section 503(e)(2)(A) of the act.

4. *Minimum required information for licensure.* Section 205.5 of the final rule sets forth minimum information to be required from each licensing applicant.

5. *Minimum qualifications.* The final rule sets forth certain minimum qualifications for licensing under § 205.6. The agency believes that careful screening of applicants is necessary and prudent in reducing the opportunities for diversion of prescription drugs. State authorities must consider an applicant's history, which may reflect upon the applicant's ability to prevent drug diversion. Where granting a license would not be in the public interest, State authorities may deny a license to an applicant.

6. *Personnel.* The final rule establishes minimum personnel standards for licensees under § 205.7. Employees must be qualified by education and/or experience to perform their duties.

7. *Violations and penalties.* Section 205.8 of the final rule provides for suspension or revocation of licenses, and permits fines, imprisonment, or civil penalties upon conviction of violations of Federal, State, or local drug laws.

8. *Minimum requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records.* The final rule sets forth the minimum requirements for the storage and handling of prescription drugs and for the establishment and maintenance of records of their distributions. The final rule includes sections describing physical requirements of facilities where prescription drugs are stored, warehoused, handled, held, offered, marketed, or displayed. Such facilities must have certain characteristics, outlined in § 205.50(a) of the final rule, that make them suitable places for the storage of prescription drugs. Facilities must also have adequate security systems and be capable of ensuring a proper environment for the storage of prescription drugs.

a. *Wholesaler examination of incoming shipments of prescription drugs.* The final rule requires examinations of incoming and outgoing shipments to prevent acceptance of prescription drugs that are contaminated or otherwise unfit for distribution. The proposed section has been clarified in the final rule to limit the required inspection of incoming shipments of prescription drugs by wholesale distributors to a visual examination, adequate to reveal shipping container damage that would suggest damage to the contents. The final rule also deletes the requirement that the inspection of incoming shipments extend to an examination of the delivery vehicle.

b. *Handling of prescription drug products returned to the wholesale distributor.* Section 205.50(e) includes detailed instructions for the handling of returned, damaged, and outdated prescription drugs. The final rule permits the wholesaler to send back to the original supplier prescription drug products that have been returned to the wholesaler under circumstances that cast doubt on the product's integrity. This change is consistent with stated agency policy with regard to returned prescription drug products under PDMA.

c. *Recordkeeping requirements.* Section 205.50(f) sets forth recordkeeping requirements to ensure a high degree of accountability for all prescription drug transactions. Proposed § 205.50(f)(1) has been revised so that wholesale distributors are not required to include the expiration dates of prescription drugs in the records of their transactions under the final rule. Records must be retained for a period of 2 years following disposition of the prescription drug product under § 205.50(f)(2) of the final rule. Section 205.50(f)(3) of the final rule provides that records kept at the inspection site or immediately retrievable by computer or other means must be readily available for authorized inspection during the retention period. Those that are kept at another location must be made available within 48 hours of an authorized request.

d. *Written policies and procedures.* Section 205.50(g) sets forth minimum standards for the establishment and maintenance of written policies and procedures related to the receipt, security, storage, inventory, and distribution of prescription drugs. By following such pre-established procedures, a firm can better assure proper storage and distribution of prescription drugs on a consistent basis.

e. *Responsible persons.* Section 205.50(h) of the final rule requires the maintenance of lists of persons in responsible company positions. Such lists provide a deterrent to drug diversion.

f. *Compliance with Federal, State, and local law.* Section 205.50(i) of the final rule emphasizes that wholesale drug distributors must operate in compliance with all applicable laws and regulations.

g. *Salvaging and reprocessing.* Section 205.50(j) of the final rule states that wholesale drug distributors are subject to any applicable Federal, State, or local laws relating to salvaging or reprocessing. Salvaging and reprocessing operations can be very complex and are outside the scope of traditional wholesaler activities. Additional controls are therefore necessary to ensure that these operations are carried out in the appropriate fashion. Accordingly, § 205.50(j) of the final rule makes clear that FDA's current good manufacturing practice (CGMP) regulations for finished pharmaceuticals in 21 CFR parts 210 and 211 apply to wholesalers' salvaging and reprocessing operations.

III. Economic Analysis

FDA has examined the economic consequences of the changes implemented by the final rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354).

As recommended by Congress, FDA consulted the NABP Model Regulations for Wholesale Drug Distribution in the development of the standards set by these guidelines. (See H. Rept. 100-76, p. 17.) The agency believes that the standards in these guidelines represent the norm of current practices and procedures among drug wholesalers and expects minimal incremental costs to occur when these standards become effective 2 years after the publication of this final rule. Any substantial costs that may arise will be attributable to the statute itself. Thus, this rule is not expected to produce economic consequences beyond those contemplated by the act. Accordingly, the agency concludes that this final rule is not a major rule as defined by Executive Order 12291. For similar reasons, the agency certifies, in accordance with the Regulatory Flexibility Act, that this final rule will not have a significant impact on a substantial number of small entities.

IV. Executive Order 12612; Federalism

Executive Order 12612 requires Federal agencies to carefully examine regulatory actions to determine if they would have significant impact on federalism. Using the criteria and principles set forth in the Order, the agency has considered the impact of this final rule on the States, on their relationship with the national government, and on the distribution of power and responsibilities among the various levels of government.

FDA is required by statute to issue this regulation to establish guidelines setting forth minimum standards for State licensing of wholesale prescription drug distributors. The regulation is to include minimum requirements for recordkeeping, storage, and handling of prescription drugs. States are affected to the extent that their wholesale distributors are not permitted to distribute prescription drugs in interstate commerce unless they are licensed by the State in accordance with these guidelines. Under these guidelines, however, States are free to adopt standards that exceed the minimum requirements. They also maintain maximum administrative discretion, and can develop their own policies to achieve program objectives. States have had the opportunity to participate in the development of these guidelines through the notice and comment rulemaking process.

FDA certifies that it has examined this final rule, and while it may have some effect on federalism issues, for the reasons stated above, these effects are not significant and do not require an assessment under Executive Order 12612. Moreover, the agency's action is mandated by law; the agency has no discretion in carrying out its legal mandate by regulation.

V. Paperwork Reduction Act of 1980

This final rule contains information collections which have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 and assigned OMB control number 0910-0251. The title, description, and respondent description of the information collection are shown below with an estimate of the annual reporting and recordkeeping burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Title: Prescription Drug Marketing Act of 1987; Guidelines for State Licensing of Wholesale Prescription Drug Distributors.

Description: The reporting requirement includes the submission of certain descriptive information concerning each wholesale drug distributor (e.g., corporate address, contact person address) (§ 205.5). The recordkeeping requirements include establishing and maintaining inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription drugs (§ 205.50(f) and (h)).

Description of respondents: State or local governments; businesses or other for-profit organizations; small businesses or organizations.

Estimated annual reporting and recordkeeping burden:

Section	Annual number of respondents	Annual frequency	Average burden per response (minutes)	Annual burden hours
202.5(a)	7,300	1	15	1,825
205.50(f) and (h)	7,300	1	20	2,434
Total				4,259

FDA, as a result of the comments received on the proposal, has deleted the provision in § 205.50(f)(1)(iii) requiring distributors to maintain records of expiration dates of prescription drugs. As reflected in the table above, this change will reduce the estimated burden from 30 minutes per response to 20 minutes, and from 3,650 annual burden hours to 2,434. There were no comments received on the Paperwork Reduction Act clearance submission or on the burden estimates.

VI. Environmental Impact

The agency has determined under 21 CFR 25.24(a) (7), (8), and (10) 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.

VII. Comments on the Proposed Rule

A. General Comments

1. Several comments addressed general issues raised by the proposed rule. Some comments questioned whether FDA should be regulating wholesale drug distributors, saying that regulations for State licensure of drug wholesalers should be left to the individual States. Other comments argued that the proposed rule is unnecessary and duplicative because State regulatory and private quality control systems already in place adequately address the goals of PDMA, and that the pharmacists' role in drug distribution precludes the need for wholesaler licensing by State or Federal authorities.

Section 503 of the act, as amended by PDMA, requires FDA to publish these State guidelines. It is not left to the agency's discretion (21 U.S.C. 353(e)(2)(B)). Moreover, the legislative history of PDMA reveals that Congress examined existing drug distribution systems, State licensing schemes, private quality control systems, and the role of pharmacists in meeting the goals of PDMA, and concluded that, although such programs might be individually effective, a national strategy was necessary to protect the public health.

These Federal guidelines set minimum standards for States to follow in designing their licensing systems. The guidelines assure that all wholesale drug distributors conducting business in interstate commerce will comply with the same minimum requirements. The agency believes that the guidelines leave States sufficient discretion to determine appropriate structures for the regulation of wholesale distributors conducting business in their States.

2. Some comments argued that the proposed guidelines should be modified or abandoned because they duplicate, and at times contradict, provisions of FDA's CGMP regulations (21 CFR parts 210 and 211).

The agency's CGMP regulations include provisions that are similar to some requirements in these guidelines. However, the CGMP regulations do not apply to the traditional activities of wholesale drug distributors (see 43 FR 45027), whereas these guidelines are expressly applicable to the traditional activities of wholesale drug distributors. FDA is unaware of any inconsistencies within its regulatory scheme that would dictate changes in these guidelines.

The provisions of this rule and other FDA regulations may have common elements, but the agency finds that this is appropriate. FDA finds that the guidelines are not only consistent with other Federal regulations, but complement the Federal scheme to enable FDA to have better control over the distribution of prescription drugs. The agency's views on the relationship between these guidelines and the current good manufacturing practice provisions of the act are discussed in paragraph 25 below.

3. Some comments discussed the economic impact of the proposed rule on wholesale distributors. Generally, these

comments contended that the proposed rule would impose substantial additional costs on wholesalers, without a corresponding benefit. Some comments estimated that new paperwork and personnel expenses would impose a burden. Other comments expressed concern that additional costs will force smaller, marginally profitable wholesale distributors out of business. The comments asserted that the proposed rule would impose many new procedural burdens on wholesale distributors that go beyond current practice and would be expensive to implement.

As noted earlier, the agency considered both the NABP "Model Regulations for Wholesale Drug Distribution" and the NWDA "Proposed Uniform Standards of Practice for Wholesale Drug Distribution" in developing these guidelines. Therefore, the agency believes that the guidelines represent the norm of current practice and procedure among drug wholesalers. The comments offered no examples of significant deviation from current procedures to bolster the general claim that implementation of these minimum requirements would have substantial economic consequences. Moreover, the comments suggested no specific changes in the proposed requirements to lessen the asserted economic impact.

When Congress passed PDMA, it determined that some changes should be made in the wholesale distribution system to protect the public from prescription drugs of questionable integrity. While some additional expenses are anticipated as these changes are implemented, the agency does not expect these minimum requirements to impose costs that are overly burdensome. The agency has reviewed this rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act and finds it satisfactory.

4. One comment asserted that compliance with the minimum standards set forth in the rule will greatly increase paperwork burdens. The comment also stated that the proposed guidelines governing the handling of prescription drugs, particularly those provisions dealing with destruction of returned or damaged prescription drugs, could have a significant effect on the human environment.

