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Monday
November 18, 1991

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN:	November 25, 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.
DIRECTIONS:	North on 11th Street from Metro Center to southwest corner of 11th and L Streets

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child and Adult Care Food Program: Addition of Snack or Meal

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements a nondiscretionary provision of the Hunger Prevention Act of 1988, Public Law 100-435. That provision increased by one the number of reimbursable meals or supplements available under the Child and Adult Care Food Program (CACFP) to eligible children maintained in child care or outside-school-hours care centers or for eight or more hours per day. This rulemaking also retains, with an amendment, the discretionary recordkeeping provision imposed upon centers which claim this additional reimbursement as announced in the interim rule.

EFFECTIVE DATE: This final rule is effective December 18, 1991.

FOR FURTHER INFORMATION CONTACT: Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, United States Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302; (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has been classified not major because it will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, or Federal, State or local government agencies, or geographic regions; and 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.

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

The CACFP is listed in the Catalog of Federal Domestic Assistance under No. 10.558 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultations with State and local officials (7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983).

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements included in this rule have been approved by the Office of Management and Budget under clearance 0584-0055.

Background

Public Law 100-435, the Hunger Prevention Act of 1988, was enacted on September 19, 1988. Section 211 of that law amended section 17(f)(2)(B) of the National School Lunch Act (NSLA) (42 U.S.C. 1766(f)(2)(B)) to allow reimbursement for a snack or meal served to eligible children in child care or outside-school-hours care centers in addition to the reimbursement then available for two meals and one snack under the CACFP. Specifically, the amendment made by Public Law 100-435 made reimbursement available for "* * * two meals and two supplements or three meals and one supplement per day per child * * *." It limited the additional reimbursement to meals or supplements served to "* * * children that are maintained in a child care setting for eight or more hours per day * * *." It further limited the reimbursement to centers, specifically excluding family day care homes. Finally, section 701(b)(4) of Public Law 100-435 required that the additional reimbursement provision be effective and implemented on July 1, 1989.

An interim rule implementing this provision was published at 54 FR 26723 on June 26, 1989, to be effective on the mandated implementation date of July 1, 1989. The interim rule allowed child care and outside-school-hours care centers to serve an additional meal or snack to children who remain in care for eight or more hours per day. (Hereinafter, the additional meal or supplement provided for by section 221 of the Hunger Prevention Act will be referred to as the "fourth meal service.") The rule also included a single, discretionary recordkeeping provision which required centers seeking to claim the extra reimbursement to maintain time-in/time-out records on all children at the center. The interim rule was published with a request for comments.

Sixteen commenters responded to the interim rule during the sixty day comment period. The comments were directed at five general concerns: (1) The time-in/time-out requirement, (2) the extension of the fourth meal service to family day care homes and adult day care centers, (3) the operation of CACFP in outside-school-hours care centers, (4) the allowable time for service of meals, and (5) the number of allowable meals and supplements.

Time-in/time-out: Four commenters felt that the requirement to maintain time-in/time-out records on all children at a center requesting reimbursement for an extra meal or snack is unduly burdensome. Two of the four recommended that, as an alternative to maintaining time-in/time-out records, centers be allowed to document that the fourth meal service began at least 8 hours after the end of the first meal service. The other two suggested that time-in/time-out records be required only for those children regularly scheduled to remain in care for over eight hours. This suggested alternative reflects not only commenters' concerns, but also a recommendation made by the Task Force on Paperwork Reduction which was convened under the authority given to the Department in section 108 of Public Law 101-147, the Child Nutrition and WIC Reauthorization Act of 1989 (42 U.S.C. 1769a(b)(2)), enacted on November 10, 1989.

The Department is sympathetic to the concerns expressed by these commenters. We are aware that many centers currently maintain time-in/time-

out records for children for attendance purposes on a regular basis. However, for those centers which do not, the requirement to keep such records does create an additional burden. However, the Department does not believe that allowing centers to keep time-in/time-out records only for those children in care for eight hours or more would significantly reduce the burden. Further, such a recordkeeping system could create additional and unforseen problems for centers when trying to adapt it to unexpected changes in care schedules. The Department is willing, however, to try to help alleviate the recordkeeping burden while maintaining necessary accountability by giving State agencies the discretion to allow child care and outside-school-hours care centers which have children in care for at least eight hours per day to either (1) maintain time-in/time-out records on all children in attendance or (2) maintain documentation demonstrating that the fourth meal service will begin at least 8 hours after the end of the first meal. Scheduling meals so that the fourth meal is served at least 8 hours after the first meal would insure that children consuming a fourth meal had been in attendance at the center for at least eight hours.

Accordingly, this final rule amends § 226.15(e) to require centers seeking to claim reimbursement for a fourth meal service to either maintain time-in/time-out records on all children in attendance or, with the permission of the State agency, claim reimbursement for four meal services only when the center's meal service schedule provides for a period of eight hours to intervene between the end of the first meal service and the beginning of the fourth.

Family day care homes and adult day care centers: Six commenters stated that the fourth meal service provision should be extended to family day care homes. Since section 17(f)(2)(B) of the NSLA, as amended by section 211 of Public Law 100–435, specifically states that reimbursement for the fourth meal service provided by the legislation was not available "in the case of a family or group care home * * *", this extension of the CACFP cannot be made without a specific change in the NSLA.

With regard to the two comments requesting that the fourth meal service provision should be extended to adult day care centers, the Department believes that this action would also conflict with the statute. Unlike family or group care homes, adult day care centers were not specifically named in the law for exclusion from this provision. However, as stated in the interim rule, the Department believes that, since Public Law 100–435 authorizes the fourth meal service each day "* * * per child, for children that are maintained in a child care setting * * *", the intent of Congress was that this provision apply only to children in child care centers and not to adults in adult day care centers.

Accordingly, the rule retains the limitation found in the interim rule which limits reimbursement for the fourth meal service to child care and outside-school-hours care centers only.

Outside-school-hours care centers: Current Program regulations at § 226.19(b)(4) state that outside-school-hours care centers can serve "a breakfast, supplement and supper for enrolled children outside of school hours." The purpose of this sentence is to establish that, as a general rule, lunches are not reimbursable meals in outside-school-hours care centers. (An exception, found in § 226.19(b)(4), is that outside-school-hours care centers shall be eligible to serve a lunch to enrolled children during periods of school vacation, including weekends and holidays, and to enrolled children attending schools which do not offer a lunch program.) This provision, one commenter opined, leads to the mistaken belief that outside-school-hours care centers are allowed to serve only one supplement per child per day. It has long been the Department's policy that centers may serve two meals and one supplement, or one meal and two supplements per child, per day. We agree that the existing regulatory language may be confusing.

Accordingly, the first sentence of § 226.19(b)(4) in the interim rule has been modified to convey the meal and supplement service options available to outside-school-hours care centers in a clearer manner.

One commenter disagreed with the restriction in § 226.19(b)(4) on outside-school-hours care centers which does not allow them to claim meals under CACFP if they operate only on weekends. Another commenter stated that children attending schools which do not serve lunch should not be able to get lunch through the CACFP. Both the prohibition of CACFP reimbursement for outside-school-hours care centers on weekends and authorization for outside-school-hours care centers to serve lunch in schools not participating in the National School Lunch Program are existing regulatory provisions which were not open for consideration or amendment under the June 28, 1989, interim rule.

Allowable time for service of meals: One commenter suggested that allowable times between meals should be specified for all CACFP centers, as they currently are for outside-school-hours care centers in § 226.19(b)(6). This, too, was an area not open for consideration or amendment under the June 28, 1989, interim rule.

Number of allowable meals and supplements: One commenter suggested that centers implementing the fourth meal service option should be allowed to claim three supplements and one meal. Based on the nutritional goals of the Program, we believe that children retained in care for eight or more hours a day require at lease two full meals during those hours. In any case, the statutory language specifically provides for "two meals and two supplements or three meals and one supplement per day per child * * *."

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, the interim rule amending 7 CFR part 226 which was published at 54 FR 26723–26724 on June 26, 1989, is adopted as a final rule with the following changes:

PART 226—CHILD AND ADULT CARE FOOD PROGRAM

1. The authority citation for part 226 continues to read as follows:

Authority: Secs. 9, 11, 14, 16 and 17, National School Lunch Act, as amended (42 U.S.C. 1758, 1759a, 1762a, 1765 and 1766).

2. Section 226.15, paragraph (e)(5) is revised to read as follows:

§ 226.15 Institution provisions.

* * * * *

(e) * * *

(5) For child care centers and outside-school-hours care centers claiming reimbursement for two meals and two supplements or three meals and one supplement per child per day, either:

(i) Documentation of total time-in-attendance for each child at the center for each day for which the fourth meal service was claimed, including a time-in/time-out form which records time-in-attendance for each child at the center; or, at the discretion of the State agency,

(ii) Documentation which demonstrates that at least eight hours elapse between the end of the first meal service and the beginning of the fourth meal service on any day in which

reimbursement is claimed for a fourth meal service.

* * * * *

3. In § 226.19, paragraph (b)(4) is revised to read as follows:

§ 226.19 Outside-school-hours care center provisions.

* * * * *

(b) * * *

(4) Outside-school-hours care centers shall be eligible to serve one or more of the following meal types: breakfasts, supplements and suppers. In addition, outside-school-hours care centers shall be eligible to serve lunches to enrolled children during periods of school vacation, including weekends and holidays, and to enrolled children attending schools which do not offer a lunch program. Notwithstanding the eligibility of outside-school-hours care centers to serve Program meals to children on school vacation, including holidays and weekends, such centers shall not operate under the Program on weekends only.

* * * * *

Dated: November 4, 1991.

Betty Jo Nelsen,

Administrator.

[FR Doc. 91-27577 Filed 11-15-91; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 721]

Navel Oranges Grown in Arizona and Designated Part of California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona navel oranges that may be shipped to domestic markets during the period from November 15 through November 21, 1991. Consistent with program objectives, such action is needed to establish and maintain orderly marketing conditions for fresh California-Arizona navel oranges for the specified week. This action was recommended by the Navel Orange Administrative Committee (Committee), which is responsible for local administration of the navel orange marketing order.

EFFECTIVE DATE: Regulation 721 (7 CFR 907.1021) is effective for the period from November 15 through November 21, 1991.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, room 2523-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 690-0223.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order No. 907 (7 CFR part 907), as amended, regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the "Act."

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

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

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

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

The California-Arizona navel orange industry is characterized by a large number of growers located over a wide area. The production area is divided into four districts which span Arizona and part of California. The largest proportion of navel orange production is located in District 1, Central California, which represented about 79 percent of the total production in 1990-91. District 2 is located in the southern coastal area of California and represented almost 18 percent of 1990-91 production; District 3 is the desert area of California and Arizona, and it represented slightly less than 3 percent; and District 4, which represented slightly less than 1 percent, is northern California. The Committee's estimate of 1991-92 production is 59,300 cars (one car equals 1,000 cartons at 37.5 pounds net weight each), as compared with 32,895 cars during the 1990-91 season.

The three basic outlets for California-Arizona navel oranges are the domestic fresh, export, and processing markets. The domestic fresh (regulated) market is a preferred market for California-Arizona navel oranges while the export market continues to grow. The Committee estimates that about 69 percent of the 1991-92 crop of 59,300 cars will be utilized in fresh domestic channels (40,800 cars), with the remainder being exported fresh (12 percent), processed (17 percent), or designated for other uses (2 percent). This compares with the 1990-91 total of 16,675 cars shipped to fresh domestic markets, about 51 percent of that year's crop. In comparison to other seasons, 1990-91 production was low because of a devastating freeze that occurred during December 1990.

Volume regulations issued under the authority of the Act and Marketing Order No. 907 are intended to provide benefits to producers. Producers benefit from increased returns and improved market conditions. Reduced fluctuations in supplies and prices result from regulating shipping levels and contribute to a more stable market. The intent of regulation is to achieve a more even distribution of oranges in the market throughout the marketing season.

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

Reporting and recordkeeping requirements under the navel orange marketing order are required by the Committee from handlers of navel oranges. However, handlers in turn may require individual producers to utilize certain reporting and recordkeeping practices to enable handlers to carry out their functions. Costs incurred by handlers in connection with recordkeeping and reporting

requirements may be passed on to growers.

Major reasons for the use of volume regulations under this marketing order are to foster market stability and enhance producer revenue. Prices for navel oranges tend to be relatively inelastic at the producer level. Thus, even a small variation in shipments can have a great impact on prices and producer revenue. Under these circumstances, strong arguments can be advanced as to the benefits of regulation to producers, particularly smaller producers.

The Committee adopted its marketing policy for the 1991–92 season on June 25, 1991. The Committee reviewed its marketing policy at district meetings as follows: Districts 1 and 4 on September 24, 1991, in Visalia, California; and Districts 2 and 3 on October 1, 1991, in Ontario, California. The Committee subsequently revised its marketing policy at a meeting on October 15, 1991. The marketing policy discussed, among other things, the potential use of volume and size regulations for the ensuing season. The Committee considered the use of volume regulation for the season. This marketing policy is available from the Committee or Ms. Pello. The Department reviewed that policy with respect to administrative requirements and regulatory alternatives in order to determine if the use of volume regulations would be appropriate.

The Committee met publicly on November 12, 1991, in Newhall, California, to consider the current and prospective conditions of supply and demand and recommended, with six members voting in favor, two opposing, and two abstaining, that 1,506,663 cartons is the quantity of navel oranges deemed advisable to be shipped to fresh domestic markets during the specified week. The marketing information and data provided to the Committee and used in its deliberations was compiled by the Committee's staff or presented by Committee members at the meeting. This information included, but was not limited to, price data for the previous week from Department market news reports and other sources, preceding week's shipments and shipments to date, crop conditions and weather and transportation conditions.

The Department reviewed the Committee's recommendation in light of the Committee's projections as set forth in its 1991–92 marketing policy. The recommended amount of 1,506,663 cartons represents all requests for early maturity allotments made by handlers and compares to the 1,200,000 cartons specified for all districts in the Committee's October 15 revised shipping schedule. Of the 1,506,663 cartons, 1,414,662 cartons are allotted for District 1, 3,001 cartons are allotted for District 2, and 89,000 cartons are allocated for District 3. District 4 will remain open.

During the week ending on November 7, 1991, shipments of navel oranges to fresh domestic markets, including Canada, totaled 45,000 cartons compared with 735,000 cartons shipped during the week ending on November 8, 1990. Export shipments totaled 2,000 cartons compared with 46,000 cartons shipped during the week ending on November 8, 1990. Processing and other uses accounted for 6,000 cartons compared with 116,000 cartons shipped during the week ending on November 8, 1990.

Fresh domestic shipments to date this season total 47,000 cartons compared with 1,151,000 cartons shipped by this time last season. Export shipments total 2,000 cartons compared with 51,000 cartons shipped by this time last season. Processing and other use shipments total 6,000 cartons compared with 237,000 cartons shipped by this time last season.

The average f.o.b. shipping point price for the week ending on November 7, 1991, was $21.31 per carton based on a reported sales volume of 15,000 cartons. The season average f.o.b. shipping point price to date is $21.31 per carton. The average f.o.b. shipping point prices for the week ending on November 8, 1990, was $21.31 per carton; the season average f.o.b. shipping point price at this time last year was $10.14.

The Department's Market News Service reported that, as of November 12, supplies of California-Arizona navel oranges are light. Demand for sizes 48–113 is "good" while demand for all other sizes is moderate. At the meeting, several Committee members commented that volume regulation is appropriate for this season's freeze-reduced crop to ensure orderly marketing of available supplies during a particular week. Some members commented that if too much fruit is shipped into the market, even in a short crop year, prices could decline sharply. Committee members discussed the pros and cons of implementing volume regulation at this time as well as different levels of allotment. Two Committee members favored open movement at this time while the majority of Committee members favored the issuance of early maturity allotments, indicating that such action would help ensure an orderly transition into the navel season.

According to the National Agricultural Statistics Service, the 1990–91 season average fresh equivalent on-tree price for California-Arizona navel oranges was $7.75 per carton, 119 percent of the season average parity equivalent price of $6.52 per carton.

Based upon fresh utilization levels indicated by the Committee and an econometric model developed by the Department, the 1991–92 season average fresh on-tree price is estimated at $6.89 per carton, about 93 percent of the estimated fresh on-tree parity equivalent price of $7.44 per carton.

Limiting the quantity of navel oranges that may be shipped during the period from November 15 through November 21, 1991, would be consistent with the provisions of the marketing order by tending to establish and maintain, in the interest of producers and consumers, an orderly flow of navel oranges to market.

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

A proposed rule regarding the implementation of volume regulation and a proposed shipping schedule for California-Arizona navel oranges for the 1991–92 season was published in the September 30, 1991, issue of the **Federal Register** [56 FR 49432]. The Department is currently in the process of analyzing comments received in response to this proposal and, if warranted, may finalize that action this season. However, issuance of this final rule implementing volume regulation for the regulatory week ending on November 21, 1991, does not constitute a final decision on that proposal.