The agency has concluded that the standards described in these guidelines represent current procedure among responsible wholesale distributors. It is not expected that unreasonable, new paperwork burdens or significant effects on the human environment will be created.

5. One comment asked that FDA clarify its authority to enforce these guidelines.

These guidelines are minimum standards for State licensing of wholesale drug distributors. State licensing authorities are the primary agencies responsible for establishing and enforcing wholesaler licensing schemes in the States in accordance with the guidelines. FDA, however, will enforce section 503(e)(2)(A) of the act (21 U.S.C. 353(e)(2)(A)), which prohibits wholesale distribution of prescription drugs in interstate commerce in a State, except by persons licensed by the State in accordance with these minimum guidelines.

This specific authority under PDMA does not replace or dimish the agency's authority over wholesalers under other statutory provisions, including the adulteration, misbranding, and new drug provisions of the act.

B. Scope

6. Two comments requested that manufacturers' distribution centers be specifically excluded from the scope of the licensing requirements because they are adequately governed by FDA's CGMP regulations.

FDA does not find it necessary to make the change requested. Congress intended that all wholesale distributors of human prescription drugs, with certain specific exceptions, be licensed according to these gudielines. Manufacturers' warehouses that are conducting wholesale distributions are wholesale distributors and are subject to the licensing requirements unless their activities fall under one of the specific exclusions defined under § 205.3(f) of the final rule.

7. Three comments addressed issues raised by application of these guidelines to the distribution and sale of blood and blood components by blood establishments and hospitals. Two of these comments requested clarification of PDMA's scope and urged FDA to "exempt" blood establishments from all of PDMA's provisions. The comments contended that application of PDMA to blood distributors would seriously disrupt the nation's blood services. The third comment suggested that the agency could, by notice and comment rulemaking, exempt blood and blood components from PDMA by declaring that they are not prescription drugs for PDMA purposes.

After considering these comments and reviewing PDMA's purpose and legislative history, FDA has tentatively determined that PDMA does not apply to blood and blood components intended for transfusion. However, in a notice published elsewhere in this issue of the **Federal Register**, FDA is inviting further comments on this matter.

PDMA, by its literal terms, applies to all drugs that are subject to section 503(b) of the act; that is, to all human prescription drugs. There is no doubt that blood and blood components intended for transfusion are prescription drugs. See, e.g., 21 CFR 606.121(c)(8)(i); 21 CFR 610.61(t). See also May 25, 1982, 47 FR 22518; August 1, 1981, 46 FR 40121. However, if PDMA, and particularly PDMA's restrictions on the resale of prescription drugs, were considered applicable to the distribution of such blood and blood components, the result would be to seriously impede the present blood distribution system, thereby substantially interfering with, and reducing, our nation's blood supply. Because application of PDMA to blood and blood components intended for transfusion would produce this untenable result, FDA believes that Congress did not intend to subject such blood and blood components to PDMA's provisions.

Moreover, the legislative history lacks any discussion of PDMA's application to blood and blood components intended for transfusion and also clearly shows that Congress intended that PDMA remedy problems associated with the distribution of those drugs that are popularly referred to as "medicines" or "pharmaceuticals." See, *e.g.*, Public Law 100–293, section 2 (1988) (Congressional Findings). As is discussed in further detail in the companion notice to this final rule that is published elsewhere in this issue of the **Federal Register**, blood and blood components intended for transfusion are unique drug products that are distributed in an entirely different way than other prescription drugs. For example, such blood and blood components are not promoted through samples and coupons. FDA believes that the fact that such blood and blood components are not part of the system of distribution and marketing that Congress intended to regulate under the terms of PDMA further signals that Congress did not intend to include blood and blood components intended for transfusion within the scope of PDMA.

Accordingly, FDA's tentative determination is to limit the scope of these guidelines so that they do not apply to blood and blood components intended for transfusion. This limitation is accomplished by amending the definitions in § 205.3 to add new paragraph (f)(8), which specifically excludes from the definition of "wholesale distribution" the sale, purchase, or trade of blood and blood components intended for transfusion. FDA is also adding definitions of "blood" and "blood component" in § 205.3 of the final rule.

If further comments on this issue in response to the companion notice persuade FDA to include distribution of blood and blood components intended for transfusion in these guidelines, FDA will amend the guidelines to cover such blood and blood components.

C. Definitions

8. On its own initiative, the agency has changed the definition of "prescription drug" in proposed § 205.3(c) (now § 205.3(e)) by removing the reference to State law. The applicability of these guidelines is limited to wholesale distributions in interstate commerce of drugs that are "prescription drugs" under section 503(b) of the act.

9. Several comments addressed proposed § 205.3, which sets forth definitions of terms to be used in the wholesaler licensing regulations. One comment requested clarification of the meaning of "under common control" as used in proposed § 205.3(d)(4) (now § 205.3(f)(4)).

Neither PDMA nor its legislative history defines the term "under common control" which is used in section 503(c)(3)(B)(iii) of the act (21 U.S.C. 353(c)(3)(B)(iii)). The term, however, has been used in other Federal regulatory schemes which were in use at the time PDMA was enacted into law. Both the Security Exchange Commission and the Environmental Protection Agency define "common control" to mean the power to direct or cause the direction of the management and policies of a person or an organization, whether by the ownership of stock, voting rights, by contract, or otherwise. See 17 CFR 230.405, 40 CFR 66.3(f). FDA has included this definition in this final rule.

10. A number of comments perceived a conflict between the definitions of "wholesale distribution" (proposed § 205.3(d)) and "wholesale distributor" (proposed § 205.3(e)). The comments noted that chain drug warehouses are specifically included in the definition's list of "wholesale distributors" while intracompany sales are specifically excluded from the scope of the definition of "wholesale distribution." The comments contended that the business of chain drug warehouses is generally limited to intracompany distribution of products, namely, to retail stores that are under common ownership or within a corporate structure. The comments stated that these activities should be considered "intracompany sales," and thus should be excluded from "wholesale distribution" and the licensing requirements of the regulations.

The agency does not find the definitions of "wholesale distribution" and "wholesale distributor" to be inconsistent. A "wholesale distributor" is any person who "engages in wholesale distribution of prescription drugs." The legislative history includes a discussion of the scope of the definition of "wholesale distribution" for the purposes of these guidelines. It was clearly the intent of Congress to require licensing of the wholesale distributions of human prescription drugs by chain drug warehouses (see H. Rept. 100-76, p. 17).

Some chain drug warehouses may limit distribution of prescription drug products to subdivisions within a corporate structure, and those distributions would fall under the "intracompany sales" exception and not be considered wholesale distributions under § 205.3(f). A chain drug warehouse that sells prescription drugs to a franchised store or to establishments outside the corporate umbrella, however, would be engaging in wholesale distribution, as defined in § 205.3(f) of this final rule, and its distributions in interstate commerce would be subject to the licensing requirements.

11. Several comments suggested that the distribution of prescription drug samples by manufacturers' representatives and distributors' representatives be specifically excluded from the definition of "wholesale distribution" and thus from the licensing requirement. The comments argued that licensing persons who distribute prescription drug samples is inconsistent with the intent of PDMA and would make the current practice of sample distribution by representatives virtually impossible.

Other comments argued that manufacturers' and distributors' representatives should be licensed and be required to store and handle samples in accordance with the guidelines or the guidelines will fail to assure that prescription drugs are stored properly in all cases.

After considering the comments and reviewing PDMA's purpose and legislative history, FDA has determined that the distribution of prescription drug samples by manufacturers' representatives and distributors' representatives, done in accordance with other applicable provisions of the act, is not "wholesale distribution" within the meaning of § 205.3(f) of these guidelines and will not be subject to licensing under this final rule. FDA believes that this result is consistent with a congressional intent to establish a separate, comprehensive regulatory scheme designed specifically for prescription drug samples.

The licensing of manufacturers' representatives and distributors' representatives as wholesalers would go beyond the intent of PDMA. PDMA was enacted to address certain problems in the human drug distribution system that Congress believed threatened the integrity of the nation's prescription drug supply. Wholesale distribution of drugs and sample distribution by manufacturers' representatives and distributors' representatives were two of the areas where Congress believed more controls were necessary. However, PDMA addressed these two areas in somewhat different ways.

In the case of wholesale distribution, Congress sought to improve storage and handling practices and accountability by requiring that wholesale distributors of human prescription drugs be licensed under State licensing requirements that meet prescribed minimum Federal standards. The legislative history suggests that Congress expected these licensing standards to be based on the NABP "Model Regulations for Wholesale Drug Distribution," a model inapplicable to the control of sample distribution. (H. Rept. 100-76, p. 17.) Moreover, the House Report also indicates that Congress intended the licensing requirement to be confined to "* * * distribution by chain drug warehouses, wholesale drug warehouses, and all sellers of prescription drugs in wholesale quantities to persons or firms other than the consumer or patient." (H. Rept. 100-76, p. 17.) The reference in the House Report supports a conclusion that PDMA's licensing provisions are not intended to cover the distribution of prescription drug samples, which, by statutory definition, are never sold (section 503(c)(1) of the act; 21 U.S.C. 353(c)(1)).

Congress chose a different method of regulation with regard to the distribution of prescription drug samples. These requirements are set forth in section 503(d) of the act, and establish express and comprehensive provisions governing the storage, handling, distribution, and disposition of prescription drug samples by manufacturers, their distributors, and representatives. The scope and specificity of these provisions indicate that Congress determined that sample distributions be conducted under this separate regulatory scheme. Section 503(d) and the legislative history of

PDMA contain no suggestion that any additional regulatory scheme, such as licensing prescription drug sample distribution as wholesale activity, was either necessary or contemplated by Congress.

Accordingly, the agency is adding § 205.3(f)(7) to the final rule, excluding the distribution of prescription drug samples by manufacturers' representatives and distributors' representatives from the "wholesale distribution" definition and the licensing requirements.

Because sample distribution by manufacturers' representatives and distributors' representatives will not be subject to State licensing in accordance with these guidelines, the agency does not intend that such sample distribution be subject to the storage and handling requirements of these guidelines. The agency disagrees with the contention of some comments that excluding such sample distribution from these storage and handling requirements will prevent prescription drugs from being properly stored in all cases. Under section 503(d)(3)(B) of the act, manufacturers and distributors must store prescription drug samples under conditions that will maintain their stability, integrity, and effectiveness, and take measures to assure that their prescription drug samples are kept free of contamination, deterioration, and adulteration. Manufacturers and distributors are thus responsible for the proper handling of prescription drug samples throughout their distribution.

12. One comment asked if those entities excluded from the "wholesale distribution" definition in proposed § 205.3(d) (1) through (8) would also be excluded from the storage, handling, and recordkeeping requirements of § 205.50.

The guidelines require only those persons engaged in the wholesale distribution in interstate commerce of prescription drugs to be subject to the guidelines' minimum requirements for the storage and handling of prescription drugs and for the establishment and maintenance of records of the distribution of such drugs. By definition, therefore, the entities involved in the transactions listed in § 205.3(f) (1) through (8) of the final rule are not wholesale distributors under PDMA and are not subject to other provisions of the guidelines. Of course any person engaged in manufacturing, processing, packing, or holding of a drug is subject to all pertinent provisions of the act, including the current good manufacturing practice provisions of section 501(a)(2)(B) of the act (21 U.S.C. 352(a)(2)(B)).