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

In addition, market information needed for the formulation of the basis for this action was not available until November 12, 1991, and this action needs to be effective for the regulatory week which begins on November 15, 1991. Further, interested persons were

given an opportunity to submit information and views on the regulation at an open meeting, and handlers were apprised of its provisions and effective time. It is necessary, therefore, in order to effectuate the declared purposes of the Act, to make this regulatory provision effective as specified.

List of Subjects in 7 CFR Part 907

Marketing agreements, Oranges, Reporting and recordkeeping requirements.

PART 907—[AMENDED]

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

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

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

2. Section 907.1021 is added to read as follows:

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

§ 907.1021 Navel Orange Regulation 721.

The quantity of navel oranges grown in California and Arizona which may be handled during the period from November 15 through November 21, 1991, is established as follows:

(a) District 1: 1,414,662 cartons;
(b) District 2: 3,001 cartons;
(c) District 3: 89,000 cartons;
(d) District 4: unlimited cartons.

Dated: November 13, 1991.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 91–27752 Filed 11–15–91; 8:45 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR 1942

Community Facility Loans and Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its Community Facility loan and grant regulations to assist the residents of rural communities in obtaining adequate quantities of drinking water that meet the requirements of the Safe Drinking Water Act (42 U.S.C. 300f et seq.). Grants can be made under this program to any city or town with a population not in excess of 5,000 inhabitants according to the most recent decennial census of the United States. Also, the median household income of the rural area cannot exceed the statewide nonmetropolitan median household income according to the most recent decennial census of the United States. The intended effect of this action is to revise FmHA regulations to include the emergency community assistance grants authorized by the Act. This action is not expected to substantially affect budget outlay or to affect more than one agency or to be controversial. The net result is expected to provide better service to rural communities.

DATES: November 18, 1991. Written comments must be received on or before January 17, 1992.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Regulations, Analysis, and Control Branch, Farmers Home Administration, USDA, room 6348, South Agriculture Building, Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address. The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0074. Public reporting burden for this collection of information is estimated to average 2 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB# 0575–0074), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, USDA, South Agriculture Building, room 6328, Washington, DC 20250, telephone: (202) 382–9589.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulations 1512–1, which implements Executive Order 12291, and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no significant increase in cost or prices for consumers; individual industries; Federal, State, or Local government agencies; or geographic regions. Furthermore, there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Consultation

This program is listed in the Catalog of Federal Domestic Assistance under number 10.440, 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; 48 FR 29112, June 24, 1983; 49 FR 2267, May 31, 1984; 50 FR 14088, April 10, 1985).

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, "Environmental Programs." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is required.

Regulatory Flexibility Act

The Administrator of Farmers Home Administration has determined that this action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements.

Discussion of the Interim Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the change is necessary to comply with Public Law 101–624, which requires publishing of an interim rule and any delay would be contrary to the public interest.

This action implements section 2328 of Public Law 101–624 which requires that grants be provided to assist residents of rural areas and small communities in securing adequate quantities of safe drinking water. Grants made under this program will only be made to remedy an acute shortage of quality water or a

significant decline in the quantity or quality of water that is available. Grant applicants must be a public or private nonprofit entity and, in the case of a grant made because of a decline in water supplies, the applicant must demonstrate to FmHA that the decline occurred within two years of the date the application was filed for a grant.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs-Housing and community development, Loan security, Rural areas, Waste treatment and disposal—Domestic, Water supply—Domestic.

Therefore, part 1942 chapter XVIII, title 7, Code of Federal Regulations is amended as follows:

PART 1942—ASSOCIATIONS

1. The authority citation for part 1942 continues to read as follows:

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 16 U.S.C. 1005; 7 CFR 2.70.

Subpart K—Emergency Community Water Assistance Grants

2. Section 1942.501 is amended by revising paragraph (a) to read as follows:

§ 1942.501 General.

(a) This subpart outlines Farmers Home Administration (FmHA) policies and procedures for making Emergency Community Water Assistance Grants authorized under sections 306A and 306B of the Consolidated Farm and Rural Development Act, (7 U.S.C. 1926(a)), as amended.

* * * * *

3. Section 1942.504 is revised to read as follows:

§ 1942.504 Definitions.

Emergency—Occurrence of an incident such as, but not limited to, a drought, earthquake, flood, disease outbreak, or chemical spill.

Rural areas—Located in any of the fifty States, the Commonwealth of Puerto Rico, the Western Pacific Territories, Marshall Islands, Federated States of Micronesia, Republic of Palau, and the U.S. Virgin Islands.

(1) *Section 306A*—Includes any area in any city or town with a population not in excess of 15,000 inhabitants according to the most recent decennial census of the United States.

(2) *Section 306B*—Includes any area in any city or town with a population not in excess of 5,000 inhabitants according to the most recent decennial census of the United States.

Section 306A—Grants authorized by the "Disaster Assistance Act of 1989" (Public Law 101-82)

Section 306B—Grants authorized by the "Food, Agriculture, Conservation, and Trade Act of 1990" (Public Law 101-624).

Significant decline in quantity—A significant decline in the quantity is caused by a disruption of the potable water supply by an emergency. The disruption in quantity of water prevents the present source or delivery system from supplying the present potable water of rural residents. This would not include a decline in excess water capacity.

Significant decline in quality—A significant decline in quality of potable water is where the present community source or delivery system does not meet, as a result of an emergency, the current SDWA requirements. For a private source or delivery system a significant decline in quality is where the water is no longer potable as a result of an emergency.

4. Section 1942.507 is amended by revising the introductory text of paragraph (d), paragraphs (d)(1), (d)(3), and (d)(4) to read as follows:

§ 1942.507 Project priority.

* * * * *

(d) *Selection priorities.*—The priorities described below will be used by the State Director to rate applications and by the Director of WWD to select projects for funding. Points will be distributed as indicated in paragraphs (d)(1) through (5) of this section and will be considered in selecting projects for funding. A copy of Exhibits A and B (available in any FmHA office) used to rate applications, should be placed in the case file for future reference.

(1) *Population.*—The proposed project will serve an area with a rural population:

(i) Section 306A.

(A) Not in excess of 5,000—30 points.

(B) More than 5,000 and not in excess of 10,000—15 points.

(C) More than 10,000 and not in excess of 15,000—0 points.

(ii) Section 306B.

(A) Not in excess of 1,500—30 points.

(B) More than 1,500 and not in excess of 3,000—20 points.

(C) More than 3,000 and not in excess of 5,000—15 points.

* * * * *

(3) *Significant decline.* Points will only be assigned for one of the following paragraphs when the primary purpose of the proposed project is to correct a significant decline in the:

(i) Quantity of water available from private individually owned wells or other individual sources of water—30 points, or

(ii) Quantity of water available from an established system's source of water—20 points, or

(iii) Quality of water available from private individually owned wells or other individual sources of water—30 points, or

(iv) Quality of water available from an established system's source of water—20 points.

(4) *Acute shortage.* Grants made in accordance with § 1942.511(b) of this subpart to assist an established water system remedy an acute shortage of quality water or correct a significant decline in the quantity or quality of water that is available—10 points.

* * * * *

5. Section 1942.510 is amended by redesignating current paragraphs (a)(2) through (a)(9) as paragraphs (a)(3) through (a)(10), by revising paragraph (a)(1) and newly designated paragraph (a)(4), and by adding new paragraphs (a)(2) and (a)(11) to read as follows:

§ 1942.510 Restrictions.

(a) * * *

(1) Section 306A—Assist any city or town with a population in excess of 15,000 inhabitants according to the most recent decennial census of the United States.

(2) Section 306B—Assist any city or town with a population in excess of 5,000 inhabitants according to the most recent decennial census of the United States.

* * * * *

(4) Finance facilities which are not modest in size, design, cost, and are not directly related to correcting the potable water quantity or quality problem.

* * * * *

(11) Finance facilities that are not for public use.

6. Section 1942.511 is amended by revising paragraph (b) to read as follows:

§ 1942.511 Maximum grants.

* * * * *

(b) Grants made for repairs, partial replacement, or significant maintenance on an established system to remedy an acute shortage or significant decline in the quality or quantity of potable water cannot exceed $75,000.

* * * * *

7. Section 1942.513 is revised to read as follows:

§ 1942.513 Set-aside.

At least 70 percent of all grants made under these grant programs shall be for

projects funded in accordance with § 1942.511(a) of this subpart.

(a) Section 306A—At least 50 percent of the funds appropriated for this grant program shall be allocated to rural areas with populations not in excess of 5,000 inhabitants according to the most recent decennial census of the United States.

(b) Section 306B—At least 75 percent of the funds appropriated for this grant program shall be allocated to rural areas with populations not in excess of 3,000 inhabitants according to the most recent decennial census of the United States.

Dated: May 24, 1991.

La Verne Ausman,

Administrator, Farmers Home Administration.

[FR Doc. 91-27524 Filed 11-15-91; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chapter I

Freedom of Information and Privacy Acts; Implementation

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: On May 29, 1991 (56 FR 24133), the Department of Defense published a final rule transferring parts 284 and 285 to subchapter O. On July 9, 1991 (56 FR 31085) a final rule was published correcting this rule because part 284 was not codified in title 32. This amendment is being published to correct the headings for subchapters N and O and to correctly transfer part 285 to subchapter N.

EFFECTIVE DATE: May 29, 1991.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301-1155.

Accordingly, by the authority of 5 U.S.C. 552 and 552a, title 32, chapter I, of the Code of Federal Regulations is amended as follows:

SUBCHAPTER N—FREEDOM OF INFORMATION ACT PROGRAM

1. The heading for subchapter N is corrected to read as set forth above.

SUBCHAPTER O—PRIVACY PROGRAM

2. The heading for subchapter O is corrected to read as set forth above.

3. Part 285 is transferred from subchapter O to subchapter N.

Dated: November 12, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-27575 Filed 11-15-91; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Parts 247 and 297

Redesignation of Parts

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule amendment.

SUMMARY: This document redesignates 32 CFR part 297 as part 247. This is an administrative change within chapter I of title 32 of the Code of Federal Regulations for ease of use and to transfer parts into the appropriate subchapter.

EFFECTIVE DATE: November 18, 1991.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301-1155, telephone 703-697-4111.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 247 and 297

Government publications; Newspapers and magazines.

Accordingly, under the authority of 10 U.S.C. 133, 32 CFR Chapter I, is amended as follows:

PART 297—[REDESIGNATED AS PART 247]

1. Part 297 is redesignated as part 247 in subchapter M.

§ 247.3 [Amended]

2. Newly redesignated § 247.3(c)(2) is amended by changing "§ 297.2" to "§ 247.2".

§ 247.5 [Amended]

3. Newly redesignated § 247.5(e) is amended by changing "§ 297.5(d)(5)" to "§ 247.5(d)(5)".

Appendices A through F to Part 297 [Amended]

4. The headings of Appendices are amended by changing the part designation "297" to "247".

Appendix B to Part 297 [Amended]

5. Appendix B, section D. is amended by changing "§ 297.5(b)(6)" to "§ 247.5(b)(6)"; section G.3. by changing "§ 297.5(d)(5) (i) and (ii)" to "§ 247.5(d)(5) (i) and (ii)"; and section H.3. by changing "§ 297.5(b)(6)(i) (A) and (B)" to "§ 247.5(b)(6)(i) (A) and (B)"

Appendix C [Amended]

6. Appendix C, section M.1. is amended by changing "§ 297.5(d)(5)(i)" to "§ 247.5(b)(6)(i)".

Appendix F [Amended]

7. Appendix F, section D.2. is amended by changing "§ 297.5(d) (i) and (ii)" to "§ 247.5(d)(5) (i) and (ii)."

Dated: November 8, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer.

[FR Doc. 91-27346 Filed 11-15-91; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Parts 286i and 295

Defense Mapping Agency (DMA) Freedom of Information Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule amendment.

SUMMARY: This document redesignates 32 CFR part 286i as part 295. This administrative change is published within chapter I of title 32 of the Code of Federal Regulations for ease of use and to transfer parts into the appropriate subchapter.

EFFECTIVE DATE: July 10, 1991.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301-1155, telephone 703-697-4111.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Parts 286i and 295

Freedom of Information.

Accordingly, 32 CFR, chapter I, subchapter N, under the authority of 5 U.S.C. 552 are amended as follows:

PART 286i—[Redesignated as Part 295]

1. Part 286i is redesignated as part 295 and transferred to subchapter N.

§§ 295.1 and 295.4 [Amended]

2. In newly redesignated §§ 295.1, footnote [1], 295.4(a), footnote [3], 295.4(b), footnote [4] are amended by changing "§ 286i.3" to "§ 295.3" and § 295.5(e), footnote [6], is amended by changing "§ 286i.5(b)" to "§ 295.5(b)"

§ 295.6 [Amended]

3. Newly redesignated § 295.6(e)(1) is amended by changing "286i.6(e)(2)" to "§ 295.6(e)(2)" and "§ 286i.6(b)" to "§ 295.6(b)"

§ 295.7 [Amended]

4. Newly redesignated § 295.7 is amended in paragraphs (a) (1) and (2) by changing "286i" to "295"; paragraph (a)(3) by changing "286i.7(a)(4)" to "295.7(a)(4)"; paragraph (a)(4) by changing "§ 286i.6" to "§ 295.6" and "286i" to "295".

Appendices A through D [Amended]

5. The headings of the Appendices A through D are amended by changing the part designation "286i" to "295".

Dated: November 13, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer.

[FR Doc. 91-27641 Filed 11-15-91; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Parts 298 and 298b

Defense Investigative Service (DIS) Freedom of Information Program

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule amendment.

SUMMARY: This administrative amendment removes 32 CFR part 298, redesignates part 298b as part 298, and transfers newly redesignated part 298 to subchapter N.

EFFECTIVE DATE: November 18, 1991.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, Washington Headquarters Services, Pentagon, Washington, DC 20301-1155, telephone 703-697-4111.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR part 298 and 298b

Freedom of Information.

Accordingly, 32 CFR, chapter I, subchapter N, under the authority of 5 U.S.C. 552 are amended as follows:

PART 298—[REMOVED]

1. Part 298 is removed.

PART 298b—[REDESIGNATED AS PART 298]

2. Part 298b is redesignated as part 298 and transferred to subchapter N.

§ 298.2 [Amended]

3. Newly redesignated § 298.2(b) is amended by changing "298b.4" to "§ 298.b".

§ 298.4 [Amended]

4. Newly redesignated § 298.4(i)(3) is amended by changing "§ 298b.4(f)" to § 298.4(f).

Dated: November 13, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer.

[FR Doc. 91-27640 Filed 11-15-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 32 and 33

RIN 1018-AB25

Addition of Five National Wildlife Refuges to the List of Open Areas for Hunting, Two to the List for Sport Fishing and Pertinent Refuge-Specific Regulations

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) is adding five national wildlife refuges (NWRs) to the lists of open areas for migratory game bird hunting, upland game hunting, and/or big game hunting, two NWR's to the list for sport fishing and pertinent refuge-specific regulations for those activities. The Service has determined that such uses will be compatible with and, in some cases, enhance the major purposes for which each refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with the principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

EFFECTIVE DATE: November 18, 1991.

FOR FURTHER INFORMATION CONTACT: U.S. Fish and Wildlife Service, Division of Refuges, MS 670-ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203; Telephone (703) 358-2043.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the major purpose(s) for which the refuge was established, and that funds are available for development, operation, and maintenance of a hunting or fishing program. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking opens five refuges to hunting and two to sport fishing. All of the hunting and fishing programs have proposed refuge-specific hunting or fishing regulations which are included in this rulemaking.

This rulemaking delists Desert National Wildlife Range, Nevada from upland game hunting and sport fishing because these activities have not been permitted since the jurisdictional change in 1966. The refuge does not harbor sport fish species and there is no public demand for hunting of the few upland game species that exist. It also delists Willow Creek NWR, Montana, which at some point was wrongly listed under Montana in § 33.4 pertaining to fishing on refuges. There is no Willow Creek NWR in the Refuge System. There is a Willow Creek-Lurine Wildlife Management Area in California. However, it is an easement area, and the Service never acquired public use visiting rights, including fishing.

On June 19, 1991, at 56 FR 28133, the Service published a proposed rule to open five NWR's to hunting and two to fishing. Department of the Interior policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, written comments received on the proposed rule are addressed in the following section.

Responses to Comments Received

Written comments on the proposed rule were received from 12 parties. All but one strongly supported the proposed actions or hunting and/or fishing in general. The one group that did not support the proposed rule expressed comments similar or identical to those received on previous proposed rulemakings opening refuges to hunting contending generically that hunting on refuges is illegal, not in the spirit for which refuges are created, violates the Endangered Species Act, or is not in compliance with the National Environmental Policy Act or various other laws or regulations. These issues have been addressed by the Service—see, e.g., 51 FR 30655 of August 28, 1986, the final rule opening seven refuges to hunting and 11 to sport fishing. The Service refers parties interested in those comments to 51 FR 30655 of August 28, 1986.

Substantive comments on issues not already addressed in hunting and fishing plans, Environmental Assessments or section 7 Endangered Species Act Consultations (all of which were available for public review during the

comment period) are responded to below:

Issue: A funding determination for St. Catherine Creek NWR would be desirable.

Response: The statement of funding availability was not mentioned in the language of the proposed rule because of an oversight by the author of such document. It appropriately had been determined and stated in existing documentation that the "necessary funds for the fishing program administration will be available in the annual refuge budget."