13. A number of comments suggested that the definition of "wholesale distributor" be expanded to include manufacturers' representatives, sales agents, doctors, various kinds of clinics, and others. The comments asserted that addition of these categories to the definition would make the regulations more specific and all-inclusive and would assure compliance with storage and labeling requirements wherever prescription drugs are handled.

Section 205.3(g) of the final rule defines "wholesale distributor" to include anyone engaged in wholesale distribution of prescription drugs. The list of wholesale distributors enumerated in the guidelines is not exhaustive, but, as it clearly states, only illustrates the type of persons or firms who could, depending on the nature of their activity, be considered wholesale distributors under these provisions. The determinative consideration is the nature of the activity, not whether the entity is listed among the examples. If an activity is wholesale distribution and is not excluded under § 205.3(f) of the final rule, then the person engaged in the distribution is a wholesale distributor and his or her activity in interstate commerce must be licensed. FDA concludes that no purpose would be served by adding to the examples given in § 205.3(g).

14. One comment suggested that the phrase in proposed § 205.3(e) (now 205.3(g)), which included "retail pharmacies that conduct wholesale distributions" in the definition of wholesale distributors, be clarified. The comment asked that more guidance be given to determine when a retail pharmacy would be conducting wholesale distributions requiring licensure.

The nature of the operations of a retail pharmacy determines when it is a wholesale distributor. If its activities fit the definition of wholesale distribution and do not fall under any of the exclusions, the guidelines provide that the retail pharmacy is a wholesale distributor and must be licensed as such.

15. Another comment pointed out that the definition of "wholesale distributor" lists both "manufacturers" and "manufacturers' warehouses" as examples. The comment asked if both could be required to obtain licensure under the guidelines. The comment added that requiring a manufacturer to obtain licensure in a State if its warehouse is already licensed would be redundant, costly, and wasteful.

Both a manufacturer and its warehouse could be required to obtain a license as wholesale distributors under these guidelines if both are engaged in wholesale distributions as defined in § 205.3(f) of the final rule, and if the licensing State has no single license provision as permitted by § 205.5(b). Under § 205.5(b), States can set up a system permitting a single license for a business entity operating more than one facility in a State. Under such a system, one license would suffice for the regulation of a manufacturer and its warehouse, but both facilities would be subject to all of the licensing requirements.

D. Wholesale Drug Distributor Licensing Requirement

16. Several comments addressed the wholesale drug distributor licensing requirement described in proposed § 205.4. One comment asserted that the concept of interstate shipment is essential to the licensing requirement, but was not included in the section of the proposed guideline.

FDA does not agree that interstate shipment is a key element of the wholesaler licensing requirement under PDMA. The statute says that "(n)o person may engage in the wholesale distribution in interstate commerce (of prescription drugs) * * * in a State unless such person is licensed by the State in accordance with * * *" these guidelines (21 U.S.C. 353(e)(2)(A)). A product may be in interstate commerce before it has been shipped from one State to another. For example, a product manufactured in one State from components made in other States is in interstate commerce even if the finished product is shipped only within the State of manufacture. While FDA does not find interstate shipment to be an essential part of the licensing requirement, the agency does not find it necessary to otherwise clarify the licensing requirement by revising § 205.4 of the final rule to more closely reflect the statutory language. As revised, the final rule requires all wholesale distributors of prescription drugs who engage in interstate commerce in a State to be licensed by the State.

17. Numerous comments addressed the second sentence of proposed § 205.4. As proposed, that section said that the "mere shipment of prescription drugs into the State does not necessarily require licensing." Several comments argued that the word "necessarily" should be deleted from the sentence because it changes the meaning of the licensing requirement from that intended by Congress, as revealed in the legislative history of PDMA. Many other comments argued that the entire second

sentence of proposed § 205.4 should be removed from the final rule. These comments contend that the sentence could undermine the efforts of several States that currently license all wholesale drug distributors who ship prescription drugs into the State.

Proposed § 205.4 was derived from the discussion of the wholesale drug distributor licensing requirement in the legislative history accompanying PDMA. That discussion states, in pertinent part, that—

Subparagraph 503(e)(2)(A) is intended to ensure that any person or firm engaging in the wholesale distribution of pharmaceuticals to any person or firm for resale shall be licensed in the state in which it does business and that the state licensing requirements meet certain minimum standards. The mere shipment of pharmaceuticals into a state would not trigger the requirement that the distributor be licensed in that state. However, the operation of a facility from which a wholesaler makes shipments outside the state would trigger the licensing requirement with respect to the state in which the facility is located.

(H. Rept. 100-76, p. 17)

The legislative history indicates that when the Congress used the words "in the State" in section 503(e)(2)(A) of the act, it was referring to the physical location of the facility from which a wholesaler makes shipments. Thus, PDMA only requires that wholesalers who have a facility in a State be licensed by that State, and that wholesalers who have their facility outside the State, but who ship into the State, need not be licensed by that State pursuant to PDMA. However, States are free to require the licensing of any wholesaler who ships into the State, even if the wholesaler does not have a facility in the State, subject to all pertinent constitutional constraints. But the failure of such out-of-State wholesalers to have such a State license would not be a violation of section 503(e)(2)(A) of the act. The agency has concluded that the changes made to § 205.4 indicate the proper scope of PDMA, and that the second sentence of the proposed § 205.4 was unclear and is unnecessary.

E. Minimum Required Information for Licensure

18. Several comments discussed the provisions pertaining to minimum information required for licensure in proposed § 205.5. Some comments asserted that certain information required by § 205.5(a) is burdensome and unnecessary, because it is already a matter of public record. The comments contended that the State licensing authority is not entitled to have this information and that it is of no value to the State for the purpose of licensing. A few comments recommended that § 205.5(a) be revised to indicate that only information relating directly to activities conducted in the licensing State be required.

The agency has reviewed the information requirements and finds that the information does not go beyond the minimum necessary for a State licensing authority to enforce its licensing system. Furthermore, because the information is readily available in corporate records, it will not be overly burdensome for a wholesale distributor seeking licensure to supply it to the State.

The information required for licensure, described in § 205.5(a) of the final rule, goes no further than information that is pertinent to activities within the licensing State. In designing its licensing scheme, however, each state is free to require such additional information as it finds appropriate.

19. Several comments recommended against the single licensing provision in proposed § 205.5(b) that would allow a State to issue a single license to a business entity operating more than one wholesale distribution facility within the State. This section also allows a State to issue a single license to a parent entity that has divisions or affiliate companies conducting wholesale distributions at more than one location within the State. The comments argued that separate licenses would provide better accountability and more effective application of sanctions.

The agency disagrees. In cases where a State chooses to include a single licensing provision in its wholesaler licensing scheme, other sections of these guidelines will assure that all of the wholesale distribution facilities subject to the license are adequately regulated. Section 205.5(a) (1) through (4) requires that comprehensive information about the identity, nature, and location of a business be submitted to obtain a license. This information must include names and addresses of contact persons for all facilities used by the licensee. The agency believes that this information will provide a sufficient guarantee of accountability and effective application of sanctions under a single licensing provision. States are, of course, free to design single licensing schemes with other guarantees or to choose not to provide for single licensing at all.

20. Two comments recommended that proposed § 205.5(b) be amended to allow for license reciprocity. Under this plan, a State could grant wholesale distributor licenses based on reciprocal agreements with other States having comparable licensing requirements. The comments are concerned that States may refuse to license by reciprocity if the issue is not addressed in these guidelines.

Reciprocal licensing arrangements between State licensing authorities have traditionally been a matter within the exclusive discretion of the States. This final rule does not prohibit States from allowing license reciprocity with other States, and FDA would not discourage such cooperative arrangements, but the agency declines to include a reciprocal licensing provision in these minimum guidelines.

21. Two comments objected to proposed § 205.5(c), which states that the State licensing authority shall be notified of any changes in the information required under § 205.5(a) within 5 days of the change. Both comments found the 5-day time period to be unreasonably short. One comment suggested a 30-day reporting period, while the other argued that an annual report of such changes would be sufficient.

The agency is removing the 5-day notice requirement in § 205.5(c) and leaving the determination of the time period up to the State licensing authority. The State licensing authority receives and maintains the information required under § 205.5(a) and is thus in the best position to determine appropriate time frames for notification of changes in this information.

F. Qualifications of Personnel

22. One comment asserted that proposed § 205.6(b), which describes the right of a State licensing authority to deny a license that would not be "in the public interest," is too vague and should be removed.

FDA has provided a general—"in the public interest"—standard for the State licensing authority to deny a license. A State may choose to further define what it believes to be "in the public interest." The agency, however, declines to do so in these minimum guidelines.

23. Some comments objected to proposed § 205.7, which sets forth minimum personnel standards for licenses. The comments found the proposed minimum personnel standards to be an "unwarranted intrusion" into the right of wholesalers to choose their own employees. They recommended that § 205.7 be removed, saying that the requirement that personnel employed in wholesale distribution meet certain minimum education and experience standards goes beyond the intent of PDMA.

The agency disagrees with the contention that requiring a minimum education and training level for personnel employed in wholesale distribution is overly intrusive, inappropriate for these guidelines, or beyond the intent of Congress. The guidelines do not specify the kinds of education and experience required for personnel. Rather, the impact of the guidelines is to assure that personnel have an acceptable level of proficiency to carry out the licensing requirements. The agency believes that it is reasonable and appropriate to require that personnel involved in the handling, recordkeeping, and distribution of prescription drugs be competent to perform these important tasks.

G. Violations and Penalties

24. One comment suggested that removing the words "or any felony" from proposed § 205.8(a) would make the section on violations and penalties "more fair." The comment believed that the language in this section of the proposed rule could allow suspension or revocation of a wholesaler license for the criminal act of a single employee or for a felony involving a business that is completely separate and distinct from the corporation's wholesale distribution operation.

The agency believes that the determination of grounds for suspension or revocation of wholesaler licenses is a matter more appropriately left to the discretion of the State licensing authority. The agency is removing the words "or any felony" from § 205.8(a) of the final rule.

On its own initiative, FDA is revising proposed § 205.8(b), which sets forth the requirement that State licensing laws provide for suspension and revocation of licenses for violations of the licensing provisions. As proposed, § 205.8(b) implied that even insignificant or minor technical violations of wholesaler licensing laws could be the basis for suspension and revocation of licenses. As a minimum licensing requirement, FDA intended that significant or consistent infractions of State licensing provisions would be necessary to justify suspension and revocation of licenses. States are free to impose stricter requirements, but FDA should not do so. FDA is removing the word "any" from this section in the final rule to convey more accurately the agency's intended meaning, and is stating that State licensing laws shall provide for suspension or revocation of licenses "where appropriate," considering the facts of the violation in question.