Issue: The Service is currently in the process of preparing a programmatic EIS on the management of NWRs. How can the Service justify the establishment of a sport hunting or fishing season on NWRs since the very purpose of the programmatic EIS is to evaluate the applicability and appropriateness of such consumptive use programs on NWRs?

Response: The Service is currently functioning under the 1976 Refuge System EIS (see "Environmental Considerations" below) which analyzed the effects of hunting on refuges. The program-wide impacts of these activities have not materially changed. All required NEPA documentation has been submitted by the refuges in this rulemaking which allows hunting and fishing. The EIS currently being prepared will not become the System programmatic until a Record of Decision is signed.

Issue: Considering the impacts to wildlife populations and habitats attributed to California's ongoing drought, we cannot imagine how the establishment of a migratory bird hunting season on the Salinas River NWR can possibly be consistent with the principles of sound wildlife management as is required to implement such a consumptive wildlife use program.

Response: Refuges in the Central Valley area are in the Pacific Flyway for migratory waterfowl. Hunting seasons are determined on a Flyway basis and managed accordingly. Each year, a large commitment of personnel, time, effort, and funds is expended by the Service, the Canadian Wildlife Service, and States to collect, analyze, and evaluate data for North American waterfowl populations. The purpose is to develop a sound basis for providing reasonable hunting opportunities commensurate with the status of continental populations and habitat in order to protect and maintain waterfowl populations. Regulations are established within a framework which assures that a take is commensurate with a species' population status and habitat conditions. Hunting will be permitted and strictly enforced within the framework of applicable State and Federal regulations.

Issue: The Supawna Meadows NWR was established as a refuge and breeding ground for migratory birds and animals. The purpose for the refuge and the proposed hunting activity are completely contradictory, and cannot be considered compatible with the major purpose(s) for which the refuge was established.

Response: Supawna Meadows NWR also has as one of its establishing purposes, "to provide for incidental fish and wildlife-oriented recreational development." It is therefore a management objective of the refuge to provide a high quality recreational hunting opportunity. The hunt will take place on only 5.7% of the refuge, with access through other areas of the refuge prohibited, thereby keeping disturbances to waterfowl minimal. It has been determined that this hunting program is compatible with refuge purposes when conducted under special conditions and within the framework of State, Federal, and Refuge-specific regulations that protect waterfowl populations within the Atlantic Flyway.

Conformance With Statutory and Regulatory Authorities

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460K) and the statutes, executive orders, or other documents establishing each refuge govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any area within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the major purposes for which each refuge was established. The Service administers the Refuge System on behalf of the Secretary.

The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established. In addition, prior to opening refuges to hunting or fishing under this Act, the Secretary is required to determine that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

In accordance with the NWRSAA and the RRA, the Secretary has determined that these openings for hunting and fishing are compatible and consistent with the primary purposes for which each of the refuges listed below was established, and that funds are available to administer the programs. The hunting and fishing programs will be generally within State and Federal regulatory frameworks.

Economic Effect

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of regulatory impact analyses for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) further requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions. It is estimated that opening these refuges to hunting and fishing will generate approximately 21,034 visits annually. Using data from the 1985 National Survey of Hunting, Fishing, and Wildlife-Associated Recreation, total annual receipts generated from purchases of food, transportation, hunting and fishing equipment, fees, and licenses associated with these programs are expected to be approximately $12,751,598 or substantially less than $100 million. In addition, since these estimated receipts will be spread over six states, the implementation of this rule should not have a significant economic impact on the overall economy of a particular region, industry, or group or industries, or level of government.

With respect to small entities, this rule will have a positive aggregate economic effect on small businesses, organizations, and governmental jurisdictions. The openings will provide recreational opportunities and generate economic benefits that may not now exist, and will impose no new costs on small entities. While the number of small entities likely to be affected is not known, the number is judged to be small. Moreover, the added cost to the Federal government of law enforcement,

posting, and other actions needed to implement activities under this rule will be considerably less than the income generated from the implementation of these hunting and/or sport fishing programs. Accordingly, the Department of the Interior has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Paperwork Reduction Act

The information collection requirements contained in parts 32 and 33 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Environmental Considerations

The "Final Environmental Impact Statement for the Operation of the National Wildlife Refuge System" (FES 76–59) was filed with the Council on Environmental Quality on November 12, 1976 and a notice of availability published in the **Federal Register** on November 19, 1976 (41 FR 51131). Pursuant to the requirement of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), environmental assessments (EAs) were prepared for these refuge openings. Alternatives other than public sport hunting, including live trapping and relocation, introduction of predators, increased habitat management, chemical sterilization, population reduction by refuge staff, and no-action were considered and dismissed as not meeting refuge requirements. Based upon the EAs, the Service issued Findings of No Significant Impact. Section 7 evaluations were prepared pursuant to the Endangered Species Act. The Service has concluded that the opening of these refuges is not likely to adversely affect endangered or threatened species.

In view of the rapidly approaching hunting seasons, there is an immediate need to place these regulations into effect. It is Service policy to conduct hunting within the framework of State laws, regulations and seasons. To delay opening the refuges to hunting may cause confusion to the public, deny a benefit to the public and small related businesses and would not be in the best interest of the Service or the public. Thus the Department of the Interior concludes that good cause exists within the meaning of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act to make these regulations effective upon publication in the **Federal Register.**

Nancy Marx, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects

50 CFR Part 32

Hunting, National Wildlife Refuge System, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

50 CFR Part 33

Fishing, National Wildlife Refuge System, Reporting and recordkeeping requirements, Wildlife refuges.

Accordingly, parts 32 and 33 of Chapter I of Title 50 of the Code of Federal Regulations are amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Section 32.11 is amended by adding alphabetically by State, Salinas River NWR, CA; Supawna Meadows NWR, NJ; and Roanoke River NWR, NC to read as follows:

§ 32.11 List of open areas; migratory game birds.

* * * * *

California

* * * * *

Salinas River National Wildlife Refuge

* * * * *

New Jersey

* * * * *

Supawna Meadows National Wildlife Refuge

* * * * *

North Carolina

* * * * *

Roanoke River National Wildlife Refuge

* * * * *

3. Section 32.12 is amended by redesignating paragraphs (f) (11) through (16) as paragraphs (f) (12) through (17); adding new paragraph (f)(11); redesignating paragraphs (aa) (1) through (7) as (aa)(1) (i) through (vii); designating paragraph (aa) heading and introductory text as paragraph (aa)(1), adding a new heading to paragraph (aa), and revising the heading for newly designated paragraph (aa)(1); adding paragraph (aa)(2); redesignating paragraph (dd)(5) as (dd)(6); adding new paragraph (dd)(5) to read as follows:

§ 32.12 Refuge-specific regulations; migratory game birds.

* * * * *

(f) *California* * * *

* * * * *

(11) *Salinas River National Wildlife Refuge.* Hunting of geese, ducks, coots, and moorhens is permitted on designated areas of the refuge subject to the following condition: Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(aa) *New Jersey*—(1) *Edwin B. Forsythe National Wildlife Refuge.* * * *

* * * * *

(2) *Supawna Meadows National Wildlife Refuge.* Hunting of geese and ducks is permitted on designated areas of the refuge subject to the following conditions:

(i) All goose and duck hunting will close after the last day of the regular duck season for the south zone of New Jersey.

(ii) Snow goose hunting will begin with the Canada goose season for the south zone of New Jersey only.

(iii) Loaded and uncased firearms are permitted in an unanchored boat only when retrieving crippled birds.

(iv) All hunting blind materials, boats, and decoys must be removed at the end of each hunting day. Permanent blinds are not permitted.

(v) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

(dd) *North Carolina* * * *

* * * * *

(5) *Roanoke River National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the

refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

4. Section 32.21 is amended by adding alphabetically by State, Dahomey NWR, MS and Roanoke River NWR, NC; and removing Desert National Wildlife Range, NV, to read as follows:

§ 32.21 List of open areas; upland game.

* * * * *

Mississippi

* * * * *

Dahomey National Wildlife Refuge

* * * * *

North Carolina

* * * * *

Roanoke River National Wildlife Refuge

* * * * *

5. Section 32.22 is amended by redesignating paragraphs (v) (2) through 7 as (v) (3) through (8) and adding new paragraphs (v)(2) and (cc)(3) to read as follows:

§ 32.22 Refuge-specific regulations; upland game.

* * * * *

(v) *Mississippi* * * *

(2) *Dahomey National Wildlife Refuge.* Hunting of squirrel, rabbit, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(cc) *North Carolina* * * *

* * * * *

(3) *Roanoke River National Wildlife Refuge.* Hunting of squirrel, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

6. Section 32.31 is amended by adding a new state, Hawaii, and adding alphabetically by State, Hakalau Forest NWR, HI; Dahomey NWR, MS; and Roanoke River NWR, NC, to read as follows:

§ 32.31 List of open areas; big game.

* * * * *

Hawaii

Hakalau Forest National Wildlife Refuge

* * * * *

Mississippi

* * * * *

Dahomey National Wildlife Refuge

* * * * *

North Carolina

* * * * *

Roanoke River National Wildlife Refuge

* * * * *

7. Section 32.32 is amended by redesignating paragraphs (k) through (uu) as (l) through (vv); adding new paragraph (k); redesignating newly designated paragraphs (u)(3)(1) as (u)(3)(i) and (z)(2) through (7) as (z)(3) through (8); and adding paragraphs (z)(2) and (hh)(6) to read as follows:

§ 32.32 Refuge-specific regulations; big game.

* * * * *

(k) *Hawaii—Hakalau Forest National Wildlife Refuge.* Hunting of feral pigs is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(z) *Mississippi* * * *

* * * * *

(2) *Dahomey National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

(hh) *North Carolina* * * *

* * * * *

(6) *Roanoke River National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

* * * * *

PART 33—[AMENDED]

8. The authority citation for part 33 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, 715i.

9. Section 33.4 is amended by adding alphabetically by State, Bayou Sauvage NWR, LA, and St. Catherine Creek NWR, MS; and removing Willow Creek NWR, MT and Desert NWR, NV to read as follows:

§ 33.4 List of open areas; sport fishing.

* * * * *

Louisiana

Bayou Sauvage National Wildlife Refuge

* * * * *

Mississippi

* * * * *

St. Catherine Creek National Wildlife Refuge

* * * * *

10. Section 33.22 is amended by redesignating paragraphs (a) through (j) as (b) through (k) and adding paragraph (a) to read as follows:

§ 33.22 Louisiana.

(a) *Bayou Sauvage National Wildlife Refuge.* Finfishing and shellfishing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only from March 16 through October 31, with the following exceptions: Bank fishing from U.S. Highway 11 is permitted year-round; the area south of Intracoastal Waterway is permitted year-round; the areas outside the Hurricane Protection Levee, the main Canal from U.S. Highway 11 to the borrow pits (two) within the Blind lagoon Unit, and the area bounded by I-10, Lake Pontchartrain, and Levee #27 is permitted from the end of the State waterfowl season (East Zone) through October 31.

(2) Only rod and reel or pole and line is permitted for finfishing. All hand lines and crabbing equipment must be attended.

(3) The use of trotlines, slat traps, or nets is prohibited, with the following exceptions: Bait shrimp may be taken with cast nets; crayfish and crabs with ring nets up to 20 inches in diameter.

(4) Daily crab and crayfish limit is 100 pounds per vehicle or boat.

(5) Outboard motors not to exceed 25 horsepower are permitted in waterways, canals, and pools within the Hurricane Protection Levee (#26, #27, and #28).

(6) Air-thrust boats, motorized pirogues, and go-devils are prohibited in refuge waters.

* * * * *

11. Section 33.28 is amended by adding paragraph (d) to read as follows:

§ 33.28 Mississippi.

* * * * *

(d) *St. Catherine Creek National Wildlife Refuge.* Sport fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and access is permitted during daylight hours only from March 1 through September 15 in areas designated by refuge signs and/or leaflets with the exception that fishing and access may be permitted year-round in some areas if designated by refuge signs and/or leaflets.

(2) Access to the refuge fishing areas is restricted to roads and trails designated by refuge signs and/or leaflets.

(3) Boats may not be left on the refuge overnight.

Dated: September 20, 1991.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 91-26992 Filed 11-15-91; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 227

[Docket No. 900387-1268]

Threatened Fish and Wildlife; Listing of Steller Sea Lions as Threatened Under the Endangered Species Act

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

ACTION: Final rule, technical amendment.

SUMMARY: NMFS issues this final rule to implement a technical amendment to the regulations establishing protective measures for Steller sea lions. Those regulations were issued pursuant to the authority of the Endangered Species Act (ESA) and prohibit the shooting at, or within 100 yards (91.4 meters) of, Steller sea lions, and restrict entry in buffer areas around key rookeries. These key rookeries with geographic buffer area coordinates are listed in 50 CFR part 227. Inadvertently, the set of geographic coordinates for Attu Island were reversed in the final rule that established the buffer areas. This technical amendment corrects that error in the regulations.

EFFECTIVE DATE: November 18, 1991.

FOR FURTHER INFORMATION CONTACT: Herbert Kaufman, Protected Species Management Division, 1335 East-West Highway, room 8273, Silver Spring, MD 20910, (301) 427-2319.

SUPPLEMENTARY INFORMATION: The final listing of the Steller sea lion as threatened under the ESA was published on November 26, 1990 (55 FR 49204). Protective regulations that accompanied the final listing prohibit the shooting at or within 100 yards (91.4 meters) of Steller sea lions, and restrict entry in buffer areas around key rookeries. These key rookeries are listed in Table 1 to 50 CFR 227.12(a)(3). The table indicates that the buffer area around each site extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower low water to the second set of coordinates. Inadvertently, the set of coordinates for Attu Island published in the final listing were reversed. This technical amendment corrects the error in Table 1 of the regulations.

List of Subjects in 50 CFR Part 227

Endangered and threatened wildlife.

Dated: November 7, 1991.

Michael F. Tillman,

Deputy Assistant Administrator for Fisheries.

For the reasons set out in the preamble, 50 CFR part 227 is amended as follows:

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation for part 227 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

2. In § 227.12, Table 1 to paragraph (a)(3) is amended by revising line 35 to read as follows:

§ 227.12 Steller sea lion.

(a) * * *

(3) * * *

TABLE 1.—LISTED STELLER SEA LION ROOKERY SITES [1]

Island	From		To		NOAA chart	Notes
	Lat.	Long.	Lat.	Long.		
35. Attu I.	50°54.5 N	172°28.6 E	52°57.5 N	172°31.5 E	16420	Cape Wrangell.

[1] Each site extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower low water to the second set of coordinates; or, if only one set of geographic coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.

* * * * *

[FR Doc. 91-27409 Filed 11-15-91; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 298

[Docket No. 910660-1270]

RIN 0648-AD78

United States-Canada Fisheries Enforcement Agreement

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

ACTION: Final rule.

SUMMARY: NMFS publishes this final rule to implement an agreement between the United States and Canada in which each nation agrees to take appropriate measures to ensure that its nationals do not violate the other nation's fisheries laws that apply within the other nation's waters. U.S. nationals and vessels are prohibited from fishing within waters subject to the fisheries jurisdiction of Canada unless permitted by Canada to do so, and from interfering with enforcement by Canadian fisheries officers.

EFFECTIVE DATE: These regulations will not become effective until the United States and Canada exchange official diplomatic notes to bring the United States-Canada Fisheries Enforcement Agreement into force. NMFS will promptly publish in the **Federal Register** a notice of that effective date.

ADDRESSES: Copies of the Environmental Assessment are available from: Operations Support and Analysis Division, F/CM1, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, (301) 427-2337.

SUPPLEMENTARY INFORMATION: On July 15, 1991, NMFS published a proposed rule with a 30-day public comment period (56 FR 32160) to implement the "Agreement Between the Government of the United States of America and the Government of Canada on Fisheries Enforcement" (Agreement) executed at Ottawa, Canada, on September 26, 1990. The agreement and the regulations to implement it were described in the preamble to the proposed rule; this discussion will not be repeated.

Responses to Comments

Comments on the proposed rule were received from the Western Fishboat Owners Association and from the Makah Indian Tribe.

Comment: The Western Fishboat Owners Association commented that the proposed rule did not recognize that U.S. fishermen are allowed to fish for

albacore in the Canadian fisheries zone under the Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges signed on May 26, 1981.

Response: Neither the Agreement nor this rule affects treaty access to the waters subject to the fisheries jurisdiction of Canada by U.S. albacore fishermen. As long as albacore fishing is conducted in accordance with the Treaty and in compliance with the relevant fishery laws of Canada, these rules do not come into play. Of course, if an albacore fisherman engages in any fishing activity that is not authorized by the Treaty and that violates applicable Canadian fisheries law, such an activity would also constitute a violation of these regulations.

Comment: The Makah Indian Tribe commented that the United States should put its efforts into negotiating with the Canadians to settle boundary claims and to get the Canadians to recognize the Makah's historic fishing rights in certain waters of Canada rather than multiplying penalties assessed against its fishermen. The Tribe further commented that Makah fishermen fish on grounds that are near disputed boundary areas and sometimes their fishing vessels drift inadvertently over the line into the Canadian zone. Canadian penalties are already very high and the U.S. regulations should not be used to multiply penalties against Makah fishermen.

Response: NMFS also notes that the Tribe and the United States are involved in litigation over these issues. However, such issues are not pertinent to this Agreement, which is clearly not intended to address either boundary disputes or access to the fishery zones of each country. With respect to the comment about multiplying penalties, the Government is primarily concerned with augmenting coastal state enforcement by providing a means to penalize those who evade it, not with duplicating such coastal state enforcement efforts. Therefore, if a penalty were imposed by the coastal state, that would generally suffice.

None of the comments received address matters that would require any changes to the proposed rule and, except for a few minor technical corrections, no such changes have been made.

Classification

This rule is authorized under the Magnuson Fisheries Conservation and Management Act, 16 U.S.C. 1822(a), which authorizes the Secretary of State to negotiate international fisheries agreements, and by 16 U.S.C. 1855(d), which authorizes the Secretary of Commerce to promulgate regulations necessary to carry out the provisions of the Magnuson Act.

NMFS prepared an environmental assessment (EA) for this rule and concluded that the rule will not have a significant impact on the human environment. The EA is available upon request (see **ADDRESSES**).

This action is exempt from the provisions of Executive Order 12291 under section 1(a)(2) because these regulations are issued with respect to a foreign affairs function of the United States.

This action is not subject to section 553 of the Administrative Procedure Act (APA) because it involves a foreign affairs function, and is, therefore, not subject to the provision respecting a 30-day delay of its effective date.

Because neither the APA nor any other statute requires public notice and opportunity to comment upon this rule, the Regulatory Flexibility Act does not apply and no regulatory flexibility analysis has been prepared.

This rule does not contain any collection-of-information requirements for the purposes of the Paperwork Reduction Act.

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

This rule does not directly affect the coastal zone of any state with an approved coastal zone management program.

List of Subjects in 50 CFR Part 298

Fish, Fisheries, Foreign fishing, Foreign relations, Canada, United States-Canada Agreement.

Dated: November 12, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, part 298 is added to subchapter K, chapter II of title 50 of the Code of Federal Regulations as set forth below:

PART 298—UNITED STATES-CANADA FISHERIES ENFORCEMENT AGREEMENT

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

§ 298.1 Purpose and scope.

This part implements the "Agreement Between the Government of the United States of America and the Government of Canada on Fisheries Enforcement" executed at Ottawa, Canada, on September 26, 1990. The purpose of the Agreement is for each party to the Agreement to take appropriate measures, consistent with international law, to prevent its nationals, residents and vessels from violating those national fisheries laws and regulations of the other party that apply to waters and zones subject to the fisheries jurisdiction of that other part (i.e., internal waters, territorial seas and 200-mile resource conservation zones) to the extent such waters and zones are recognized by the enforcing party. This part is implemented under the Magnuson Fishery Conservation and Management Act, as amended, 16 U.S.C. 1801 *et seq.* (the Act), and applies, except where otherwise specified in this part, to all persons and all places (on water and on land) subject to the jurisdiction of the United States under the Act. This includes, but is not limited to, activities of nationals, residents and vessels of the United States (including the owners and operators of such vessels) within waters subject to the fisheries jurisdiction of Canada as defined in this part, as well as on the high seas and in waters subject to the fisheries jurisdiction of the United States.

§ 298.2 Definitions.

In addition to the definitions in section 3 of the Act, the terms used in this part have the following meanings (certain definitions in the Act are repeated here for convenience):

Agreement means the Agreement Between the Government of the United States of America and the Government of Canada on Fisheries Enforcement executed at Ottawa, Canada, on September 26, 1990.

Applicable Canadian fisheries law means any Canadian law, regulation or similar provision relating in any manner to fishing by any fishing vessel other than a Canadian fishing vessel in waters subject to the fisheries jurisdiction of Canada, including, but not limited to, any provision relating to stowage of fishing gear by vessels passing through such waters, and to obstruction or interference with enforcement of any such law or regulation.

Area of custody means any vessel, building, vehicle, live car, pound, pier or dock facility where fish might be found.

Authorized officer of Canada means any fishery officer, protection officer, officer of the Royal Canadian Mounted Police, or other employee authorized by the appropriate authority of any national or provincial agency of Canada to enforce any applicable Canadian fisheries law.

Authorized officer of the United States means:

(a) Any commissioned, warrant, or petty officer or the U.S. Coast Guard;

(b) Any Special Agent or fishery enforcement officer of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or state agency that has entered into an agreement with the Secretary and/or the Commandant of the U.S. Coast Guard to enforce the provisions of the Act; or

(d) Any U.S. Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Canadian fishing vessel means a fishing vessel:

(a) That is registered or licensed in Canada under the Canada Shipping Act and is owned by one or more persons each of whom is a Canadian citizen, a person resident and domiciled in Canada, or a corporation incorporated under the laws of Canada or of a province, having its principle place of business in Canada; or.

(b) That is not required by the Canada Shipping Act to be registered or licensed in Canada and is not registered or licensed elsewhere but is owned as described in paragraph (a) of this definition.

Fish means any finfish, mollusk, crustacean, or any part or product thereof, and all other forms of marine animal and plant life other than marine mammals and birds.

Fishing, or to fish, means any activity, other than scientific research conducted by a scientific research vessel, that involves:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b) or (c) of this definition.

Fishing vessel means any vessel, boat, ship, or other craft that is used for, equipped to be used for, or of a type that is normally used for:

(a) Fishing; or

(b) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Official number means the documentation number issued by the U.S. Coast Guard or the certificate number issued by a state or the U.S. Coast Guard for an undocumented vessel, or any equivalent number if the vessel is registered in a foreign nation.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part (whether or not the vessel is leased or chartered);

(b) Any charterer of the vessel, whether bareboat, time or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to, parties to a management agreement, operating agreement, or other similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by any person described in paragraphs (a), (b) or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, local, or foreign government or any entity of any such government.

Vessel of the United States means:

(a) Any vessel documented under chapter 121 of title 46, United States Code;

(b) Any vessel numbered under chapter 123 of title 46, United States Code and measuring less than 5 net tons;

(c) Any vessel numbered under chapter 123 of title 46, United States Code, and used exclusively for pleasure; and

(d) Any vessel whose owner is a national or resident of the United States that is not equipped with propulsion machinery of any kind and is used exclusively for pleasure.

Waters subject to the fisheries jurisdiction of Canada means the internal waters, territorial sea, and the zone that Canada has established, extending 200 nautical miles from its coasts, in which it exercises sovereign rights for the purpose of exploration, exploitation, conservation and management of living marine resources, to the extent recognized by the United States.

§ 298.3 Prohibitions.

The prohibitions in this section apply within waters subject to the fisheries jurisdiction of Canada and during hot pursuit therefrom by an authorized officer of Canada. It is unlawful for any national or resident of the United States, or any person on board a vessel of the United States, or the owner or operator of any such vessel, to do any of the following:

(a) Engage in fishing in waters subject to the fisheries jurisdiction of Canada without the express authorization of the Government of Canada;

(b) Take or retain fish in waters subject to the fisheries jurisdiction of Canada without the express authorization of the Government of Canada;

(c) Be on board a fishing vessel in waters subject to the fisheries jurisdiction of Canada without stowing all fishing gear on board either:

(1) Below deck, or in an area where it is not normally used, such that the gear is not readily available for fishing; or

(2) If the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; unless the vessel has been authorized by the Government of Canada to fish in the particular location within waters subject to the fisheries jurisdiction of Canada in which it is operating;

(d) While on board a fishing vessel in waters subject to the fisheries jurisdiction of Canada, fail to respond to any inquiry from an authorized officer of Canada regarding the vessel's name, flag state, location, route or destination, and/or the circumstances under which the vessel entered such waters;

(e) Violate the Agreement, any applicable Canadian fisheries law, or the terms or conditions of any permit, license or any other authorization granted by Canada under any such law;

(f) Fail to comply immediately with any of the enforcement and boarding procedures specified in § 298.5 of this part;

(g) Destroy, stave, or dispose of in any manner, any fish, gear, cargo or other matter, upon any communication or signal from an authorized officer of Canada, or upon the approach of such an officer, enforcement vessel or aircraft, before the officer has had the opportunity to inspect same, or in contravention of directions from such an officer;

(h) Refuse to allow an authorized officer of Canada to board a vessel for the purpose of conducting any inspection, search, seizure, investigation

or arrest in connection with the enforcement of any applicable Canadian fisheries law;

(i) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere, in any manner, with an authorized officer of Canada in the conduct of any boarding, inspection, search, seizure, investigation or arrest in connection with the enforcement of any applicable Canadian fisheries law;

(j) Make any false statement, oral or written, to an authorized officer of Canada in response to any inquiry by that officer in connection with enforcement of any applicable Canadian fisheries law;

(k) Falsify, cover, or otherwise obscure, the name, home port, official number (if any), or any other similar marking or identification of any fishing vessel subject to this part such that the vessel cannot be readily identified from an enforcement vessel or aircraft; or

(l) Attempt to do any of the foregoing.

§ 298.4 Interference with authorized officers of the U.S.

The prohibitions in this section concern enforcement of the Agreement and this part by authorized officers of the United States, and, unless the context otherwise requires, apply to all persons and places subject to the jurisdiction of the United States under the Act. It is unlawful for any person to do any of the following:

(a) Fail to comply immediately with any of the enforcement and boarding procedures specified in paragraphs 298.5 (a) through (d) of this part;

(b) Destroy, stave, or dispose of in any manner, any fish, gear, cargo or other matter, upon any communication or signal from an authorized officer of the United States, or upon the approach of such an officer, enforcement vessel or aircraft, before the officer has had the opportunity to inspect same, or in contravention of directions from such an officer;

(c) Refuse to allow an authorized officer of the United States to board a vessel, or enter any other area of custody, for the purpose of conducting any inspection, search, seizure, investigation or arrest in connection with the enforcement of the Agreement or this part;

(d) Assault, resist, oppose, impede, intimidate, threaten, obstruct, delay, prevent, or interfere, in any manner, with an authorized officer of the United States in the conduct of any boarding, inspection, search, seizure, investigation or arrest in connection with the enforcement of the Agreement or this part;

(e) Make any false statement, oral or written, to an authorized officer of the United States concerning the catching, taking, harvesting, landing, purchase, sale or transfer of fish, or concerning any other matter subject to investigation by that officer under this part;

(f) Interfere with, obstruct, delay, or prevent by any means, any inspection, search, investigation, seizure or arrest in connection with the enforcement of the Agreement or this part;

(g) Falsify, cover, or otherwise obscure, the name, home port, official number (if any), or any other similar marking or identification of any fishing vessel subject to this part such that the vessel cannot be readily identified from an enforcement vessel or aircraft; or

(h) Attempt to do any of the foregoing.

§ 298.5 Facilitation of enforcement.

(a) *General.* Persons aboard fishing vessels subject to this part must immediately comply with instructions and/or signals issued by an authorized officer of the United States or Canada, or by an enforcement vessel or aircraft, to stop, and with instructions to facilitate safe boarding and inspection for the purpose of enforcing any applicable Canadian fisheries law, the Agreement, or this part.

(b) *Communications.* (1) Upon being approached by an authorized officer of the United States or Canada, or by an enforcement vessel or aircraft, persons aboard fishing vessels must be alert for communications conveying enforcement instructions. (See paragraph (e) of this section for specific requirements for complying with signals and instructions issued by an authorized officer of Canada.)

(2) VHF-FM radiotelephone is the preferred method for communicating between vessels. If the size of the vessel, and the wind, sea and visibility conditions allow, a loudhailer may be used instead of the radio. Hand signals, placards, high frequency radiotelephone, voice, flags, whistle or horn may be employed by an authorized officer of the United States or Canada, and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. U.S. Coast Guard units will normally use the flashing light signal "L" as the signal to stop. In the International Code of Signals "L" (.-. .) means "you should stop your vessel instantly."

(4) Failure of a vessel promptly to stop when directed to do so by an authorized officer of the United States or Canada, or by an enforcement vessel or aircraft, using loudhailer, radiotelephone, flashing light, flags, whistle, horn, or other means, constitutes prima facie evidence of the offence of refusal to allow an authorized officer to board.

(5) A person aboard a vessel who does not understand a signal from an enforcement unit and who cannot obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* A person aboard a vessel directed to stop must:

(1) Guard Channel 16, VHF-FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the enforcement boarding party to come aboard;

(3) Except for those vessels with a distance of 7 feet (2.1 meters) or less from the waterline to the gunwale, provide a safe ladder, if needed, for the enforcement party to come aboard;

(4) When necessary to facilitate the boarding, or when requested by the boarding party, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to ensure the safety of the members of the enforcement boarding party.

(d) *Signals.* The following signals extracted from the International Code of Signals may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Except as provided in paragraph (e) of this section, while the vessel operator is not required to know these signals, such knowledge, coupled with appropriate action in response, may preclude the need to send the "L" signal and for the vessel to stop instantly.

(1) "AA" repeated (. - . -) is the call to an unknown station. The signaled vessel should respond by identifying itself by radiotelephone or by illuminating its identification.

(2) "RY-CY" (. - . - . -- - .-. - . --) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the need for the vessel being boarded to come to a complete stop, or, in some cases, without retrieval of fishing gear which may be in the water.

(3) "SQ3" (. . . -- . - . . . --) means "you should stop or heave to, I am going to board you."

(e) *Canadian signals.* In addition to signals set forth in paragraphs (a) through (d) of this section, persons on board fishing vessels subject to this part must immediately comply with the

following signals by an authorized officer of Canada.

(1) Authorized officers of Canada use the following signals to require fishing vessels to stop or heave to:

(i) The hoisting of a rectangular flag, known as the International Code Flag "L", which is divided vertically and horizontally into quarters and colored so that:

(A) The upper quarter next to the staff and the lower quarter next to the fly are yellow, and

(B) The lower quarter next to the staff and the upper quarter next to the fly are black;

(ii) The flashing of a light to indicate the International Morse Code letter "L", consisting of one short flash, followed by one long flash, followed by two short flashes (. - . .); or

(iii) The sounding of a horn or whistle to indicate the International Morse Code letter "L", consisting of one short blast, followed by one long blast, followed by two short blasts (. - . .).

(2) Authorized officers of Canada use the following signals to require a fishing vessel to prepare to be boarded:

(i) The hoisting of flags representing the International Code Flag "SQ3"; or

(ii) The flashing of a light, or the sounding of a horn or whistle, to indicate the International Morse Code Signal "SQ3" (. . . -- . - . . . --).

§ 298.6 Penalties and sanctions.

Any person, any fishing vessel, or the owner or operator of any such vessel, who violates any provision of the Agreement or this part, is subject to the civil and criminal fines, penalties, forfeitures, permit sanctions, or other sanctions provided in the Act, 50 CFR part 621, 15 CFR part 904 (Civil Procedures), and any other applicable law or regulation.

[FR Doc. 91-27600 Filed 11-15-91; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 641

[Docket No. 911050-1281]

Reef Fish Fishery of the Gulf of Mexico

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

ACTION: Final rule.

SUMMARY: The Secretary of Commerce (Secretary) changes for 1991 the commercial quota for shallow-water grouper in the Gulf of Mexico reef fish fishery in accordance with the framework procedure of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as amended. This final rule increases the annual commercial quota for shallow-water groupers for 1991 from 9.2 to 9.9 million pounds (4.2 to 4.5 million kilograms). The intended effect is to compensate for the inadvertent early closure of the commercial fishery for shallow-water grouper in 1990, which precluded that fishery from harvesting approximately .7 million pounds (.3 million kilograms) of the 1990 quota.

EFFECTIVE DATES: November 12, 1991, through December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Robert A. Sadler, 813-893-3161.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP prepared and amended by the Gulf of Mexico Fishery Management Council (Council), and its implementing regulations at 50 CFR part 641, under the authority of the Magnuson Fishery Conservation and Management Act.

In accordance with the FMP and its implementing regulations, the Council recommended and NMFS published a proposed rule to change the commercial quota for shallow-water grouper for 1991 to 9.9 million pounds (4.5 million kilograms) (56 FR 51367; October 11, 1991). Shallow-water grouper consists of all groupers other than yellowedge, misty, warsaw, and snowy groupers, speckled hind, and jewfish. The rationale for the recommended change was included in the proposed rule and is not repeated here.

No comments were received on the proposed rule, and it is implemented without change.

Other Matters

This action is authorized by the FMP and complies with E.O. 12291.

List of Subjects in 50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 12, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 641 is amended as follows:

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 641 continues to read as follows:

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

2. In § 641.25, from November 12, 1991, through December 31, 1991, paragraph (c) is suspended and a new paragraph (e) is added to read as follows:

§ 641.25 Commercial quotas.

* * * * *

(e) All other groupers, excluding jewfish, combined—9.9 million pounds (4.5 million kilograms).

[FR Doc. 91-27599 Filed 11-12-91; 5:01 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 222
Monday, November 18, 1991

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-NM-212-AD]

Airworthiness Directives; Boeing Model 737-300, 737-400, 737-500, and 757-200 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 737-300, 737-400, 737-500, and 757-200 series airplanes, which would require the inspection and replacement, if necessary, and eventual modification of certain TransAero single flight attendant seats. This proposal is prompted by in-service reports of damaged seat bottoms. This condition, if not corrected, could result in injury to flight attendants.