H. Minimum Requirements for the Storage and Handling of Prescription Drugs

1. General Comments

25. Several comments objected to the reference to "current good manufacturing practices" in the introductory paragraph to proposed § 205.50. The comments asserted that the agency lacks the authority to impose such requirements on wholesale drug distributors. One comment contended that current good manufacturing practices are "not applicable to the proposed guidelines," and added that making them applicable would be beyond FDA's statutory authority. Another comment stated that the reference to current good manufacturing practices reflected the agency's "confusion." The comment argued that the agency is only entitled to regulate wholesaler operations in "housekeeping and stockkeeping" matters. The comment added that wholesalers deal only with drugs in containers sealed by the manufacturer, so wholesale distributors could not be subject to manufacturing standards.

FDA agrees that it may be confusing to refer, in § 205.50, to "current good manufacturing practices." The provision has been revised accordingly. FDA disagrees, however, that it lacks authority to apply current good manufacturing practice requirements to wholesalers, or that its authority over wholesalers extends only to "housekeeping and stockkeeping matters." Section 501(a)(2)(B) of the act (21 U.S.C. 351(a)(2)(B)) provides that a drug shall be deemed to be adulterated if "* * * the methods used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to * * * current good manufacturing practice * * *." This section, through the operation of section 301(k) of the act (21 U.S.C. 331(k)), applies to drug wholesalers, retailers, pharmacies, and hospitals, as well as to manufacturers.

While the statutory current good manufacturing practice provisions of the act apply to wholesalers, FDA has not yet issued specific CGMP regulations covering traditional wholesaler activities. (FDA has previously stated that the CGMP regulations set forth in 21 CFR part 211 do not apply to wholesalers engaging in activities that are traditional to those establishments (see 43 FR 45027)). In the absence of specific CGMP regulations governing wholesaler activities, FDA advises that the minimum requirements in § 205.50 of these guidelines may be relied upon by wholesalers to meet applicable obligations under section 501(a)(2)(B) of the act. FDA intends, in the near future, to issue a guideline under § 10.90 of its procedural regulations (21 CFR 10.90), describing acceptable current good manufacturing practices for wholesalers that reflect the approach taken in this final rule.

26. Two comments made the general claim that the storage and handling provisions in proposed § 205.50 are too specific and restrictive. The comments argued that wholesale distributors should be free to choose systems and facility designs that will achieve the goals of PDMA.

The agency disagrees. Congress directed FDA to establish guidelines to "assure uniform standards covering the proper storage and handling of pharmaceuticals by wholesale distributors without regulatory duplication at the State and Federal level," and recommended consideration of the NABP model guidelines for licensing wholesalers in developing this guideline. (H. Rept. 100-76, p. 17). The storage and handling provisions of § 205.50 are responsive to this Congressional direction.

2. Facilities

27. Some comments asserted that proposed § 205.50(a)(3), which says that wholesale distribution facilities must have a designated area for the quarantine of outdated, damaged, deteriorated, misbranded, or adulterated prescription drugs, is burdensome and would result in inefficient use of space by wholesale distributors. One comment stated that this problem could be minimized by specifying that one quarantine area for all substandard goods would be sufficient to comply with the minimum standards. Another comment suggested that deficient products could be identified and isolated by means of computerized inventory control, which would prevent inadvertent shipment without requiring separate quarantine space.

The agency has removed the word "separate" from § 205.50(a)(3), to clarify that a single quarantine area for outdated, damaged, deteriorated, misbranded, and adulterated prescription drugs is permissible. States can, of course, impose quarantine requirements that are stricter than this minimum guideline.

The agency does not believe that a computer-controlled quarantine system, which does not provide for physical separation of the drugs, is appropriate. A contaminated or adulterated prescription drug product is quarantined not only to ensure that it will not be distributed to the consumer, but also to prevent it from coming into contact with other drugs it might contaminate. The agency has no knowledge of computer or other systems that would be as effective as physical separation in achieving these goals. In addition, the comments have not shown that providing a physical space for the separation of damaged goods would be burdensome.

28. One comment asked for clarification of the phrase "opened or used outside the care, custody, or control" as used in the description of quarantine procedures required under proposed § 205.50(a)(3). The comment is concerned that the phrase could be interpreted to require quarantine of prescription drugs in circumstances where there has been no compromise of the physical integrity of the drug.

The agency is removing this phrase from the final rule. Section 205.50(a)(3) of the final rule requires that prescription drugs whose immediate containers have been opened or apparently damaged must be quarantined. It is not necessary that there be actual injury to a drug product for quarantine to be required. A suggestion of product damage—such as a dirty or broken immediate product container—would trigger the quarantine requirement.

29. Another comment stated that repackaging facilities should be listed under § 205.50(a) to ensure that storage and labeling standards envisioned by PDMA will be complied with at all facilities where prescription drugs are handled.

The agency does not agree that it is necessary to add repackaging or other facilities under § 205.50(a). These provisions apply to all "wholesale distributors," specifically to any facility that stores, handles, warehouses, or holds prescription drugs for wholesale sale. The provisions thus have a broad application that clearly includes repackaging facilities.

3. Security

30. Two comments argued that the security provisions described at proposed § 205.50(b) are too restrictive and suggested more general alternatives. One of the comments particularly objected to the requirement of an "internal alarm system," noting that other types of systems could be as effective for a given wholesale distribution business. The comment said that wholesale distributors should be free to choose the best alarm system for their facility.

The agency agrees that the requirement that the alarm system be "internal" is too specific and goes beyond the minimum standards to be set by these guidelines. The agency is thus removing this word from § 205.50(b) (2) and (3). Wholesale distributors can choose any alarm system design, consistent with State law and regulations, that is adequate to detect unauthorized entry into the facility and to protect the prescription drug inventory from theft and diversion. The type of alarm system that will satisfy this requirement will depend upon the characteristics of the facility, the wholesale operation, and the State's licensing law.

4. Storage

31. One comment asserted that the storage provisions at § 205.50(c) were too specific and suggested that they be removed. The comment argued that it should be "satisfactory" for FDA to require only that prescription drugs be stored at appropriate temperatures and under proper conditions.

The agency's obligation to impose reasonable storage requirements for prescription drugs goes beyond the general standard suggested by this comment. Congress has mandated that FDA set standards for the storage and handling of prescription drugs by wholesale distributors. These are meant to be minimum standards, but they must be adequate to serve as direction to States in setting up their licensing systems. General statements about "appropriateness" and "adequacy" do not offer sufficient direction to the States. The requirements of § 205.50(c) conform to the storage provisions of the NABP model guideline and, as discussed in paragraph 26, are in line with congressional intent.

32. One comment stated that the storage requirements in proposed § 205.50(c) should specifically exclude wholesale distributors from responsibility for the condition of prescription drugs during transport.

While FDA recognizes practical difficulties involved in maintaining proper storage and handling conditions for prescription drugs in transit, it believes that prescription drugs must be properly handled at all points in the distribution process. Drugs that are improperly handled at any point in the distribution process are subject to enforcement action under the adulteration and misbranding provisions of the act.

It should be noted, however, that the proposed rule does not place the responsibility for assuring proper storage conditions for prescription drugs in transit on the wholesale distributor. The guidelines require that incoming shipping containers be visually inspected by the wholesale distributor for obvious defects or problems caused by improper storage conditions in transit or at any other point in their distribution. Based on this inspection, the wholesale distributor can elect to accept or to refuse acceptance of prescription drugs that appear to be adulterated or misbranded. Responsibility for the condition of shipped drugs does not fall upon the wholesale distributor until acceptance is made.

33. A number of comments asked for clarification of the meaning of "room temperature" as used in the storage requirements in § 205.50(c)(1). The comment asked if FDA meant "controlled room temperature," as the term is used in the United States Pharmacopeia (USP), or "ambient" room temperature. The comments noted that maintaining a "controlled" room temperature would require more sophisticated equipment and higher utility outlays than "ambient" room temperature.

Properly stored prescription drugs must be protected from temperature extremes at all times. To ensure that this minimum standard is met, the agency is requiring that storage facilities be maintained at "controlled room temperature," which is defined in the USP as a temperature that is maintained between 15 and 30 °C (USP XXII (1990), p. 7). This requirement can be met using standard building thermostats and conventional heating ventilating, and air conditioning systems. The agency does not expect this minimum requirement to be burdensome or necessitate the purchase of sophisticated, expensive equipment.

34. A number of comments objected to the proposed requirement in § 205.50(c)(2) that temperature and humidity be recorded on manual, mechanical, electromechanical, or electronic equipment or logs. The comments asserted that this requirement was too costly and argued that current distribution systems include safeguards to ensure proper storage of the few prescription drug products requiring special treatment.

The agency disagrees with the claim that requiring records of storage conditions will impose unnecessary burdens on wholesale distributors. Section 205.50(c)(2), which describes the requirement, does so in very broad terms. The provision allows for operators of facilities to choose from a wide range of possible recording and documentation methods, as long as the choice is appropriate for their facility.

One of the listed choices is a "manual" procedure by which temperature and humidity information could be written in a log by an employee who reads a thermometer and hydrometer. This option is neither expensive nor burdensome. Other options are similarly reasonable in cost and operation.

5. Examination of Goods and Vehicles

35. Several comments concerned the proposed requirement in § 205.50(d)(1) that wholesalers inspect incoming prescription drugs and delivery vehicles. All of the comments recommended that the scope of any inspection be limited to obvious, apparent defects that can be discovered through a visual inspection. The comments cited the difficulty of determining transit conditions, and questioned the ability and expertise of personnel employed by the wholesale distributor to discover latent defects in vehicles or prescription drugs. The comments argued that requiring more in-depth inspections would be burdensome, costly, and could interfere with commercial relationships.

Some comments noted that a drug may be shipped in more than one vehicle and that only the last one would be available for inspection by the wholesaler. Inspection of this last vehicle would not assure that all transit vehicles were sound and protective of product integrity.

The agency generally agrees with these assertions and has modified the proposed inspection provisions in the final rule so that inspection of the delivery vehicle is no longer required, and inspection of incoming prescription drugs is limited to a visual examination of shipping containers. This inspection should be aimed at detecting damage that would suggest possible contamination of the container's contents. Some level of inspection must be conducted by wholesale distributors to identify the prescription drug and to remove obviously damaged drugs from the distribution system. Wholesale distributors must employ personnel who can perform such inspections.

Moreover, it is in the wholesale distributor's interest to employ personnel who have the ability and expertise to conduct inspections of incoming prescription drug shipments adequate to detect drugs that are not suitable for acceptance. One of the stated purposes of requiring inspection of incoming shipments is to provide an opportunity for wholesale distributors to refuse acceptance of prescription drugs that are unfit for distribution. Once the wholesale distributor has inspected the shipped drugs and elected to accept them, the distributor is responsible for the condition of the drugs. Until that time, the shipper or manufacturer remains responsible for delivering a prescription drug product in acceptable condition.

6. Returned, Damaged, and Outdated Prescription Drugs

36. Several comments addressed proposed § 205.50(e), which describes the obligations of wholesalers with respect to returned, damaged, and outdated prescription drugs. The comments found the entire section to be redundant because its subject matter is covered in other FDA regulations. The comments cited 21 CFR 211.204 and 211.208 as examples of regulations that make proposed § 205.50(e) unnecessary. These are the sections of FDA's CGMP regulations that pertain, respectively, to returned drugs and salvaged drug products.