DATES: Comments must be received no later than January 6, 1992.

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. 91-NM-212-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from TransAero Industries, Inc., 502 North Oak Street, Inglewood, California 90302-2942. 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 Rules 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 91-NM-212-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

Beginning in January of 1991, several operators of certain Boeing Model 737 and 757 series airplanes have reported instances of damaged single flight attendant seat plans manufactured by TransAero Industries, Inc. The damage, which reportedly was first encountered after eighteen months in service, is manifested by cracked front channels and sheared or pulled rivets. This condition resulted from the failure of the design to consider the loads normally encountered in service and/or the incorrect manufacture of the seat pans. This condition, if not corrected, could result in seat failures and possible injury or incapacitation of flight attendants.

The FAA has reviewed and approved TransAero Service Bulletin 192, Revision C, dated August 12, 1991, which describes procedures for inspection, modification, and replacement of the affected seat pans.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which initially would require inspections of the seat pans for damage, and either replacement of damaged seat pans or the discontinuance of the use of the damaged seat; if the seat pan is replaced, it must continue to be inspected at regular intervals. The rule would also require the eventual modification of all of the subject seats. These proposed actions would be required to be accomplished in accordance with the TransAero service bulletin described previously.

There are approximately 775 Model 737 and 757 series airplanes of the affected design in the worldwide fleet. It is estimated that 426 airplanes of U.S. registry would be affected by this AD. It is estimated that the proposed inspection actions would require an average of approximately 1 manhour per airplane to accomplish, and that the labor charge would be $55 per manhour. Based on these figures, the total impact of the AD with regard to the initial inspection requirement is estimated to be $23,430.

It is estimated that the proposed modification would require approximately 1 manhour per seat to accomplish, and that the average labor charge would be $55 per manhour. The approximate cost of the required modification kits is $228 per seat. Based on these figures and an average of 2 affected seats per airplane, the total cost impact of the AD with regard to the modification requirement is $241,116.

Based on the figures discussed above, the total cost impact of the AD on U.S. operators is estimated to be $264,546.

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 Rules 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); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Boeing: Docket No. 91-NM-212-AD.

Applicability: Model 737-300, 737-400, and 737-500 series airplanes, and Model 757-200 series airplanes; equipped with TransAero P/N 91465 series single flight attendant seats identified in TransAero Service Bulletin No. 192, Revision C, dated August 12, 1991; certified in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent failure of the seats and possible injury to flight attendants, accomplish the following:

(a) Within 21 days after the effective date of this AD, inspect the front edge of the affected seat pans for areas of abnormal flexibility in accordance with paragraph C. of TransAero Service Bulletin No. 192, Revision C., dated August 12, 1991.

(1) If no damage is detected, repeat the inspection at intervals not to exceed 30 days.

(2) If damage is detected, prior to further flight, accomplish either subparagraph (a)(2)(i) or (a)(2)(ii):

(i) Install a placard stating that the damaged seat is not to be occupied; or

(ii) Replace the seat pan with a serviceable seat pan of the same part number, and continue to inspect thereafter at intervals not to exceed 30 days in accordance with paragraph (a) of this AD.

(b) Within 18 months after the effective date of this AD, modify all single flight attendant seats in accordance with TransAero Service Bulletin No. 192, Revision C, dated August 12, 1991.

(c) The inspections required by paragraph (a) of this AD may be terminated upon accomplishing the modification described in TransAero Service Bulletin 192, Revision C, dated August 12, 1991.

(d) An alternative method 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 forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, 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 TransAero Industries, Inc., 502 North Oak Street, Inglewood, California 90302-2942. 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 November 4, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-27646 Filed 11-15-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-211-AD]

Airworthiness Directives; Fokker Model F-28 Mark 0100 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 Fokker Model F-28 Mark 0100 series airplanes, which would require reinforcement of the vertical stabilizer; and for certain airplanes, an inspection to detect cracks in the vertical stabilizer, and repair, if necessary. This proposal is prompted by full-scale fatigue testing which revealed cracks in the surface and underlying structure of the vertical stabilizer. This condition, if not corrected, could result in reduced structural capability of the vertical stabilizer.

DATES: Comments must be received no later than January 6, 1992.

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. 91-NM-211-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. The applicable service information may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. 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. Mark Quam, Standardization Branch, ANM-113; telephone (206) 227-2145. 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 Rules 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 91-NM-211-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority of the Netherlands, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Fokker Model F-28 Mark 0100 series airplanes. During full-scale fatigue testing of the horizontal and vertical stabilizers by the manufacturer, several cracks were found in the skin of the vertical

stabilizer at rib 5.0, near intermediate spars I and III, and in the underlying structure. Fatigue cracking in this area, if not detected and repaired in a timely manner, could result in reduced structural capability of the vertical stabilizer.

Fokker has issued Service Bulletin SBF100-55-001, Revision 1, dated March 16, 1990, which describes procedures to reinforce the vertical stabilizer. In addition, the service bulletin describes procedures to perform a one-time eddy current inspection to detect cracks in certain rivet holes on airplanes that have accumulated over 3,000 landings. The service bulletin also describes procedures to accomplish the reinforcement procedure if the length of identified cracks exceeds a certain limit. The RLD has classified this service bulletin as mandatory and has issued Airworthiness Directive 89-062 addressing this subject.

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

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would require reinforcement of the vertical stabilizer; and for certain airplanes, an eddy current inspection to detect cracks in the vertical stabilizer, and repair, if necessary. These actions would be required to be accomplished in accordance with the service bulletin previously described.

Currently, no airplanes of U.S. registry would be affected by this AD. However, should one of the affected airplanes be imported and placed on the U.S. Register in the future, it would take approximately 60 manhours per airplane to accomplish the required actions, and the average labor cost would be $55 per manhour. The estimated cost for required parts would be $3,257 per airplane. The total estimated cost impact of this AD would be $6,557 per airplane.

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 Rules 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); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Fokker: Docket No. 91-NM-211-AD.

Applicability: Model F-28 Mark 0100 series airplanes; serial numbers 11244 through 11256, 11259, 11260, and 11268 through 11273; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

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

(a) Prior to the accumulation of 6,500 landings, or within 30 days after the effective date of this AD, whichever occurs later, reinforce the vertical stabilizer in accordance with Fokker Service Bulletin SBF100-55-001, Revision 1, dated March 16, 1990.

(b) For airplanes that have accumulated more than 3,000 landings at the time that the reinforcement of the vertical stabilizer is initiated as required by paragraph (a) of this AD: Concurrent with the accomplishment of the reinforcement procedure, perform an eddy current inspection to detect cracks in the rivet holes located at position L, in accordance with Fokker Service Bulletin SBF100-55-001, Revision 1, dated March 16, 1990.

(1) If no cracks are found, proceed with the reinforcement procedure required by paragraph (a) of this AD.

(2) If any crack is found that does not exceed 0.8 mm in length, prior to further flight, repair in accordance with the service bulletin.

(3) If any crack is found that is 0.8 mm or longer in length, prior to further flight, repair in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

(c) An alternative method 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 forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. 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 November 1, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-27648 Filed 11-15-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-215-AD]

Airworthiness Directives; Boeing Model 737-300, -400, and -500 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires a limitation in the FAA-approved Airplane Flight Manual (AFM) to incorporate certain operational procedures to detect uncommanded changes in the altitude windows of the Mode Control Panel (MCP). Such uncommanded changes, if not corrected, could cause the airplane to fly to an altitude that was not selected by the pilot. This action would require replacement of the currently-installed MCP with an improved model. This proposal is prompted by the development of a new MCP that is not susceptible to uncommanded changes in the altitude window.

DATES: Comments must be received no later than January 6, 1992.

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. 91-NM-215-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. Peter Skaves, Seattle Aircraft Certification Office, Systems & Equipment Branch, ANM-130S; telephone (206) 227-2795. 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 Rules 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 91-NM-215-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On March 13, 1990, the FAA issued AD 90-07-02, Amendment 39-6547 (55 FR 10605, March 22, 1990), applicable to Boeing Model 737-300 series airplanes equipped with Sperry SP300 autopilots, to require a revision to the FAA-approved Airplane Flight Manual (AFM) to incorporate certain operating procedures to detect changes in the altitude window of the Mode Control Panel (MCP). That action was prompted by several reports of uncommanded changes in the selected altitude displayed in the altitude window of the autopilot MCP. This condition, if not corrected, could cause the airplane to fly to an altitude that was not selected by the pilot. The same limitation that was required by AD 90-07-02 was included in the AFM during type certification of Boeing Model 737-400 and 737-500 series airplanes.

Since the issuance of AD 90-07-02, Honeywell, Inc., Sperry Commercial Flight Systems Division, the manufacturer of the autopilot, has developed a new design MCP that is not susceptible to uncommanded changes in the altitude window.

The FAA has reviewed and approved Boeing Service Bulletin 737-22A1098, dated January 17, 1991, which describes procedures for the replacement of the MCP, Boeing P/N 10-62038-102, -105, -106, -107, -108, -109, -110, -115, or -116, with a new design MCP, P/N 10-62038-122, -125, -126, -127, -128, -129, or -130. The replacement procedure involves either the complete replacement of the MCP with an entirely new assembly, or modification of the currently installed MCP.

Since this condition is likely to exist or develop on other airplanes of this same type design, an airworthiness directive is proposed which would supersede AD 90-07-02 to also require replacement of the MCP in accordance with the service bulletin previously described. Once the replacement has been accomplished, the AFM limitation required by AD 90-07-02 may be removed. This action would also include Models 737-400 and 737-500 series airplanes in the applicability; once the replacement of the MCP has been accomplished on these models, the AFM limitation currently in their applicable AFM's may be removed.

There are approximately 864 Boeing Model 737-300, -400, and -500 series airplanes of the affected design in the worldwide fleet. It is estimated that 440 airplanes of U.S. registry would be affected by this AD.

Should an operator elect to completely replace the MCP with the new design model, it would take approximately 1 manhour per airplane to accomplish, at an average labor charge of $55 per manhour. The replacement MCP would be provided to the operator by the manufacturer at no charge. Based on these figures, should all affected operators elect to replace the MCP's, the total cost impact of this AD would be $24, 200 for the fleet, or $55 per airplane.

Should an operator elect to modify the currently-installed MCP, it would take approximately 16 manhours per MCP to accomplish, at an average labor charge of $55 per manhour. The modification kit would be provided to the operator by the manufacturer at no charge. Based on these figures, should all affected operators elect to incorporate the modification kits, the total cost impact of this AD would be $387,200 for the fleet, or $880 per airplane.

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 Rules 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); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-6547 and by adding the following new airworthiness directive:

Boeing: Docket No. 91-NM-215-AD. Supersedes AD 90-07-02, Amendment 39-6547.

Applicability: Model 737-300, -400, and -500 series airplanes; equipped with Sperry SP300 Autopilot Flight Control Computers and Mode Control Panels (MCP); certificated in any category.

Compliance: Required as indicated unless previously accomplished.

To prevent uncommanded changes to the target altitude displayed in the altitude window of the autopilot mode control panel (MCP), accomplish the following:

(a) For Model 737-300 series airplanes: Within 10 days after April 5, 1990 (the effective date of AD 90-07-02, Amendment 39-6547), incorporate the following procedures into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM). This may be accomplished by inserting a copy of this AD in the AFM.

"Autopilot Limitations

"For airplanes with SP300 autopilot MCP. Flightcrews must use the following procedures:

"1. Check MCP settings after any electrical power interruptions.

"2. Following change in ALT selection in the MCP window, check ALT display to ensure desired altitude is displayed.

"3. Closely monitor altitude during all altitude changes to ensure that the autopilot captures and levels off at the desired altitude.

"Note: Standard 'callouts,' crew coordination, and cross-checking of MCP settings and flight instruments are necessary to detect any nonselected MCP display number changes."

(b) For all airplanes: Within 12 months after the effective date of this AD, replace or modify the MCP in accordance with Boeing Alert Service Bulletin 737-22A1098, dated January 17, 1991.

(c) After accomplishment of paragraph (b) of this AD, remove the AFM limitation that is specified in paragraph (a) of this AD.

Note: For Model 737-400 and -500 series airplanes, this limitation was included in the amended type certificate, and must be deleted in accordance with this paragraph.

(d) An alternative method 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 forwarded through a FAA Principal Maintenance Inspector, who may concur or comment and then sent to the Manager, 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.

Issued in Renton, Washington, on November 4, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-27647 Filed 11-15-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 91-NM-210-AD]

Airworthiness Directives; Boeing Model 747 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 747 series airplanes, which would require a one-time inspection, test, and repair or replacement, if necessary, of the guide arm assembly and associated hardware for the main entry doors, numbers 1 through 5, left and right sides. This proposal is prompted by a report of migrating guide arm assembly bearings which may have resulted from insufficient bearing retention during production rework. This condition, if not corrected, could result in an inoperable emergency door power assist system and/or the inability to operate the door, which is required for emergency evacuation.

DATES: Comments must be received no later than January 6, 1992.

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. 91-NM-210-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. Pliny C. Brestel, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S; telephone (206) 227-2783. 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 Rules 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 91-NM-210-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

An operator of Boeing Model 747 series airplanes reported that the two bearings common to the guide arm and bellcrank link on a main entry door had migrated out of the guide arm assembly and were missing. Investigation by the manufacturer revealed that inadequate bearing retention may have resulted when the guide arm assemblies were reworked during production. Missing bearings common to the bellcrank link may prevent the door hinge arm from rotating sufficiently to activate the door emergency power assist system in the automatic mode. Missing bearings common to the guide arm roller pin could result in the roller pin becoming unrestrained and subsequently prevent operation of the door. A power assisted, fully open door, is required for emergency evacuation.

The FAA has reviewed and approved Boeing Alert Service Bulletin 747-52A2237, dated July 11, 1991, which describes the procedures for inspection, test, and repair or replacement of the guide arm assembly and associated hardware for the main entry doors, numbers 1 through 5, left and right sides.

Since this condition is likely to exist on other airplanes of this same type

design, an AD is proposed which would require a one-time inspection, test, and repair or replacement, if necessary, of the guide arm assembly and associated hardware of the main entry doors, numbers 1 through 5, left and right sides, in accordance with the service bulletin previously described. A report to the FAA describing displaced or missing bearings would also be required.

There are approximately 83 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 9 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $2,475.

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 Rules 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); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Boeing: Docket No. 91-NM-210-AD.

Applicability: Model 747 series airplanes, listed in Boeing Alert Service Bulletin 747-52A2237, dated July 11, 1991, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To ensure operation of the emergency door power assist system and door opening when required for emergency evacuation, accomplish the following:

(a) Within the next 60 days after the effective date of this AD, perform a visual inspection and test, of the guide arm assembly and associated hardware for the main entry doors, numbers 1 through 5, left and right sides, in accordance with section III. of Boeing Alert Service Bulletin 747-52A2237, dated July 11, 1991.

(1) If all the conditions specified in subparagraphs a. through g., paragraph 4., section III., of Boeing Alert Service Bulletin 747-52A2237, dated July 11, 1991, are found to exist, no further action is required.

(2) If any of the conditions specified in subparagraphs a. through f., paragraph 4., section III., of Boeing Alert Service Bulletin 747-52A2237, dated July 11, 1991, do not exist, repair or replace before further flight, in accordance with Section III. of the service bulletin.

(3) If the condition specified in subparagraph g., paragraph 4., section III., of Boeing Alert Service Bulletin 747-52A2237, dated July 11, 1991, does not exist, repair in a manner approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

(b) Within 7 days after the completion of the inspection required by paragraph (a) of this AD, submit to the FAA a report specifying the number of bearings in the guide arm assemblies of each airplane on which any of the condition specified in subparagraphs a., b., or c., paragraph 4., section III., of Boeing Alert Service Bulletin 747-52A2237, dated July 11, 1991, were not found to exist. The report must be submitted to the Manager, Seattle Manufacturing Inspection District Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056. (Facsimile messages may be sent via telephone: (206) 227-1181.) A copy of the report should also be submitted to the FAA Principal Maintenance Inspector (PMI). A report is not necessary for those airplanes on which all of the specified conditions are found to exist. 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.

(c) An alternative method 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 forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, 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.

Issued in Renton, Washington, on November 1, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-27645 Filed 11-15-91; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-29929, International Series Release No. 341, File No. S7-32-91]

RIN 3235AEZZ

Exemption of the Securities of Certain Foreign Governments Under the Securities Exchange Act of 1934 for Purposes of Trading Futures Contracts on Those Securities

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment and solicitation of public comments.

SUMMARY: The Commission proposes for comment an amendment to Rule 3a12-8 (17 CFR 240.3a12-8) ("Rule") that would designate debt obligation issued by the Republics of Ireland and Italy as "exempted securities." The purpose of the proposed rule change is to permit the marketing and trading of futures contracts on those securities in the United States. In addition, as a result of the re-unification of East Germany and West Germany, the proposed rule amendment would replace the reference to "West Germany" in the Rule with a reference to the "Federal Republic of Germany." Finally, to clarify the references made to countries in the rule, the proposed rule change would replace all references to the informal names of the countries listed in the rule with references to their official names. These changes are not intended to have any

substantive effect on the operation of the Rule.