As discussed previously in this document, the CGMP regulations set forth in 21 CFR part 211 apply to wholesale distributors only when they are engaged in activities that fall outside the scope of a traditional wholesale distribution practice (see 43 FR at 45027). A wholesaler who chooses to handle returned, damaged, or outdated drugs within the scope of traditional wholesale distribution practice is not subject to the CGMP requirements in 21 CFR part 211. Thus, the provisions of § 205.50(e) are not redundant with respect to these procedures. Of course, as stated in § 205.50(j) of this final rule, a wholesaler who engages in repackaging, salvaging, reprocessing, or other manufacturing activities is subject to the GCMP requirements in 21 CFR part 211.

37. Another comment suggested that § 205.50(e) be removed, saying the role that pharmacists play in the distribution of prescription drugs to consumers makes the provision unnecessary.

The requirements of this section are intended to prevent distribution of potentially adulterated or misbranded prescription drugs to consumers. FDA agrees that pharmacists play an important role in achieving this goal, but this does not replace the need for wholesale distributors to take measures, such as those described in proposed § 205.50(e), to remove prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated from wholesale distribution.

38. One comment recommended that proposed § 205.50(e)(2), which requires that prescription drugs in damaged containers be quarantined and physically separated from other drugs, be removed. The comment stated that the requirements of this section are adequately covered by proposed § 205.50(e)(1), which deals with quarantine of adulterated drugs.

The agency disagrees that proposed § 205.50(e)(2) is unnecessary and should be removed. Section 205.50(e)(1) states the requirement that adulterated drug products be quarantined, but does not specifically address the situation, described in § 205.50(e)(2), where damage to prescription drug product containers suggests that the quality of their contents has been compromised. The agency expects that this is the most common circumstance where quarantine is necessary and believes that it must be specifically addressed in the guidelines.

39. Another comment requested that "palletized bulk shipments" be specifically excluded from the container inspection requirement in proposed § 205.50(e)(2), because the language could be interpreted to mean that a prescription drug product would have been quarantined, destroyed, or returned the moment the outer seal of the bulk shipment is opened.

The agency has clarified § 205.50(e)(2) in the final rule to require quarantine when the prescription drug product is damaged or the condition of the sealed immediate or sealed secondary drug container suggests that the contents have been damaged. The guideline does not require quarantine when only the outer seal of a bulk shipment of prescription drug products is opened and this seal is not the immediate or secondary container of the product.

40. Several comments objected to the proposed requirements in § 205.50(e) for handling returned prescription drugs, finding them confusing and inconsistent within the proposal. The comments contend that unlike proposed § 205.50(e)(1) and (e)(2), proposed § 205.50(e)(3) does not allow for return of substandard prescription drugs to the manufacturer as an option for wholesale distributors. Other comments asserted that the requirements of proposed § 205.50(e)(3) were inconsistent with guidance given in FDA's August 1, 1988, letter on PDMA to regulate industry and other interested persons with regard to the handling of returned prescription drugs. That letter provided that hospitals, health care entities, or charitable institutions could destroy unwanted prescription drugs or return them to the manufacturer. The August 1, 1988, letter was supplemented by November 3, 1988, and January 26, 1990, letters that permitted these entities to return prescription drugs under certain specified circumstances.

The agency agrees and has added language to permit the return of prescription drugs to the manufacturer or supplier under § 205.50(e)(3) of the final rule.

41. Several comments objected to the requirement in proposed § 205.50(e)(3) that wholesale distributors perform "examination, testing, or other investigation" to determine that a prescription drug meets standards of safety, identity, quality, strength, and purity before returning the product to their shelves. Other comments contended that reshelving of returned drugs products after examination and testing is inconsistent with PDMA because it allows such products to be redistributed. Some of the comments questioned the analytic capability of distributors to comply with the requirement, saying that most wholesale distributors do not now conduct such testing. One comment argued that the requirement could fairly be imposed on manufacturers, but not on wholesalers, and another recommended that only a visual examination be required, with further investigations performed by the manufacturer if the distributor's visual inspection suggested a problem.

PDMA was enacted to decrease the risk that counterfeit, adulterated, misbranded, subpotent, or expired prescription drugs will reach the American consumer. It would violate the purpose of PDMA to allow returned prescription drugs to be distributed to the public without certain assurances. It is not inconsistent with PDMA, however, to permit reshelving of returned drugs that have been shown, through adequate testing measures, to meet acceptable standards.

Section 205.50(e)(3) of the final rule offers several options for the disposition of returned prescription drugs. Under the provision, the wholesaler is allowed to send the returned drug back to the manufacturer, destroy the returned drug, or reshelve it if it meets the testing standards outlined. The wholesaler is not required to choose the testing alternative. If the testing alternative is chosen, the wholesale distributor may elect to have a qualified outside laboratory conduct the analysis if it does not have the appropriate in-house capability. If the wholesale distributor chooses to conduct the testing procedures, pertinent CGMP requirements must be followed, and analyses should be adequate to detect problems with the drug's safety, identity, strength, quality, and purity. The agency does not want to limit testing to a visual examination that could fail to detect potential problems.

7. Recordkeeping

42. Several comments objected to the requirement in proposed § 205.50(f)(1)(iii) that expiration dates be included in disposition records, saying that the requirement would be costly, burdensome, and unnecessary. The comment added that current procedures, such as pharmacists checking dates before dispensing prescription drugs, are adequate to keep expired drugs out of the distribution system as intended by PDMA.

The comments provide adequate evidence that maintaining records of expiration dates is not current standard business practice in the industry, and that incorporating the requirement into current practice may impose some unnecessary burdens on wholesale distributors. The agency is removing proposed § 205.50(f)(1)(iii) and will not require that wholesale drug distributors maintain records of expiration dates of prescription drugs at this time. FDA may impose the requirement in the future if experience with these guidelines suggests it is necessary.

Although not required at this time, the agency encourages keeping records of drug expiration dates. In the agency's view, drug disposition records that include expiration dates are more complete, better facilitate recalls, and help to ensure that outdated drug products are not distributed to American consumers.

43. Several comments questioned the requirement in proposed § 205.50(f)(2), which states that records of the disposition of prescription drugs by wholesale distributors must be available for inspection by authorized officials for a period of 2 years following the expiration dates of such drugs. The comments suggested several alternatives to associating the retention period to the expiration date of the drug.

As previously mentioned, FDA has removed proposed § 205.50(f)(1)(iii), which set forth the requirement that wholesale distributors maintain records of expiration dates of prescription drugs. FDA will therefore not require a record retention time period linked to the expiration date of the drug. Instead, the agency is changing the pertinent provision to establish a record retention period of 2 years following the date of disposition of the prescription drug product. FDA has concluded that this retention period is sufficient to enable the agency to respond to public health emergencies related to the distribution of prescription drugs. The agency anticipates that a vast majority of prescription drugs would be consumed, expired, or destroyed within this time.

44. Several comments objected to proposed § 205.50(f)(3), which established the 24-hour time period allowed for making records available to an authorized official. Calling the time period "unreasonable," the comments suggested it be changed to 72 hours. The comments claimed this would make the requirement consistent with other, unspecified FDA record production requirements.

The provision has been changed in the final rule to allow 2 working days for the production of records that are not kept at the inspection site and are not immediately retrievable by computer or other means. The agency finds this to be a reasonable and appropriate time frame, and is consistent with analogous record production requirements of other government agencies (see, for example, 21 CFR 1304.04).

8. Written Policies and Procedures

45. Some comments addressed the written policies and procedures requirements for licensed wholesale drug distributors in proposed § 205.50(g). The comments agreed that it is appropriate to require a procedure for distributing oldest stock first, but objected to the requirement that deviation from this procedure be justified and documented, arguing that this provision would add to recordkeeping burdens and operating costs.

The agency believes that consistent stock rotation practices, as contemplated in proposed § 205.50(g)(1), are an effective means of ensuring that outdated stock will not be distributed to the consumer. The agency agrees that documentation of deviations from proper stock rotation practices goes beyond minimum standards and has removed the documentation requirement from the final rule. The guidelines now permit deviations from proper stock rotation practices if the deviation is temporary and appropriate.

46. Several comments addressed the proposed provisions in § 205.50(g) (2) and (3) on recall procedures. One comment suggested removal of § 205.50(g)(3)(iii), which requires that there be a procedure for recall of a prescription drug that is to be replaced by a superior product or package design. The comment noted that such a product withdrawal has little to do with health and safety and should be handled at the discretion of the manufacturer and distributor.

The agency agrees that product withdrawals undertaken to enable a manufacturer to replace one packaging design with another for reasons other than the promotion of public health and safety goes beyond the scope of this rulemaking. The final rule reflects this change.

47. Several other comments asserted that procedures currently followed by drug manufacturers, wholesale and retail drug distributors, and pharmacists have been quite effective in dealing with recalls. The comments contended that the recall procedures proposed in § 205.50(g) (2) and (3) would impose substantial economic burdens on wholesale distributors without offering any significant improvement in recall accuracy and should therefore be removed from the final rule.

The agency disagrees. The agency believes it necessary that all entities involved in the distribution of prescription drugs have procedures in place for the efficient handling of drug recalls. In this way, each party will be aware of its role in removing potentially dangerous products from the drug distribution system. While prescription drug manufacturers have a primary role in implementing a drug recall, other entities in the drug distribution system must share responsibility for ensuring that all drugs subject to recall are prevented from reaching the American consumer.

48. One comment asserted that the requirement in § 205.50(g)(3) that a wholesale distributor have procedures sufficient to handle "any crisis" is too vague. The comment suggested that the section describe specific procedures to follow in case of strike, fire, flood, and natural disaster or emergency.

Specific procedures for crisis situations, such as a strike, fire, flood, or other natural disaster, are best left to the individual States. It would not be appropriate for the agency to attempt to describe plans for handling specific kinds of crises.

49. Two comments questioned the expertise of the wholesale distibutor for making the determination, required in proposed § 205.50(g)(5)(i), that prescription drug stock in wholesale distribution has an expiration date that is sufficient for a drug to get to the consumer. Both suggested that it would be more appropriate for a pharmacist or physician to make such a judgment.

The agency agrees that making the determination required under proposed § 205.50(g)(5)(i) may require a degree of judgment that is beyond the expertise of wholesale distribution personnel. The agency has therefore removed this requirement from the final rule.

51. One comment objected to the 2-year retention requirement, under proposed § 205.50(g)(5)(ii), for documents relating to the disposition of outdated stock. The comment recommended that requiring retention for 1 year from the expiration of the prescription drug would be consistent with FDA's CGMP regulations in 21 CFR part 211.

A 2-year record retention requirement is consistent with the other record retention provisions in these guidelines, and the agency is not persuaded that the change recommended by this comment is appropriate.

9. Responsibility

52. One comment suggested that § 205.50(h) be amended to clarify whether manufactures could be "held liable" for using unlicensed wholesale distributors. This comment was not specific as to what kind of liability was of concern.