DATES: Comments should be submitted by December 18, 1991.

ADDRESSES: All comments should be submitted in triplicate and addressed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. All comments should refer to File No. S7-32-91, and will be available for public inspection at the commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Monica C. Michelizzi, Esq., Attorney, Branch of Options Regulation, Division of Market Regulation, Securities and Exchange Commission (Mail Stop 5-1), 450 Fifth Street, NW., Washington, DC 20549, at 202/272-2411.

SUPPLEMENTARY INFORMATION:

I. Introduction

Under the Commodity Exchange Act ("CEA"), it is unlawful to trade a futures contract on any individual security, unless the security in question is an exempted security (other than a municipal security) under the Securities Act of 1933 ("Securities Act") or the Securities Exchange Act of 1934 ("Exchange Act"). Debt obligations of foreign governments are not exempted securities under either of these statutes. The Securities and Exchange Commission ("SEC" or "Commission"), however, has adopted Rule 3a12-8 (27 CFR 240.3a12-8) ("Rule") under the Exchange Act to designate debit obligations issued by certain foreign governments as exempted securities under the Exchange Act solely for the purpose of marketing and trading futures contracts on those securities in the United States.[1] As amended, the foreign governments listed in the Rule are Great Britain, Canada, Japan, Australia, France, New Zealand, Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany ("the "twelve designated countries"). As a result, futures contracts on the debt obligations of these countries may be sold to U.S. persons, as long as the other terms of the Rule are satisfied.[2]

The Commission today proposes three amendments to Rule 3a12-8. First, the proposed amendments would add the debt obligations of the Republics of Ireland and Italy (the "two proposed countries") to the list of countries whose debt obligations are exempted by Rule 3a12-8. In order to qualify for the exemption, futures contracts on debt obligations of the two proposed countries would have to meet all the other existing requirements of the Rule. Second, the proposed amendments would change the country designation of "West Germany" to the "Federal Republic of Germany" to reflect the re-unification of Germany and the subsequent adoption of the name the "Federal Republic of Germany" as the official name of the unified country.[3] Third, the proposed amendments would replace all references to the informal names of the countries listed in the rule with references to their official names.

II. Background

Section 2(a)(1)(B)(v) of the CEA, which was adopted as part of the Futures Trading Act of 1982,[4] provides that it is unlawful to trade a futures contract on an individual security unless that security is an exempted security under Section 3 of the Securities Act or section 3(a)(12) of the Exchange Act.[5] These sections of the Securities Act and the Exchange Act explicitly designate certain securities, including government securities and municipal securities, as exempted securities. Securities issued by foreign governments, however, are not "government securities" within the meaning of the federal securities laws. Therefore, securities issued by foreign governments are not deemed to be exempted securities under the statutory language.

Section 3(a)(12) of the Exchange Act, however, provides the Commission the authority to designate other securities as exempted securities, either unconditionally or for specified purposes.[6] Rule 3a12-8 was adopted in 1984[7] pursuant to this exemptive authority in order to provide limited relief from the CEA's prohibition on futures overlying individual securities.[8] As originally adopted, the Rule provided that debt obligations of the United Kingdom of Great Britain and Northern Ireland, and Canada would be deemed to be exempted securities, solely for the purpose of permitting the offer, sale, and confirmation of "qualifying foreign futures contracts" on such securities, so long as the securities in question were neither registered under the Securities Act of 1933 nor the subject of any American depositary receipt so registered. A futures contract on such a debt obligation is deemed under the Rule to be a "qualifying foreign futures contract" if the contract is deliverable outside the United States and is traded on a board of trade.[9]

The conditions imposed by the Rule were intended to facilitate the trading of futures contracts on foreign government securities without sacrificing the longstanding policy under the federal securities laws of requiring foreign government securities to comply with the basic requirements of the federal securities laws in order to be marketed and traded in the United States. Accordingly, the conditions set forth in the Rule were designed to ensure that, absent registration, a domestic market in unregistered foreign government securities would not develop, and that markets for futures on these instruments would not be used to avoid the registration requirements and other provisions of the federal securities laws.

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[1] Under the Rule, the trading in the United States of futures on government securities exempted by the Rule is permitted only on or through a board of trade.

[2] *See infra* note 9 and accompanying text for a discussion of the other terms of the Rule that must be satisfied before these contracts may be marketed or traded in the Untied States.

[3] In an interpretive letter to the Chicago Board of Trade ("CBOT") regarding a proposed futures contract on German government bonds, the Division of Market Regulation has stated that it interprets the reference to "West Germany" in the Rule to mean the "Federal Republic of Germany" for purposes of the Rule. See letter from Brandon Becker, Deputy Director, Division of Market Regulation, SEC, to William Cullen, Senior Attorney, CBOT, dated July 23, 1991.

[4] Pub. L. No. 97-444, 96 Stat. 2294, 7 U.S.C. 1 *et seq.* (codified at 7 U.S.C. 2(a)).

[5] Section 2(a)(1)(B)(v) of the CEA, 7 U.S.C. 2a(v), provides that "(n)o person shall offer to enter into, enter into, or confirm the execution of any contract of sale (or option on such contract) for future delivery of any security, or interest therein or based on the value thereof, except an exempted security under section 3 of the Securities Act * * * or section 3(a)(12) of the * * * Exchange Act * * *."

[6] Section 3(a)(42) of the Exchange Act. Section 3(a)(12) of the Exchange Act provides that the term "exempted security" includes "such other securities * * * as the Commission may, by such rules and regulations as it deems consistent with the public interest and the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of anyone or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities.' " 15 U.S.C. 78c(a)(12).

[7] See Securities Exchange Act Release Nos. 20708 ("Adopting Release") (March 2, 1984), 49 FR 8595 (March 8, 1984) and 19811 ("Proposing Release") (May 25, 1983), 48 FR 24725 (June 2, 1983).

[8] In approving the Futures Trading Act of 1982, Congress expressed its understanding that neither the SEC nor the Commodity Futures Trading Commission ("CFTC") had intended to bar the sale of futures on debt obligations of the United Kingdom of Great Britain and Northern Ireland to U.S. persons, and its expectations that administrative action would be taken to allow the sale of such futures contracts in the United States. *See* Proposing Release, *supra* note 7, 48 FR at 24725 (citing 128 Cong. Rec. H7492 (daily ed. September 23, 1982) (statements of Representatives Daschle and Wirth)).

[9] As originally adopted, the Rule required that the board of trade be located in the country that issued the underlying securities. This requirement was eliminated in 1987. See Securities Exchange Act Release No. 24209 (March 12, 1987), 52 FR 8875 (March 20, 1987).

At the time the Commission originally proposed Rule 3a12–8, it recognized that the Rule might need to be amended at some later date in order to include debt obligations of other foreign governments within its coverage.[10] Subsequently, the Commission amended the Rule to include debt securities issued by Japan, Australia, France, New Zealand, Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany.[11]

III. Discussion

Rule 3a12–8 has not been amended since 1988. Since that time, an Irish Government futures contract has been developed and has begun trading on the Irish Futures and Options Exchange ("IFOX").[12] In addition, the CBOT and the London International Financial Futures Exchange ("LIFFE") have applied to the CFTC for designation as a contract market for trading in futures contracts on European Currency Unit-denominated debt securities ("ECU bonds") issued by, among others, certain foreign governments, including the government of Italy.[13] LIFFE also began trading a futures contract on Italian government bonds on September 19, 1991.[14] The Commission has been informed that U.S. citizens, especially institutional investors, may be interested in trading these new products, and has received requests that Rule 3a12–8 be amended accordingly.[15]

The Commission today proposes to add the Republics of Italy and Ireland to the list of countries already included in the Rule. Under the proposed amendment, the existing conditions set forth in the Rule (*i.e.*, that the underlying securities not be registered in the U.S., that the futures contracts require delivery outside the U.S., and that the contracts be traded on a board of trade) would continue to apply. This should ensure that a domestic market in the unregistered foreign sovereign debt of the Republics of Ireland or Italy does not develop.[16] Therefore, the proposed amendment should pose no risk for investors in the U.S. securities market.

In proposing to extend the exemption afforded by the Rule to the debt obligations of the Republics of Italy and Ireland, the Commission believes preliminarily that in this context there are no material differences between the sovereign debt securities of the two proposed countries and the debt securities of the twelve designated countries. In amending the Rule to exempt the debt securities of Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany, the Commission noted that the long-term sovereign debt of those countries was rated in one of the two highest rating categories by at least two nationally recognized statistical rating organizations.[17] Each of the two proposed countries' long-term sovereign debt obligations is rated in one of the two highest rating categories by at least two nationally recognized statistical rating organizations.[18] For purposes of the Rule, the Commission is aware of no other material differences between the debt obligations of the two proposed countries and the debt obligations of the twelve designated countries. Moreover, there are no readily apparent legal or policy reasons for denying U.S. investors the ability to trade futures contracts on debt securities issued by these two countries. Furthermore, the availability of new hedging vehicles should allow investors to take advantage of the increasing globalization of the world's securities markets. Accordingly, the Commission believes preliminarily that the debt obligations of the two proposed countries deserve the same regulatory treatment under the Rule as the debt obligations of the twelve designated countries.

The Commission seeks comments on the desirability of adding the debt securities of these two countries to the Rule. In addition, the Commission requests comments on whether the information available in English regarding the underlying sovereign debt obligations and the futures contracts on such debt obligations would be adequate to permit U.S. investors to make informed purchase and sale decisions with respect to those futures contracts.[19] Commentators also may wish to discuss whether there are any legal or policy reasons for distinguishing between the two proposed countries and the twelve designated countries for purposes of the Rule.

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[10] *See* Proposing Release, *supra* note 7, 48 FR at 24726–27.

[11] As originally adopted, the Rule applied only to British and Canadian government securities. See Adopting Release, *supra* note 7. In 1986, the Rule was amended to include Japanese government securities. *See* Securities Exchange Act Release No. 23423 (July 11, 1986), 51 FR 25996 (July 18, 1986). In 1987, the Rule was amended to include debt securities issued by Australia, France, and New Zealand. See Securities Exchange Act Release No. 25072 (October 29, 1987), 52 FR 42277 (November 4, 1987). In 1988, the Rule was again amended to include debt securities issued by Austria, Denmark, Finland, the Netherlands, Switzerland, and West Germany. See Securities Exchange Act Release No. 26217 (October 26, 1988), 53 FR 43860 (October 31, 1988).

[12] Reuters, Money Report (April 28, 1989).

[13] The LIFFE ECU bonds contract also would include debt obligations of certain supranational organizations in the basket of securities underlying the proposed futures contract. The Commission has under consideration a petition by the CBOT requesting that these securities be deemed exempted securities under Section 3(a)(12) of the Exchange Act for the purpose of trading futures contracts on those securities. *See* letter from Thomas R. Donovan, President and Chief Executive Officer, CBOT, to Howard Kramer, Assistant Director, Division of Market Regulation, SEC, dated May 28, 1991 ("CBOT ECU Bond Letter".

[14] Reuters, Money Report (June 11, 1991).

[15] See *e.g.*, letter from Raymond Guan, Vice President, The First Boston Corporation, to Jonathan G. Katz, Secretary, and Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated June 29, 1989, and CBOT ECU Bond Letter, *supra* note 13.

[16] The marketing and trading of foreign futures contracts also is subject to regulation by the CFTC. In particular, section 4b of the CEA authorizes the CFTC to regulate the offer and sale of foreign futures contracts to U.S. residents, and Rule 9 (17 CFR 30.9), promulgated under section 2(a)(1)(A) of the CEA, is intended to prohibit fraud in connection with the offer and sale of futures contracts executed on foreign exchanges. Additional rules promulgated under 2(a)(1)(A) of the CEA govern the domestic offer and sale of futures and options contracts traded on foreign boards of trade. These rules require, among other things, that the domestic offer and sale of foreign futures be effected through CFTC registrants or through entities subject to a foreign regulatory framework comparable to that governing domestic futures trading. See 17 CFR 30.3, 30.4, and 30.5 (1991).

[17] See Securities Exchange Act Release No. 26217 (October 26, 1988), 53 FR 43860 (October 31, 1988).

[18] Ireland's long-term sovereign debt is rated Aa3 by Moody's Investors Service ("Moody's") and AA- by Standard and Poor's ("S&P"). Italy's long-term sovereign debt is rated Aaa by Moody's and AA+ by S&P's. Under Moody's rating criteria, debt which is rated Aaa is judged to be of the highest quality and debt which is rated Aa is judged to be of high quality by all standards. Aa-rated debt is judged to be of lower quality than Aaa-rated debt because: (1) The margins of protection for debt rated Aa, however, may not be as large as in the highest rated debt (Aaa); or (2) the fluctuation of protective elements may be of greater amplitude for Aa-rated instruments; or (3) other elements may be present which make the long-term risk appear somewhat larger than the Aaa securities. Under S&P's criteria, an issuer of debt which is rated AAA has an extremely strong capacity to pay interest and repay principal and an issuer of debt which is rated AA has a very strong capacity to pay interest and repay principal. A debt issue that is rated AA differs from the highest rated issues (AAA) only to a small degree.

[19] In adopting Rule 3a12–8 the Commission decided not to require, as a condition to the exemption, that such information be available. *See* Adopting Release, *supra* note 4, 49 FR at 8597–98. At the time Rule 3a12–8 was adopted, both the United Kingdom and Canada has government debt issues registered in the United States. As a result, although those particular issues were not the subject of futures trading, U.S. investors had relevant disclosure material concerning the issuers, *i.e.*, the governments of Canada and the United Kingdom. In addition, Australia, New Zealand, Austria, and Denmark had government debt issues registered in the United States when they were added to the Rule. Japan, France, Finland, the Netherlands, Switzerland, and West Germany did not have government debt issues registered in the United States when they were added to the Rule. Currently, Ireland has government debt issues registered in the United States. Italy does not have government debt issues registered in the United States.

The CBOT also has applied to the CFTC for designation as a contract market for trading in futures contracts on German government bonds.[20] To accommodate the trading of German government bond futures contracts in the United States, the proposed amendments would replace the reference to "West Germany" in the Rule with a reference to the "Federal Republic of Germany." This amendment is designed to reflect the fact that West Germany no longer exists as an independent country as a result of the re-unification of East Germany and West Germany, and to codify the Division of Market Regulation's interpretation that the reference to "West Germany" in the Rule should be understood to mean to "Federal Republic of Germany."

In the same manner, the proposed amendments would further clarify the provisions of the Rule by replacing all references to the informal names of the countries listed in the rule with references to their official names. Both of these proposed amendments would clarify the terms of the Rule, but would not result in a substantive change in the operation of the Rule.

IV. Cost/Benefit Analysis

The Commission believes that the proposed amendments may generate significant benefits for U.S. investors. In recent years, U.S. investors have expressed increasing interest in trading derivative products based on securities issued by foreign governments.[21] If adopted, the proposed amendments would allow U.S. boards of trade to offer in the United States, and U.S. investors to trade, a greater range of futures contracts on foreign government debt obligations. As a result, U.S. investors would be able to hedge positions in foreign government debt obligations more effectively, as well as to establish positions in derivative products on such securities.

The Commission does not anticipate that the proposed amendments would result in any costs for U.S. investors or others. The proposed amendments would impose no recordkeeping or compliance burdens, and merely would provide a limited purpose exemption under the federal securities laws. The restrictions imposed under the proposed amendments are identical to the restrictions currently imposed under the terms of the Rule and are designed to protect U.S. investors, both by preventing unregistered debt obligations of the Republics of Ireland or Italy from trading in the United States and by requiring that futures on those securities be traded on boards of trade.

The Commission solicits comments on the costs and benefits of the proposed amendments to Rule 3a12–8. Specifically, the Commission requests commentators to address whether the proposed amendments would generate the anticipated benefits, and whether the proposed amendments would impose any costs on U.S. investors or others.

V. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendments proposed herein would not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release as appendix A.

VI. Statutory Basis

The amendments to Rule 3a12–8 are being proposed pursuant to 15 U.S.C. 78a *et seq.*, particularly sections 3(a)(12) and 23(a), 15 U.S.C. 78c(a)(12) and 78w(a).

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VII. Text of the Proposed Amendment

For the reasons set forth in the preamble, the Commission is proposing to amend part 240 of chapter II, title 17 of the Code of Federal Regulations as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77s, 77ttt, 78c, 78d, 78i, 78j, 78l, 78m, 78n, 78o, 78p, 78s, 78w, 78x, 79q, 79t, 80a–29, 80a–37, unless otherwise noted.

2. Section 240.3a12–8 is amended by revising paragraphs (a)(1)(iv) through (a)(1)(xii), and by adding paragraphs (a)(1)(xiii) through (xiv) as follows:

§ 240.3a12–8 Exemption for designated foreign government securities for purposes of futures trading.