The liability of manufacturers for actions in tort is governed by State law and is beyond the scope of this rulemaking.

53. Another comment asserted that the requirement in proposed § 205.50(h) that a list of qualifications of management, directors, and others in charge be maintained is an "unnecessary police state intrusion and subject to a difference of opinion." The comment said that such a list is irrelevant to achieving the goals of PDMA and would be difficult and costly for State boards to administer.

The agency disagrees with the contention that the list of responsible persons required by this section is unnecessary or excessively burdensome. The agency expects that a majority of wholesale distribution businesses would have this information readily available. The information required in this list is minimum information necessary for administration of these guidelines by the State licensing authorities.

10. Compliance With Other Laws

54. Proposed § 205.50(i) required wholesale drug distributors to operate in compliance with all applicable laws and regulations, including local laws. Proposed section 205.50(j) required wholesale drug distributors to comply with only applicable Federal and State laws relating to salvaging and reprocessing, but did not require wholesale drug distributors to comply with local laws relating to salvaging and reprocessing. On its own initiative, FDA is amending § 205.50 to make paragraphs (i) and (j) consistent, and to make it clear that wholesale drug distributors must comply with local laws relating to salvaging and reprocessing.

This substantive rule is being made effective immediately upon publication. The agency has found that there is good cause for this immediate effective date (see 5 U.S.C. 553(d)(3)). PDMA provides that the licensing requirements for wholesale distributors mandated by section 503(e)(2)(A) of the act (21 U.S.C. 353(e)(2)(A)) will not go into effect until the expiration of 2 years after the date this regulation is promulgated and takes effect (see section 8(b)(2) of PDMA). States and wholesalers will have 2 years in which to conform their activities to this rule before any enforcement action could be taken by FDA. Thus, the normal 30-day delay in effectiveness is subsumed in the 2-year delay mandated by PDMA. There is no need to have the rule take effect 2 years and 30 days after publication, because the 2-year period provides ample time for the States and wholesalers to conform their activities to the requirements of this rule. In addition, Congress has indicated its interest in having this rule promulgated expeditiously (see section 8(a)(2) of PDMA). The waiver of the 30-day delay is consistent with the congressional desire that FDA promulgate this rule in a short time.

List of Subjects in 21 CFR Part 205

Drugs, Labeling, Manufacturing, Warehouses, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, chapter I, subchapter C of title 21 of the Code of Federal Regulations is amended by adding new part 205 to read as follows:

PART 205—GUIDELINES FOR STATE LICENSING OF WHOLESALE PRESCRIPTION DRUG DISTRIBUTORS

Authority: Secs. 501, 502, 503, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 352, 353, 371, 374).

§ 205.1 Scope.

This part applies to any person, partnership, corporation, or business firm in a State engaging in the wholesale distribution of human prescription drugs in interstate commerce.

§ 205.2 **Purpose.**

The purpose of this part is to implement the Prescription Drug Marketing Act of 1987 by providing minimum standards, terms, and conditions for the licensing by State licensing authorities of persons who engage in wholesale distributions in interstate commerce of prescription drugs.

§ 205.3 **Definitions.**

(a) *Blood* means whole blood collected from a single donor and processed either for transfusion or further manufacturing.

(b) *Blood component* means that part of blood separated by physical or mechanical means.

(c) *Drug sample* means a unit of a prescription drug that is not intended to be sold and is intended to promote the sale of the drug.

(d) *Manufacturer* means anyone who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling of a prescription drug.

(e) *Prescription drug* means any human drug required by Federal law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

(f) *Wholesale distribution* and *wholesale distribution* means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(1) Intracompany sales;

(2) The purchase or other acquisition by a hospital or other health care entity that is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities that are members of such organizations;

(3) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(4) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities that are under common control; for purposes of this section, "common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, by contract, or otherwise;

(5) The sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons; for purposes of this section, "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage;

(6) The sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription;

(7) The distribution of drug samples by manufacturers' representatives or distributors' representatives; or

(8) The sale, purchase, or trade of blood and blood components intended for transfusion.

(g) "Wholesale distributor" means any one engaged in wholesale distribution of prescription drugs, including, but not limited to, manufacturers; repackers; own-label distributors; private-label distributors; jobbers; brokers; warehouses, including manufacturers' and distributors' warehouses, chain drug warehouses, and wholesale drug warehouses; independent wholesale drug traders; and retail pharmacies that conduct wholesale distributions.

§ 205.4 **Wholesale drug distributor licensing requirement.**

Every wholesale distributor in a State who engages in wholesale distributions of prescription drugs in interstate commerce must be licensed by the State licensing authority in accordance with this part before engaging in wholesale distributions of prescription drugs in interstate commerce.

§ 205.5 **Minimum required information for licensure.**

(a) The State licensing authority shall require the following minimum information from each wholesale drug distributor as part of the license described in § 205.4 and as part of any renewal of such license:

(1) The name, full business address, and telephone number of the licensee;

(2) All trade or business names used by the licensee;

(3) Addresses, telephone numbers, and the names of contact persons for all facilities used by the licensee for the storage, handling, and distribution of prescription drugs;

(4) The type of ownership or operation (i.e., partnership, corporation, or sole proprietorship); and

(5) The name(s) of the owner and/or operator of the licensee, including:

(i) If a person, the name of the person;

(ii) If a partnership, the name of each partner, and the name of the partnership;

(iii) If a corporation, the name and title of each corporate officer and director, the corporate names, and the name of the State of incorporation; and

(iv) If a sole proprietorship, the full name of the sole proprietor and the name of the business entity.

(b) The State licensing authority may provide for a single license for a business entity operating more than one facility within that State, or for a parent entity with divisions, subsidiaries, and/or affiliate companies within that State when operations are conducted at more than one location and there exists joint ownership and control among all the entities.

(c) Changes in any information in paragraph (a) of this section shall be submitted to the State licensing authority as required by such authority.

(Information collection requirements in this section were approved by the Office of Management and Budget (OMB) and assigned OMB control number 0910–0251)

§ 205.6 **Minimum qualifications.**

(a) The State licensing authority shall consider, at a minimum, the following factors in reviewing the qualifications of persons who engage in wholesale distribution of prescription drugs within the State:

(1) Any convictions of the applicant under any Federal, State, or local laws relating to drug samples, wholesale or retail drug distribution, or distribution of controlled substances;

(2) Any felony convictions of the applicant under Federal, State, or local laws;

(3) The applicant's past experience in the manufacture or distribution of prescription drugs, including controlled substances;

(4) The furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;

(5) Suspension or revocation by Federal, State, or local government of any license currently or previously held by the applicant for the manufacture or distribution of any drugs, including controlled substances;

(6) Compliance with licensing requirements under previously granted licenses, if any;

(7) Compliance with requirements to maintain and/or make available to the State licensing authority or to Federal, State, or local law enforcement officials those records required under this section; and

(8) Any other factors or qualifications the State licensing authority considers relevant to and consistent with the public health and safety.

(b) The State licensing authority shall have the right to deny a license to an applicant if it determines that the granting of such a license would not be in the public interest.

§ 205.7 Personnel.

The State licensing authority shall require that personnel employed in wholesale distribution have appropriate education and/or experience to assume responsibility for positions related to compliance with State licensing requirements.

§ 205.8 Violations and penalties.

(a) State licensing laws shall provide for the suspension or revocation of licenses upon conviction of violations of Federal, State, or local drug laws or regulations, and may provide for fines, imprisonment, or civil penalties.

(b) State licensing laws shall provide for suspension or revocation of licenses, where appropriate, for violations of its provisions.

§ 205.50 Minimum requirements for the storage and handling of prescription drugs and for the establishment and maintenance of prescription drug distribution records.

The State licensing law shall include the following minimum requirements for the storage and handling of prescription drugs, and for the establishment and maintenance of prescription drug distribution records by wholesale drug distributors and their officers, agents, representatives, and employees:

(a) *Facilities.* All facilities at which prescription drugs are stored, warehoused, handled, held, offered, marketed, or displayed shall:

(1) Be of suitable size and construction to facilitate cleaning, maintenance, and proper operations;

(2) Have storage areas designed to provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment, and security conditions;

(3) Have a quarantine area for storage of prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated, or that are in immediate or sealed, secondary containers that have been opened;

(4) Be maintained in a clean and orderly condition; and

(5) Be free from infestation by insects, rodents, birds, or vermin of any kind.

(b) *Security.* (1) All facilities used for wholesale drug distribution shall be secure from unauthorized entry.

(i) Access from outside the premises shall be kept to a minimum and be well-controlled.

(ii) The outside perimeter of the premises shall be well-lighted.

(iii) Entry into areas where prescription drugs are held shall be limited to authorized personnel.

(2) All facilities shall be equipped with an alarm system to detect entry after hours.

(3) All facilities shall be equipped with a security system that will provide suitable protection against theft and diversion. When appropriate, the security system shall provide protection against theft or diversion that is facilitated or hidden by tampering with computers or electronic records.

(c) *Storage.* All prescription drugs shall be stored at appropriate temperatures and under appropriate conditions in accordance with requirements, if any, in the labeling of such drugs, or with requirements in the current edition of an official compendium, such as the United States Pharmacopeia/National Formulary (USP/NF).

(1) If no storage requirements are established for a prescription drug, the drug may be held at "controlled" room temperature, as defined in an official compendium, to help ensure that its identity, strength, quality, and purity are not adversely affected.

(2) Appropriate manual, electromechanical, or electronic temperature and humidity recording equipment, devices, and/or logs shall be utilized to document proper storage of prescription drugs.

(3) The recordkeeping requirements in paragraph (f) of this section shall be followed for all stored drugs.

(d) *Examination of materials.* (1) Upon receipt, each outside shipping container shall be visually examined for identity and to prevent the acceptance of contaminated prescription drugs or prescription drugs that are otherwise unfit for distribution. This examination shall be adequate to reveal container damage that would suggest possible contamination or other damage to the contents.

(2) Each outgoing shipment shall be carefully inspected for identity of the prescription drug products and to ensure that there is no delivery of prescription drugs that have been damaged in storage or held under improper conditions.

(3) The recordkeeping requirements in paragraph (f) of this section shall be followed for all incoming and outgoing prescription drugs.

(e) *Returned, damaged, and outdated prescription drugs.* (1) Prescription drugs that are outdated, damaged, deteriorated, misbranded, or adulterated shall be quarantined and physically separated from other prescription drugs until they are destroyed or returned to their supplier.

(2) Any prescription drugs whose immediate or sealed outer or sealed secondary containers have been opened or used shall be identified as such, and shall be quarantined and physically separated from other prescription drugs until they are either destroyed or returned to the supplier.

(3) If the conditions under which a prescription drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, then the drug shall be destroyed, or returned to the supplier, unless examination, testing, or other investigation proves that the drug meets appropriate standards of safety, identity, strength, quality, and purity. In determining whether the conditions under which a drug has been returned cast doubt on the drug's safety, identity, strength, quality, or purity, the wholesale drug distributor shall consider, among other things, the conditions under which the drug has been held, stored, or shipped before or during its return and the condition of the drug and its container, carton, or labeling, as a result of storage or shipping.