(a) * * *

(1) * * *

(iv) the Commonwealth of Australia:
(v) the Republic of France;
(vi) New Zealand;
(vii) the Republic of Austria;
(viii) the Kingdom of Denmark;
(ix) the Republic of Finland;
(x) the Kingdom of the Netherlands;
(xi) Switzerland;
(xii) the Federal Republic of Germany;
(xiii) the Republic of Ireland; or
(xiv) the Republic of Italy.

* * * * *

By the Commission.

Dated: November 12, 1991

Margaret H. McFarland,

Deputy Secretary.

Note: Appendix A will not appear in the Code of Federal Regulations.

Appendix A—Regulatory Flexibility Act Certification

I, Richard C. Breeden, Chairman of the Securities and Exchange Commission, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed amendments to Rule 3a12–8 under the Securities Exchange Act of 1934 ("Exchange Act") set forth in Securities Exchange Act Release No. 29929, which would define government securities of the Republics of Ireland and Italy as exempted securities under the Exchange Act for the purpose of futures trading on such securities, and change the country designation of "West Germany" to the "Federal Republic of Germany," will not have a significant economic impact on a substantial number of small entities for the following reasons. First, the proposed amendments impose no record-keeping or compliance burden in themselves and merely allow, in effect, the marketing and trading in the United States of futures contracts overlying government securities of the Republics of Ireland and Italy. Second, because futures contracts on British, Canadian, Japanese, Australian, French, New Zealand, Austrian, Danish, Finnish, Dutch, and West German government debt, which already can be traded and marketed in the U.S., still will be eligible for trading under the preposed amendments, the proposal will not affect any entity currently engaged in trading such futures contracts. Third, because the level of interest presently evident in this country in the futures trading covered by the proposed rule amendments is modest and those primarily interested are large, institutional investors, neither the availability nor the unavailability of these futures products will have a significant economic impact on a substantial number of small entities, as that term is defined for broker-dealers in

[20] See 55 FR 32455 (August 9, 1990) (CFTC release requesting comments on a proposal to designate the CBOT as a contract market in long-term German government bond futures) ("CFTC German Government Bond Futures Release").

[21] See *supra* text accompanying notes 12 to 15.

17 CFR 240.0–10 and to the extent that it is defined for futures market participants in the Commodity Futures Trading Commission's "Policy Statement and Establishment of Definitions of 'Small Entities' for Purposes of the Regulatory Flexibility Act." [22] Fourth, changing the country designation of "West Germany" to the "Federal Republic of Germany" to reflect the re-unification of Germany and the adoption of the name the "Federal Republic of Germany" as the official name of the unified country is a non-substantive change.

Richard C. Breeden,

Chairman.

Dated: November 8, 1991.

[FR Doc. 91–27660 Filed 11–15–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

RIN 0960–AC95

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility for Benefits for Children of Armed Forces Personnel Stationed Overseas

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing a rule to reflect the provisions of section 8009 of the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239, which amended sections 1611(f) and 1614(a)(1)(B) of the Social Security Act (the Act). These provisions provide that certain children of armed forces personnel living overseas may continue to be eligible for supplemental security income (SSI) benefits while living outside the United States. The provision is effective with respect to benefits for months after March 1990.

DATES: To be sure that your comments are considered, we must receive them no later than January 17, 1992.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, MD 21235, or delivered to 3–B–1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965–1762.

SUPPLEMENTARY INFORMATION: This proposed regulation reflects the provisions of section 8009 of the Omnibus Budget Reconciliation Act of 1989, Public Law 101–239, which amended section 1614(a)(1)(B) of the Act. As amended, section 1614(a)(1)(B) provides that SSI eligibility may continue for a child living outside the United States with a parent if that parent is a member of the armed forces of the United States who is assigned to permanent duty ashore outside the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States, if the child is a United States citizen and was eligible for SSI for the month before the month the parent reported for overseas duty. This provision applies to SSI benefits that may be paid for months after March 1990.

Additionally, section 8009 or Public Law 101–239 amended section 1611(f) of the Act to provide that a child as described in section 1614(a)(1)(B)(ii) need not be present in the United States to remain eligible for payment.

Some sections of the regulations that deal with section 8009 are being amended in a separate submittal dealing with suspension and termination events affecting eligibility under the SSI program. Final rules providing that a child as described in section 1614(a)(1)(B)(ii) qualifies for an exception to the rules of ineligibility for SSI and suspension of benefits resulting from being outside the United States will be set out at §§ 416.214 and 416.1344(a) and published shortly.

We now are proposing to revise § 416.202 of the regulations to reflect that a child as described in section 1614(a)(1)(B)(ii) of the Act may live outside the United States and continue to be eligible for SSI benefits. In addition, we are adding § 416.215 to reflect that eligibility for SSI benefits may continue for months after March 1990 for a child living outside the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States when the child:

- Is a citizen of the United States;
- Is living with a parent who is a member of the armed forces of the United States assigned to permanent duty ashore outside the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States; and
- Was eligible for an SSI benefit (including any federally administered State supplementary payment) for the month before the parent reported for such duty.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 since the costs are expected to be less than $100 million, and the threshold criteria for a major rule are not otherwise met. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

This regulation imposes no new reporting or recordkeeping requirements subject to Office of Management and Budget clearance.

Regulatory Flexibility Act

We certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities because it affects only individuals. Therefore, a regulatory flexibility analysis as provided in Public Law 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 93.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Dated: June 21, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Approved: October 3, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

Part 416 of Chapter III of title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for subpart B of part 416 is revised to read as follows:

Authority: Secs. 1102, 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634 of the Social Security Act; 42 U.S.C. 1302, 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c; secs. 211 and 212 of Pub. L. 93–66, 87 Stat. 154 and 155; sec. 502(a) of Pub. L. 94–241, 90 Stat. 268.

[22] 45 FR 18618 (April 30, 1982).

2. Section 416.202 is amended by revising paragraph (b) to read as follows:

§ 416.202 Who may get SSI benefits.

* * * * *

(b) You are a resident of the United States (§ 416.1603), and—

(1) A citizen or a national of the United States (§ 416.1610);

(2) An alien lawfully admitted for permanent residence in the United States (§ 416.1615);

(3) An alien permanently residing in the United States under color of law (§ 416.1618); or

(4) A child of armed forces personnel living overseas as described in § 416.215.

* * * * *

3. Section 416.215 is added to read as follows:

§ 416.215 You are a child of armed forces personnel living overseas.

(a) *General rule.* After March 31, 1990, you may be eligible for continuation of SSI benefits if you live overseas and if—

(1) You are a child as described in § 416.1856;

(2) You are a citizen of the United States;

(3) You are living with a parent as described in § 416.1881 who is a member of the armed forces of the United States assigned to permanent duty ashore outside the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States; and

(4) You were eligible for an SSI benefit (including any federally administered State supplementary payment) for the month before your parent reported for such duty.

(b) *Living with.* You are considered to be living with your parent who is a member of the armed forces if—

(1) You physically live with the parent who is a member of the armed forces overseas; or

(2) You are not living in the same household as the military parent but your presence overseas is due to his or her permanent duty assignment.

[FR Doc. 91-27080 Filed 11-15-91; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[GL-720-86; GL-175-89]

RIN 1545-AM72; 1545-AN48

Effect of Honoring Levy; Authority To Release Levy and Return Property; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of public hearing on proposed Income tax Regulations that relate to the effect of honoring an Internal Revenue Service levy, and the authority to release a levy and to return property.

DATES: The public hearing originally scheduled for Thursday, November 21, 1991, beginning at 10 a.m. is cancelled.

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

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations regarding the effect of honoring an Internal Revenue Service levy under section 6332; and the authority to release a levy and to return property under section 6343. A notice appearing in the **Federal Register** for Wednesday, October 16, 1991 (56 FR 51860), announced that the public hearing on the proposed regulations would be held on Thursday, November 21, 1991, beginning at 10 a.m. in the Internal Revenue Service Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

The public hearing scheduled for Thursday, November 21, 1991, has been cancelled.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-27672 Filed 11-13-91; 1:51 pm]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 731; Re: Notice No. 594; 91F-015P]

Winemaking Terminology

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: On May 29, 1986, ATF published in the **Federal Register** a notice of proposed rulemaking, Notice No. 594 (51 FR 19361), to amend regulations defining various winemaking terms used on wine labels. Since there may have been changes in how winemaking terms are used since the notice was published, ATF is again proposing an amendment of these regulations. The proposal to amend winemaking terms is a result of the decision in *Wawszkiewicz* v. *Department of the Treasury*, 480 F. Supp. 739 (D.D.C. 1979), *aff'd in part, rev'd in part*, 670 F. 2d 296 (D.C. Cir. 1981). The Court of Appeals remanded the case to the lower court with instructions that these regulations (among others) be remanded to ATF for reconsideration and review. ATF reconsidered these regulations and concluded that they should be amended to specifically define terms used on wine labels to denote winemaking operations performed by the person identified by name and address on the label. The use of geographic terms on wine labels, another issue involved in the litigation, was the subject of TD ATF-229 (51 FR 20480).

DATES: Written comments must be received by January 17, 1992.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091-0221. Copies of the proposed regulations and any written comments received will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, room 6300, 650 Massachusetts Ave., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James A. Hunt, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Ave., NW., Washington, DC 20226 (202-927-8230).

SUPPLEMENTARY INFORMATION:

Background

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Bureau to issue regulations with respect to the packaging, marking, branding, labeling, and size and fill of wine containers as will prohibit deception of the consumer, and provide the consumer with adequate information as to the identity and quality of the product, the net contents of the package, and the manufacturer, bottler or importer of the product. Regulations which implement the provisions of section 105(e), as they relate to the labeling and advertising of wine, are set forth in 27 CFR part 4. Under 27 CFR 4.35, the label on a bottle of American wine must state the name of the bottler or packer, and the place where the wine was bottled or packed. In addition, § 4.35(a)(1) provides that if the bottler or packer is also the person who made not less than 75 percent of such wine by fermenting the must and clarifying the resulting wine, or if such person treated the wine in such manner as to change the class thereof, then the label may state that the wine was "produced and bottled by" or "produced and packed by" that person. Section 4.35(c) provides that the "place" stated on the label shall be the address of the premises at which the operations took place, and there shall be shown the address for such operation which is designated on the bottle. An example of such use would be "Produced at Gilroy, California, and bottled at San Mateo, California, by XYZ Winery."

While § 4.35 defines the term "produced," it also refers to several undefined words "blended," "rectified," "prepared," and "made" which are given as examples of words which may appear in conjunction with the required name and address of the bottler. In addition, the undefined word "manufactured" may appear on the label of imitation wine only in conjunction with the required name and address of the bottler.

In ATF Ruling 79-2, A.T.F.Q.B. 1979-1, 21, ATF defined these and other words contemplated for use in the same context. This ruling defined "made," "prepared," "blended," "rectified," and "cellared" for use in conjunction with the words "bottled by" preceding the required name and address of the bottler. Subsequent to the publication of ATF Ruling 79-2, the case of *Wawszkiewicz* v. *Department of the Treasury*, 480 F. Supp. 739 (D.D.C. 1979), *aff'd in part, rev'd in part*, 670 F. 2d 296 (D.C. Cir. 1981) was decided. In *Wawszkiewicz*, the court focused on the definition of "produced" and "made," finding that "(i)t is by no means intuitively clear why it is not misleading for a winery to represent that it produced a wine when another was heavily involved in its production, or that it made a wine that it in fact purchased." 670 F. 2d at 304. The court held that ATF needed to demonstrate that regulations concerning winemaking technology meaningfully control misleading labeling and advertising or rewrite the regulations to better achieve that goal.

ATF, upon reconsideration, concluded that certain regulations should be amended to specifically define terms used on wine labels to denote winemaking operations performed by the person identified by name and address on the label. On May 29, 1986, ATF published in the **Federal Register** a notice of proposed rulemaking, Notice No. 594 (51 FR 19361), to amend regulations defining various winemaking terms used on wine labels. Since there may have been changes in how winemaking terms are used since the notice was published, ATF is again proposing an amendment of these regulations.

ATF proposes to (1) eliminate the disparity between the words "produced" and "made," (2) incorporate definitions of "prepared," "blended," and "cellared," previously issued in ATF Ruling 79-2, (3) remove, as obsolete, references to the words "rectified" and "manufactured," and (4) define the undefined words "vinted" and "vinified" which are currently used on labels. These proposals are described more completely below.

(1) *Produced* or *Made* means that the named winery (a) fermented not less than 75% of such wine at the stated address, or (b) changed the class or type of the wine by addition of alcohol, brandy, flavors, colors, artificial carbonation at the stated address, or (c) produced sparkling wine by secondary fermentation at the stated address.

(2) *Vinified* means that the named winery: (a) Fermented not less than 75% of such wine at the stated address, or (b) produced sparkling wine by secondary fermentation at the stated address.

(3) *Blended* means that the named winery mixed the wine with other wines of the same class and type at the stated address.

(4) *Cellared, Vinted, Prepared* means that the named winery, at the stated address, subjected the wine to cellar treatment in accordance with § 4.22(c), which did not result in a change of class or type. This list includes the words "Vinted" and "Vinified" as defined in their ordinary usage on wine labels. These words have not been previously defined in any public document.

The word "rectified," as defined in ATF Ruling 79-2, refers to the production of a wine product at a distilled spirits plant, an activity which was subsequently prohibited by the passage of the Distilled Spirits Tax Revision Act of 1979, Public Law 96-39. See 93 Stat. 144 (1979). Therefore, this word was not included in the defined terms.

The word "manufactured," given as an example of a word which may appear on the label of imitation wine only, will be eliminated. ATF believes that this word has not been used in many years. In addition, the word "artificial" or "imitation" on labels of imitation wines adequately informs the consumer of the presence of synthetic ingredients, and the word "manufactured" serves no purpose in this context.

Also, conforming changes were proposed in Notice No. 594 relating to words used on imported wines to denote winemaking operations. The words used, or their English-language equivalents, must meet the requirements of the country of origin for wines sold within the country of origin. In addition, the mandatory name and address statements on imported wine are rewritten using more concise wording for clarity.

Comments on Notice No. 594

ATF received six public comments on the previously aired Notice No. 594. The six comments received will be included as part of the comment file for this notice and considered in any decision on the proposed regulation changes.

Public Participation—Written Comments

ATF requests comments from all interested parties concerning the proposed definitions of winemaking terms used in conjunction with the name and address legend. This notice proposes one definition for each term, and attempts to define all terms which are currently being used in conjunction with the name and address legend. ATF requests comments on the following specific questions:

a. Are the proposed terms correctly defined and understandable to the consumer? If not, how should the term(s) be defined?

b. Are other terms (used in conjunction with the name and address legend) currently in use which are not defined in this notice? If so, what other term is currently in use, and what is that term's correct definition?

c. Should ATF establish a procedure to control the introduction of new terms in the future? What kind of controls are necessary to regulate the coining of new words?

d. What is an appropriate time period for implementation of the regulation? Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date.

ATF will not recognize any material in comments as confidential. Comments may be disclosed to the public. Any material which a commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure. During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Executive Order 12291

It has been determined that this proposed regulation is not a major regulation as defined in Executive Order 12291 and a regulatory impact analysis is not required because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

It is hereby certified that this egulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice of proposed rulemaking because no requirement to collect information is proposed.

Drafting Information

The principal author of this document is James A. Hunt, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

Authority and Issuance

27 CFR part 4, Labeling and Advertising of Wine, is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Paragraph 2. Section 4.35 is amended by revising paragraphs (a) and (b) to read as follows:

§ 4.35 Name and address

(a) *American wine*—(1) *Mandatory statement.* Each label of each container of American wine shall state either "bottled by" or "packed by" followed by the name of the bottler or packer and the address (in accordance with paragraph (c) of this section) of the place where the wine was bottled or packed. Other words may also be stated in addition to the required words "bottled by" or "packed by" and the required name and address if the use of such words is in accordance with paragraph (a)(2) of this section.

(2) *Optional statements.* (i) In addition to the statement required by paragraph (a)(1) of this section, the label may also state the name and address of any other person for whom the wine was bottled or packed, immediately preceded by the words "bottled for" or "packed for" or "distributed by."

(ii) The words defined in paragraphs (a)(2)(iii)–(a)(2)(vi) of this section may be used, in accordance with the definitions given, in addition to the name and address statement required by paragraph (a)(1) of this section. Use of these words may be conjoined, using the word "and", with the words "bottled by" or "packed by" only if the same person performed the defined operation at the same address. More than one name is necessary if the defined operation was performed by a person other than the bottler or packer and more than one address statement is necessary if the defined operation was performed at a different address.

(iii) *Produced* or *Made* means that the named winery (A) fermented not less than 75% of such wine at the stated address, or (B) changed the class or type of the wine by addition of alcohol, brandy, flavors, colors, or artificial carbonation at the stated address, or (C) produced sparking wine by secondary fermentation at the stated address.

(iv) *Vinified* means that the named winery (A) fermented not less than 75% of such wine at the stated address, or (B) produced sparkling wine by secondary fermentation at the stated address.

(v) *Blended* means that the named winery mixed the wine with other wines of the same class and type at the stated address.

(vi) *Cellared, Vinted,* or *Prepared* means that the named winery, at the stated address, subjected the wine to cellar treatment in accordance with § 4.22(c), which did not result in a change in the class or type.