(4) The recordkeeping requirements in paragraph (f) of this section shall be followed for all outdated, damaged, deteriorated, misbranded, or adulterated prescription drugs.

(f) *Recordkeeping.* (1) Wholesale drug distributors shall establish and maintain inventories and records of all transactions regarding the receipt and distribution or other disposition of prescription drugs. These records shall include the following information:

(i) The source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped;

(ii) The identity and quantity of the drugs received and distributed or disposed of; and

(iii) The dates of receipt and distribution or other disposition of the drugs.

(2) Inventories and records shall be made available for inspection and photocopying by authorized Federal, State, or local law enforcement agency officials for a period of 2 years following disposition of the drugs.

(3) Records described in this section that are kept at the inspection site or that can be immediately retrieved by computer or other electronic means shall be readily available for authorized inspection during the retention period. Records kept at a central location apart from the inspection site and not

electronically retrievable shall be made available for inspection within 2 working days of a request by an authorized official of a Federal, State, or local law enforcement agency.

(g) *Written policies and procedures.* Wholesale drug distributors shall establish, maintain, and adhere to written policies and procedures, which shall be followed for the receipt, security, storage, inventory, and distribution of prescription drugs, including policies and procedures for identifying, recording, and reporting losses or thefts, and for correcting all errors and inaccuracies in inventories. Wholesale drug distributors shall include in their written policies and procedures the following:

(1) A procedure whereby the oldest approved stock of a prescription drug product is distributed first. The procedure may permit deviation from this requirement, if such deviation is temporary and appropriate.

(2) A procedure to be followed for handling recalls and withdrawals of prescription drugs. Such procedure shall be adequate to deal with recalls and withdrawals due to:

(i) Any action initiated at the request of the Food and Drug Administration or other Federal, State, or local law enforcement or other government agency, including the State licensing agency;

(ii) Any voluntary action by the manufacturer to remove defective or potentially defective drugs from the market; or

(iii) Any action undertaken to promote public health and safety by replacing of existing merchandise with an improved product or new package design.

(3) A procedure to ensure that wholesale drug distributors prepare for, protect against, and handle any crisis that affects security or operation of any facility in the event of strike, fire, flood, or other natural disaster, or other situations of local, State, or national emergency.

(4) A procedure to ensure that any outdated prescription drugs shall be segregated from other drugs and either returned to the manufacturer or destroyed. This procedure shall provide for written documentation of the disposition of outdated prescription drugs. This documentation shall be maintained for 2 years after disposition of the outdated drugs.

(h) *Responsible persons.* Wholesale drug distributors shall establish and maintain lists of officers, directors, managers, and other persons in charge of wholesale drug distribution, storage, and handling, including a description of their duties and a summary of their qualifications.

(i) *Compliance with Federal, State, and local law.* Wholesale drug distributors shall operate in compliance with applicable Federal, State, and local laws and regulations.

(1) Wholesale drug distributors shall permit the State licensing authority and authorized Federal, State, and local law enforcement officials to enter and inspect their premises and delivery vehicles, and to audit their records and written operating procedures, at reasonable times and in a reasonable manner, to the extent authorized by law.

(2) Wholesale drug distributors that deal in controlled substances shall register with the appropriate State controlled substance authority and with the Drug Enforcement Administration (DEA), and shall comply with all applicable State, local, and DEA regulations.

(j) *Salvaging and reprocessing.* Wholesale drug distributors shall be subject to the provisions of any applicable Federal, State, or local laws or regulations that relate to prescription drug product salvaging or reprocessing, including parts 207, 210, and 211 of this chapter.

(Information collection requirements in this section were approved by the Office of Management and Budget (OMB) and assigned OMB control number 0910–0251)

Dated: June 9, 1990.

James S. Benson

Acting Commissioner of Food and Drugs.

[FR Doc. 90–21616 Filed 9–13–90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 205

[Docket No. 88N-0258]

RIN 0905-AC81

Applicability to Blood and Blood Components Intended for Transfusion; Guidelines for State Licensing of Wholesale Prescription Drug Distributors

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is inviting comments on whether the Prescription Drug Marketing Act of 1987 (PDMA) should be interpreted as applying to blood and blood components intended for transfusion (hereafter referred to as "blood and blood components"). Elsewhere in this issue of the Federal Register, FDA is issuing a final rule to implement those sections of PDMA that require FDA to issue regulations setting forth guidelines for State licensing of wholesale drug distributors. That rule exempts blood and blood components from the licensing requirement, based upon FDA's tentative determination that PDMA does not apply to the distribution of blood and blood components. If comments in response to this notice persuade FDA that PDMA should be interpreted as applying to distribution of blood and blood components, FDA will amend the final rule setting forth guidelines for State licensing of wholesale drug distributors to remove the exemption of distribution of these products.

DATES: Written comments by October 15, 1990.

ADDRESSES: Written comments may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Center for Biologics Evaluation and Research (HFB-132), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301-295-8188.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 13, 1988 (53 FR 35325), FDA published a proposed rule to issue guidelines for State licensing of wholesale drug distributors as required by PDMA (Pub. L. 100-293, 102 Stat. 95). PDMA amends the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321 *et seq.*) to provide, among other things, that no person may engage in the wholesale distribution in interstate commerce of drugs subject to section 503(b) of the act (21 U.S.C. 353(b)) (prescription drugs for human use), unless such person is licensed by the State in accordance with federally prescribed minimum standards. PDMA also prohibits the resale or purchase of drugs subject to the prescription drug provisions in section 503(b) of the act if such drugs have been previously purchased by a hospital or other health care entity.

Three comments on the proposed rule discussed issues raised by application of PDMA to the distribution and sale of blood and blood components by blood establishments and hospitals. Two of these comments requested clarification of PDMA's scope and urged FDA to "exempt" blood establishments from all of PDMA's provisions. The comments contended that application of PDMA to blood distributors would seriously disrupt the nation's blood services. The third comment from a member of Congress suggested that the agency could, by notice and comment rulemaking, exempt blood and blood components from PDMA by declaring that they are not prescription drugs for PDMA purposes. The comment said that Congress did not consider such products in the deliberations leading to the passage of PDMA.

After considering these comments and reviewing PDMA's purpose and legislative history, FDA has tentatively determined that PDMA does not apply to blood and blood components, and included in the final rule, published elsewhere in this issue of the **Federal Register**, a new paragraph (f)(8) in 21 CFR 205.3 that specifically excludes from the definition of "wholesale distribution" the sale, purchase, or trade of blood and blood components. "Blood" is whole blood collected from a single human donor; "blood components" are parts of blood that are separated by physical or mechanical means, either as part of the collection process or subsequent to the collection of whole blood. As used throughout this document, the phrase "blood and blood components" refers to those blood and blood components intended for transfusion, i.e., red blood cells, plasma, platelets, and cryoprecipitated antihemophilic factor. FDA is also adding definitions of "blood" and "blood component" in § 205.3 of the final rule. However, for the reasons discussed below, FDA has decided to invite further comments on this matter.

PDMA, by its literal terms, applies to all drugs that are subject to section 503(b) of the act, that is, to all human prescription drugs. There is no doubt that blood and blood components intended for transfusion are prescription drugs. (See *e.g.*, 21 CFR 606.121(c)(8)(i); 21 CFR 610.61(s).) (See also the **Federal Register** of May 25, 1982 (47 FR 22518) and August 7, 1981 (46 FR 40212).) However, if PDMA, and particularly PDMA's restrictions on the resale of prescription drugs, were considered applicable to the distribution of blood and blood components, the result would be to seriously impede the present blood distribution system, thereby substantially interfering with, and reducing, our nation's blood supply. Because application of PDMA to blood and blood components would produce this untenable result, FDA believes that Congress did not intend to subject such blood and blood components to PDMA's provisions.

Moreover, the legislative history lacks any discussion of PDMA's application to blood and blood components and also clearly shows that Congress intended that PDMA remedy problems associated witht the distribution of those drugs that are popularly referred to as "medicines" or "pharmaceuticals." (See *e.g.*, Pub. L. 100-293, section 2 (1988) (congressional findings).) The problems identified included the abuse of drug samples and the bulk resale of below wholesale priced prescription drugs. However, blood and blood components are not promoted through samples and coupons, nor are they distributed through a wholesale system. FDA believes that the fact that blood and blood components are not part of the system of distribution and marketing that Congress intended to regulate under the terms of PDMA further signals that Congress did not intend to include such blood and blood components within the scope of PDMA. The problems regarding the distribution of pharmaceuticals that Congress addressed in PDMA are not present in the blood and blood component distribution scheme. In sum, blood and blood components are unique drug products that are distributed in an entirely different way than other prescription drugs.

In enacting PDMA, Congress found that licensure of wholesale distributors by the States was necessary to prevent diversion of prescription drugs. Congress noted that the existence of a wholesale submarket prevented effective control over the true sources of prescription drugs in many cases. FDA is unaware of the existence of a wholesale submarket with regard to the distribution of blood and blood components. The current system controlling manufacture and distribution of blood and blood components helps assure that diversion will not take place. The present system helps maximize resource-sharing and promotes the efficient distribution and utilization of blood. The system is grounded in resales or transfers by hospitals and other blood establishments to other health care entities that have need of the blood. Applying PDMA to blood and blood components would have a severe negative impact on the provision of blood services to those needing them by prohibiting these resales and transfers.

A comprehensive system of regulation now exists to protect the public against substandard, ineffective, or counterfeit blood and blood components. All blood establishments that are involved in the collection, processing, labeling, and packaging of blood and blood components are required to register under section 510 of the act (21 U.S.C. 360). Registered blood establishments are inspected by FDA investigators at least biennially, and FDA is currently inspecting blood establishments yearly. Blood establishments that ship blood products in interstate commerce must have FDA establishment and product licenses. Registered and licensed blood establishments are subject to FDA's current good manufacturing practice regulations, which include a recordkeeping system regarding the distribution or receipt of each unit of blood or blood component.

FDA's regulations require that each unit of blood and blood components be labeled with a unique unit identification number, and the blood establishment collecting the unit must account for its disposition. The blood establishment, also referred to as a "manufacturer," affixes the container label, which identifies the manufacturer's name and address, as well as the unique unit number. The system of accountability for each unit allows for little opportunity for diversion or theft.

The requirements governing these products require that they be held under the direct control of the manufacturer or user, at blood establishments staffed by personnel trained in the proper handling of blood and blood components.

Blood and blood components are held under strict temperature controls using sophisticated equipment, pursuant to FDA requirements. The storage temperature for blood and blood components must be continually monitored because a temporary variation of the storage temperature by even a few degrees can be highly deleterious. Moreover, platelets must be continually agitated during storage. In addition, whole blood and red blood cells are required to be inspected by trained personnel periodically during storage and immediately before distribution to the intended user.

Blood and blood components are continually monitored during manufacture, storage, and handling. They are selected individually and are packaged for shipment by persons with professional experience and training in handling blood and blood components. Each step is documented for review at the time of FDA inspection and FDA investigators are specifically trained to conduct inspections of blood establishments.

FDA carefully controls all steps in the collection, processing, storage, shipment, and use of blood and blood components under regulations specific to these products in 21 CFR parts 600, 606, 610, and 640. The specific storage conditions for blood and blood components are set by FDA regulations (see § 610.53), pursuant to the act and the PHS Act, and compliance is actively monitored by FDA inspection.

Hospitals, health care entities, and other facilities that use blood and blood components and that collect and process blood are inspected by FDA. In addition, certain facilities that use blood and blood components known as "transfusion services" are approved for Medicare reimbursement, and are surveyed and inspected by the Health Care Financing Administration (HCFA) through a memorandum of understanding with FDA to help assure compliance with both FDA standards and HCFA regulations. In addition, many State and local public health agencies regulate blood establishments within their jurisdiction. This complex system helps assure the public that blood and blood components and the related facilities are already thoroughly regulated and inspected throughout collection, manufacture, storage, distribution, and use.

Because blood establishments are already pervasively regulated by FDA, HCFA, various State and local public health organizations, and several private professional organizations, FDA believes that the requirements set forth in PDMA are unnecessary and that the existence of such requirements supports FDA's tentative determination that PDMA was not meant to cover blood and blood components.

Moreover, FDA's State licensing guidelines are intended to provide minimum standards, conditions, and terms for the storage, handling, and distribution by wholesale drug distributors of prescription pharmaceutical and most biological drugs. These standards are intended as minimum guidelines for State wholesale licensing systems. The guidelines are not appropriate for assuring the safe storage, handling, and distribution of blood and blood components. If States were to be required to license blood establishments under PDMA, it would be necessary to develop minimum standards, conditions, and terms for the storage and handling of such blood and blood components that are consistent with existing requirements as well as PDMA and are appropriate for these unique drugs. The agency believes this undertaking would be an unnecessary and duplicative waste of scarce Federal and State resources.

Accordingly, FDA believes that blood and blood components should be excluded from PDMA, as stated in § 205.3 of the rule implementing those sections of PDMA that require FDA to issue regulations setting forth guidelines for State licensure of wholesale distributors.

The agency has determined under 21 CFR 25.24(a)(7), (a)(8), and (a)(10) 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.

FDA invites comments on the economic consequences of applying PDMA to blood and blood components, according to the standards in Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354).

Interested persons may, on or before November 13, 1990, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. 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.

Dated: June 9, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90–21617 Filed 9–13–90; 8:45 am]

BILLING CODE 4160–01–M

federal register

Friday
September 14, 1990

Part IV

Information Security Oversight Office

32 CFR Part 2001
National Security Information; Final Rule

INFORMATION SECURITY OVERSIGHT OFFICE

32 CFR Part 2001

National Security Information

AGENCY: Information Security Oversight Office (ISOO).

ACTION: Final rule.

SUMMARY: This amendment to the regulations on safeguarding national security information provides for the use of United States Postal Service Express Mail for the transmittal of Secret information. This is an added means for the transmittal of Secret information.

EFFECTIVE DATES: September 14, 1990.

FOR FURTHER INFORMATION CONTACT: Ethel R. Theis, Associate Director for Program Operations, ISOO, (202) 501-0251.

SUPPLEMENTARY INFORMATION: This amendment to ISOO Directive No. 1 is issued pursuant to § 5.2(b)(1) of Executive Order 12356. ISOO has coordinated this amendment with the National Security Council and those agencies that will be primarily affected by it.

List of Subjects in 32 CFR Part 2001

Classified information.

PART 2001—NATIONAL SECURITY INFORMATION

1. The authority citation for 32 CFR part 2001 continues to read:

Authority: Section 5.2(b), E.O. 12356. 47 FR 14874, April 6, 1982.

2. Section 2001.44(c)(1) is revised to read as follows:

§ 2001.44 Transmittal (4.1(b)).

* * * * *

(c) *Transmittal of secret.* * * * (1) The 50 States, the District of Columbia, and Puerto Rico. Under such conditions as may be prescribed by the head of the agency concerned, Secret information may be transmitted within and between the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico by one of the means authorized for Top Secret information; by the United States Postal Service registered mail or express mail service; or by protective services provided by United States air or surface commercial carriers. United States Postal Service express mail service shall be used only when it is the most effective means to accomplish a mission within security, time, cost, and accountability constraints. To ensure direct delivery to the addressee, the "Waiver of Signature and Indemnity" block on the United States Postal Service Express Mail Label 11-B may not be executed under any circumstances. All Secret express mail shipments should be processed through mail distribution centers or delivered directly to a United States Postal Service facility or representative. The use of external (street side) express mail collection boxes is prohibited.

* * * * *

Dated: September 12, 1990.

Ethel R. Theis,

Acting Director, Information Security Oversight Office.

[FR Doc. 90-21811 Filed 9-13-90; 8:45 am]

BILLING CODE 6820-AF-M

federal register

Friday
September 14, 1990

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 204

Refinancing of FHA-Insured Adjustable Rate Mortgages; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203 and 234

[Docket No. R-90-1457; FR-2668-F-02]

RIN 2502-AE71

Refinancing of FHA-Insured Adjustable Rate Mortgages

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

ACTION: Final rule.

SUMMARY: Under current regulations, the Secretary may insure any mortgage given to refinance an existing HUD-insured mortgage, provided the refinancing mortgage meets certain requirements. One such requirement is that the refinancing mortgage result in a reduction in regular monthly payments. Very often, this requirement cannot be met when refinancing from an adjustable rate mortgage to a fixed rate mortgage. The fixed rate mortgage may have a higher interest rate than the ARM during the ARM's early years. This rule revises the regulations to permit, for occupant mortgagors, a higher monthly mortgage payment where the original mortgage is adjustable rate and the refinancing mortgage is fixed rate.

EFFECTIVE DATE: October 15, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen A. Martin, Director, Office of Insured Single Family Housing, Department of Housing and Urban Development, Room 9266, 451 Seventh Street SW., Washington, DC 20410, telephone voice: (202) 708-3046; TDD (202) 708-4594. These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: Section 223 of the National Housing Act was added by section 125 of the Housing Act of 1954, Public Law 560, 83rd Congress, approved August 2, 1954. As originally enacted, the coverage of section 223 (particularly its refinancing provisions) was rather limited. Over the years, the coverage of section 223 was gradually extended until finally, by section 312, Housing and Urban Development Act of 1968, Public Law 90-448, approved August 1, 1968, the refinancing provisions contained in section 223(a)(7) were made applicable to any FHA-insured mortgage.

Under the current regulations implementing section 223(a)(7) (24 CFR 203.43(c)), the Commissioner may insure any mortgage given to refinance an existing mortgage that is already HUD-insured, provided the refinancing mortgage meets certain criteria. HUD is using this section of the Code of Federal Regulations to carry out its "streamline refinance" program, which has proved very successful over the past few years. As currently written, however, the regulation contains a restrictive provision, which effectively precludes HUD from offering streamline refinancing to a mortgagor that has an insured adjustable rate mortgage (ARM) (authorized by section 443 of the Housing and Urban-Rural Recovery Act of 1983) which the mortgagor may wish to refinance to a fixed rate mortgage with a higher interest rate than the present ARM. The restriction is set out in 24 CFR 203.43(c)(3). It was originally inserted as a matter of general HUD policy but is not required by the statute. The rule now requires that the refinancing mortgage result in a reduction in regular monthly mortgage payments. Generally, this requirement cannot be met when refinancing from an ARM to a fixed rate mortgage, since the fixed rate mortgage will most likely have a higher interest rate than the ARM during its early years. In order to make possible such refinancings, this rule removes the requirement relating to reduced monthly mortgage payments for ARM's.

The rule revises 24 CFR 203.43(c)(3) and 234.52(c) to provide for an exemption from the requirement that there be a reduction in monthly mortgage payments in cases where the original mortgage is an ARM and the refinancing mortgage is a fixed-rate mortgage.

A proposed rule, containing the same text as this final rule, was published in the Federal Register on February 27, 1990. (55 FR 6806.) Two written comments were received on the proposed rule—one from a United States Senator and one from HUD's Baltimore field office. Both endorsed the rule and made no recommendations for changes in the rule text.

Procedural Requirements

Major Rule

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Semiannual Agenda

This rule was listed in the Department's Semiannual Agenda of Regulations published on April 23, 1990 (55 FR 16226, 16240), under Executive Order 12291 and the Regulatory Flexibility Act.

Environment

This rule is categorically excluded from the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 et seq.), under 24 CFR part 50.20(1).

Assistance Number

The Catalog of Federal Domestic Assistance program numbers are 14.075, 14.108, and 14.1

Regulatory Flexibility Act

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule imposes no mandatory requirements; it merely affords mortgagors a greater degree of choice in making personal financial determinations.

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 do not have Federalism implications and, thus, are not subject to review under the Order. The rule extends and formalizes in the Code of Federal Regulations HUD's existing liberal policy towards FHA refinancings. No significant programmatic or policy changes will result from its promulgation.

Executive Order 12606, the Family

The General Counsel, as Designated Official under Executive Order 12606, *the Family*, has determined that this rule does not have a potential 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 will result from promulgation of this rule.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs: housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

Accordingly, 24 CFR parts 203 and 234 are amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for part 203 continues to read as follows:

Authority: Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). In addition, subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

2. Paragraph (c)(3) of § 203.43 is revised to read as follows:

§ 203.43 Eligibility of miscellaneous type mortgages.

* * * * *

(c) * * *

(3) With the exception of a fixed rate mortgage given to refinance an adjustable rate mortgage held by a mortgagor who is to occupy the dwelling as a principal residence or secondary residence, as these terms are defined in § 203.18(f), the mortgage must result in a reduction in regular monthly payments by the mortgagor. In the case of a graduated payment mortgage, the reduction in regular monthly payments means a reduction from the payment due under the existing mortgage for the month in which the refinancing mortgage is executed;

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

3. The authority citation for part 234 continues to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3538(d)); § 234.520(a)(2)(ii) is also issued under sec. 201(a) of the National Housing Act (12 U.S.C. 1707(a)).

4. Paragraph (c) of § 234.52 is revised to read as follows:

§ 234.52 Refinancing of existing mortgages.

* * * * *

(c) With the exception of a fixed rate mortgage given to refinance an adjustable rate mortgage held by a mortgagor who is to occupy the dwelling as a principal residence or secondary residence, as those terms are defined in § 234.27(e), the mortgage must result in a reduction in regular monthly payments by the mortgagor. In the case of a graduated payment mortgage, the reduction in regular monthly payments means a reduction from the payment due under the existing mortgage for the month in which the refinancing mortgage is executed;

* * * * *

Dated: August 16, 1990.

C. Austin Fitts,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-21737 Filed 9-13-90; 8:45 am]

BILLING CODE 4210-27-M

Reader Aids

Federal Register

Vol. 55, No. 179

Friday, September 14, 1990

INFORMATION AND ASSISTANCE

Federal Register	
Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447
Code of Federal Regulations	
Index, finding aids & general information	523-5227
Printing schedules	523-3419
Laws	
Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230
Presidential Documents	
Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230
The United States Government Manual	
General information	523-5230
Other Services	
Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 22, 1990