(b) *Imported wine*—(1) *Mandatory statements.* (i) Each label of each container of imported wine shall state "imported by" or a similar appropriate phrase, followed immediately by the name of the importer, agent, sole distributor, or other person responsible for the importation, followed immediately by the address of the principal place of business in the United States of the named person.

(ii) If the wine was bottled or packed in the United States, the label shall also contain the statement required by either paragraph (b)(1)(ii)(A), (b)(1)(ii)(B), or (b)(1)(ii)(C) of this section, and follows:

(A) The label shall state the words "bottled by" or "packed by" followed by the name of the bottler or packer and the address (in accordance with paragraph (c) of this section) of the place where the wine was bottled or packed.

(B) If the wine was bottled or packed for the person responsible for the importation, the label may state the words "imported by and bottled (packed) in the United States for" (or a similar appropriate phrase) followed by the name and address of the principal place of business in the United States of the person responsible for the importation; or

(C) If the wine was bottled or packed by the person responsible for the importation, the label may state the words "imported and bottled (packed) by" followed by the name and address of the principal place of business in the United States of the person responsible for the importation.

(iii) If the wine was blended, bottled or packed in a foreign country other than the country of origin, and the label identifies the country of origin, the label shall state "blended by," bottled by," or "packed by," or other appropriate statement, followed by the name of the blender, bottler or packer and the place where the wine was blended, bottled or packed.

(2) *Optional statements.* In addition to the statements required by paragraph (b)(1) of this section, the label may also state the name and address of the principal place of business of the foreign producer. Other words, or their English-language equivalents, denoting winemaking operations may be used in accordance with the requirements of the country of origin, for wines sold within the country of origin.

* * * * *

Signed: September 27, 1991.

Stephen E. Higgins,

Director.

Approved: October 30, 1991.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 91-27651 Filed 11-14-91; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 155

[CGD 91-034/90-068]

RIN 2115-AD81 and 66

Vessel Response Plans and Carriage and Inspection of Discharge-Removal Equipment

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent to form a negotiated rulemaking committee.

SUMMARY: The Oil Pollution Act of 1990 includes requirements for regulations addressing oil spill response plans and carriage of removal equipment for tank vessels. The Coast Guard is considering the establishment of a negotiated rulemaking committee to develop portions of the regulations to be issued under this statute. The Coast Guard would establish the committee in accordance with the provisions of the Negotiated Rulemaking Act of 1990 and the Federal Advisory Committee Act.

DATES: Comments and nominations for membership must be received on or before December 18, 1991.

ADDRESSES: Comments and nominations for membership should be sent to the Executive Secretary, Marine Safety Council (G-LRA-2/3406) (CGD 91-034/90-068), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except federal holidays. For further information regarding comments, call (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: LCDR Glenn Wiltshire, Project Manager, Oil Pollution Act (OPA 90) Staff, (G-MS-1), (202) 267-6740, between 7 a.m. and 3:30 p.m., Monday through Friday, except federal holidays.

Drafting Information

The principal persons involved in drafting this document are LCDR Glenn Wiltshire, Project Manager, and Mary-Jo Cooney Spottswood, Project Counsel, Oil Pollution Act (OPA 90) Staff, (G-MS-1).

SUPPLEMENTARY INFORMATION:

Statutory Background

Sections 311(j)(5) and (J)(6)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1321 *et seq.*) (FWPCA), as amended by sections 4204(a) (5) and (6) of the Oil Pollution Act of 1990 (Pub. L. 101-380) (OPA 90), require owners and operators of tank vessels to prepare and submit individual oil spill response plans and carry appropriate removal equipment. Under section 311(j) of FWPCA, as amended by OPA 90, the Coast Guard must: (1) Establish standards for oil spill response plans; (2) review tank vessels response plans; (3) require amendments to any plan that does not meet its requirements; (4) approve the plans; and (5) issue regulations requiring carriage of appropriate removal equipment.

Section 311(j) of FWPCA also requires that vessel owners and operators develop response plans that identify the availability of private personnel and equipment sufficient to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent a substantial threat of such a discharge. OPA 90 defines a worse case discharge as a discharge of the entire cargo of a vessel in adverse weather conditions.

The intent of these provisions is to create a system in which private parties supply the bulk of equipment and personnel needed in an oil spill response for a given area. Additional resources, as necessary, may be required to meet the intent of the national planning and response system.

Under OPA 90, the response plan requirement is bound by a strict statutory deadline, requiring the Coast Guard to issue final regulations for response plans by August 18, 1992. A vessel required to have a response plan may not handle, store, or transport oil after February 18, 1993, unless a plan has been submitted for approval; and vessels must be operating in compliance with a plan by August 18, 1993. Prior to approval of a submitted response plan, a vessel may be allowed to continue operations for up to two years if the owner or operator has certified the availability of private personnel and equipment adequate to remove to the maximum extent practicable a worst case discharge and to mitigate or prevent a substantial threat of such a discharge.

Regulatory Development

To gain information needed to develop the regulations for response plans and equipment carriage, the Coast Guard published an Advance Notice of Proposed Rulemaking for this project on August 30, 1991 (56 FR 43534). The comment period closed on October 16, 1991. The analysis of the comments received indicates that their substance is insufficient to provide the detailed information necessary to formulate regulations meeting statutory requirements.

Because the traditional notice and comment rulemaking process is not generating the necessary data, the Coast Guard has evaluated alternative means to formulate standards. The Coast Guard is considering the usefulness of forming a negotiated rulemaking committee as an effective forum for: (1) Generating the additional data necessary to develop standards for response plans; (2) identifying the equipment that would be carried; and (3) achieving consensus on a proposed rule to implement portions of section 311(j) of FWPCA, as amended by OPA 90, within the statutory deadlines.

Regulatory Negotiation

In 1990, Congress passed the Negotiated Rulemaking Act of 1990 (Pub. L. 101-648) (Reg Neg Act) to establish a framework under which federal agencies would conduct negotiated rulemaking. Negotiated rulemaking is an adjunct to, and not a substitute for, the traditional notice and comment process described in the Administrative

Procedure Act (5 U.S.C. 551 *et seq.*) for developing regulations. The Reg Neg Act encourages federal agencies to consider bringing together representatives of all affected interests to resolve relevant issues through negotiation. Negotiated rulemaking allows participants to focus less on individual positions and enables them to cooperate to develop a rule that best incorporates all interests.

Although this would be the first such undertaking by the Coast Guard, other modes of the Department of Transportation have successfully used negotiated rulemaking. The Department's previous experience indicates that interested parties, working together to negotiate the proposed rule, are indeed able to identify major issues, gauge the relative importance of the issues to interested parties, identify information and data important in resolving the issues, and develop a rule that is acceptable to all affected interests. Consequently, this approach results in practical regulations that minimize the risk of litigation.

The Coast Guard is considering using negotiated rulemaking to develop portions of the regulations to be issued under sections 311(j) (5) and (j)(6)(B) of FWPCA, as amended by OPA 90. The Coast Guard would form an Oil Spill Response Plan Negotiated Rulemaking Committee in accordance with the Reg Neg Act and the Federal Advisory Committee Act (5 U.S.C. App.) (FACA).

Procedures and Guidelines

Subject to appropriate changes which may be made either as a result of comments received in response to this notice or during the negotiating process, the following proposed procedures and guidelines would apply to this process. The Coast Guard has taken the necessary preliminary steps to charter the negotiated rulemaking committee and secure the services of a convener.

1. Notice of Intent To Establish a Negotiated Rulemaking Committee and Request for Comment

When an agency of the Federal government establishes or uses a group of people in the interest of obtaining advice or recommendations, it must charter that group as a federal advisory committee in accordance with FACA. Public notice of formation of an advisory committee for a negotiated rulemaking is further addressed by the Reg Neg Act. This notice indicates the Coast Guard's intent to create a federal advisory committee and—

a. Identifies the issues involved in the rulemaking;

b. Identifies the affected interests; and

c. Solicits public comment on the use of regulatory negotiation for this rulemaking and on the identified issues, parties, and guidelines.

2. Issues for Negotiation.

After considering the relevant issues and affected parties, the Coast Guard has determined that the negotiated rulemaking committee would develop proposed regulations to implement portions of section 311(j) of FWPCA, as amended by OPA 90, concerning oil spill response plans.

3. Participants

The number of participants in the negotiated rulemaking committee should not exceed 20; a number larger than this could prevent effective negotiations. The Coast Guard has made a preliminary inquiry among identified interests to determine whether it is possible to agree on representatives of those interests and on the scope of the issues to be addressed. The Coast Guard believes that regulatory negotiation would be successful in developing a proposal.

One purpose of this notice is to assist the Coast Guard in determining whether there are other interests that may be substantially affected by the prospective rule, but would not be adequately represented by the interests enumerated below under Potential Parties. It is not necessary for each potentially affected individual or organization to have its own representative. Rather, each interest should be adequately represented by the selected parties, and the committee should be fairly balanced. Individuals and organizations who are not members of the committee may attend the sessions and confer with committee members.

4. Requests for Representation

Persons who believe they would be significantly affected by any proposed rule on oil spill response plans and who believe that their interests would not be adequately represented by any of the interests specified in this notice may apply for, or nominate another person for, membership in the negotiated rulemaking committee. The application or nomination must include: (1) The name of the applicant or nominee and a brief description of the interests the person would represent; (2) evidence that the applicant or nominee is authorized to represent parties related to the interests the person proposes to represent; (3) a written commitment that the applicant or nominee will participate in good faith; and (4) the reasons that the interests specified in this notice do not adequately represent the interests of the applicant or nominee. Such applications should be submitted to the Executive Secretary within the 30 day comment period as indicated in the **"ADDRESSES"** section above.

If other persons or interests request membership or representation in the negotiations, the Coast Guard would determine whether those interests would be substantially affected by the rule, and if so, whether they would be adequately represented by an identified participant. After reviewing the comments, the Coast Guard will issue a final notice announcing the establishment of the negotiated rulemaking committee, unless it determines that negotiated rulemaking is inappropriate in this instance. The negotiation process would begin after the negotiated rulemaking committee is appropriately chartered and notice is published in the **Federal Register.**

5. Good Faith

Participants must be willing to negotiate in good faith. In this regard, it is important that each organization, including the Coast Guard, designate senior personnel to represent the organization. The Coast Guard expects the participants to inform their respective organizations of the progress of the negotiations during the negotiating process. If the process is to be successful, the representative interests should be willing to accept the final product of the negotiated rulemaking committee.

6. Convener

The Coast Guard has secured the services of a convener. The convener's role is to contact those parties that the Coast Guard and others identify as potential representatives of interests affected by the rulemaking; determine that the necessary interest, good-will, and commitment to negotiated rulemaking exist among the parties; and discuss potential representatives to participate in the actual negotiations. The Coast Guard will make the final decisions concerning membership on the negotiated rulemaking committee.

7. Facilitator

The Coast Guard will use a neutral facilitator to conduct the negotiations in an efficient manner. The facilitator is not involved with the substantive development or enforcement of the regulation. The facilitator would serve as chair during the negotiation and offer suggestions to the participants on reaching consensus. This person may also request the parties to present additional material or to reconsider their positions. As a neutral party, the

facilitator would be able to make objective decisions about negotiating particular issues and identifying participant interests.

8. Administrative Support and Meetings

The Coast Guard would provide support services to the participants for gathering technical information and drafting the proposed rule. The initial meeting would be held in the Washington, DC area and will be announced in a future notice of the **Federal Register**. Because of the strict statutory deadlines, the committee would operate on a tight time schedule. The negotiated rulemaking committee would meet for two day sessions every two weeks from January through April, 1992.

9. Consensus

The goal of the negotiating process is consensus. Generally, consensus means that each interest should concur in the result. The facilitator would mediate the negotiation process.

10. Record of meetings

In accordance with FACA requirements, the Coast Guard would keep a record of all negotiated rulemaking committee meetings. The minutes would be placed in the public docket for this rulemaking. Committee meetings would be open to the public, subject to space availability, and announced in the **Federal Register**.

11. Committee Protocols

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the negotiated rulemaking committee would establish detailed protocols for committee meetings.

12. Report and Notice of Proposed Rulemaking

The objective of the negotiated rulemaking committee is to prepare a report containing the information necessary for the Coast Guard to publish a notice of proposed rulemaking (NPRM). The Coast Guard would assist the committee in drafting the documents. The committee would attempt to reach a consensus on portions of a proposed rule for oil spill response plans. If the committee reaches consensus on a proposal, it would submit a report containing the proposal. If the committee does not reach full consensus, it may submit a report on those areas in which agreement is reached. The report should include reference to any materials used by the committee. The participants may also address economic and regulatory flexibility requirements in its report.

13. Agency Action on Committee Report

The Coast Guard would publish an NPRM and include any proposals on which the committee reaches consensus, providing that the proposals are consistent with the Coast Guard's statutory authority and are approximately justified under Executive Order 12291. If the Coast Guard wishes to modify the committee proposals, it would do so in a way that allows the public to distinguish its modifications from the committee proposals.

14. Final Rule

The negotiated rulemaking committee would review the comments received on the NPRM to determine whether its original recommendations to the Coast Guard should be modified. The committee will negotiate proposals for a final rule and prepare a final report, including responses to public comment. The final rule is the sole responsibility of the Coast Guard. The Coast Guard would publish the final rule, incorporating the committee proposals, if they are consistent with the Coast Guard's statutory authority and other statutory requirements. Under the Reg Neg Act, the negotiated rulemaking committee would terminate when the Coast Guard issues a final rule, unless the charter contains an earlier termination date or the Coast Guard, after consulting the committee, or the committee itself, specifies an earlier termination date.

Potential Participants

The negotiated rulemaking committee members should have expertise in the subject issues and should be able to adequately represent their affected interests. The Coast Guard has identified the following as interests potentially affected by the rulemaking: The oil industry; environmental and public interest groups; federal, state, and local government; cleanup cooperatives; and spill response contractors. Formation of a negotiated rulemaking committee will allow the affected interests to participate directly in the rulemaking process.

The following is a tentative list of organizations that the Coast Guard believes would be representative of these interests:

States

California Department of Fish and Game
Louisiana Oil Spill Commission
Maryland Department of the Environment
Michigan Department of Environmer tal Resources

Environmental Groups

Natural Resources Defense Council
Friends of the Earth
National Wildlife Federation

Industry Groups

American Waterways Operators (AWO)
Independent Liquid Terminals Association
API OPA 1990 Working Group On Pollution Response representing:
American Petroleum Institute (API)
Ashland Oil
Marine Preservation Association (MPA)
Oil Companies International Marine Forum (OCIMF)
American Institute of Merchant shipping (AIMS)
Chemical Carriers Association
International Chamber of Shipping
Louisiana Offshore Oil Port, Inc. (LOOP)
Marine Spill Response Corporation (MSRC)
International Association of Independent Tanker Owners (INTERTANKO)
American Pilots Association
Consolidated Edison Company of New York
International Tanker Owners Pollution Federation (ITOPF)

Cleanup Organizations

Spill Control Association of America
Association of Petroleum Industry Cooperative Managers

Local/Public Interests

Regional Citizens Advisory Council for Prince William Sound
American Association of Port Authorities

Federal Natural Resources Trustee

The Coast Guard welcomes comment on the appropriateness of these interests for participation in the negotiation. Suggestions for other potential participants are encouraged, but it is not necessary for every concerned organization to be represented, providing that all affected interests are adequately represented. Further, negotiating sessions will be open to members of the public, who may communicate informally with members of the negotiated rulemaking committee. The convener, in consultation with the Coast Guard, will ensure that the represented interests are balanced on the committee.

Failure of the Negotiated Rulemaking Committee to Agree on Recommendations

In the event that the negotiated rulemaking committee is unable to reach a consensus on a proposed NPRM, the Coast Guard will promptly develop an NPRM and publish it for comment in the Federal Register.

Dated: November 12, 1991.

A. E. Henn,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 91-27730 Filed 11-14-91; 9:14 am]

BILLING CODE 4910-14-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families; Office of Child Support Enforcement

45 CFR Parts 301 and 303

RIN 0970-AA88

Safeguarding Information; Federal Income Tax Refund Offset

AGENCY: Office of Child Support Enforcement (OCSE), ACF, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule would implement sections 5011(a) and (b) of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990, by extending indefinitely the use of the Federal income tax refund offset process to non-AFDC cases and allowing use of this process for non-AFDC cases in which support is due: (1) On behalf of certain disabled adults with a current support order; and (2) on behalf of a spouse when the custodial parent is living with the child and spousal support and child support are included in the same support order. In addition, the proposed rule would amend the safeguarding information requirements to permit disclosure to the appropriate agency or official of information regarding an applicant or recipient of IV-D services that involves known or suspected instances of mental or physical injury, sexual abuse or exploitation, or negligent treatment of a child receiving AFDC.

DATES: Consideration will be given to written comments received by January 17, 1992.

ADDRESSES: Address comments to: Office of Child Support Enforcement, Department of Health and Human Services, 370 L'Enfant Promenade SW., Washington, DC 20447, Attention: Director, Policy and Planning Division. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m. on the 4th floor of the Department's offices at the above address.

FOR FURTHER INFORMATION CONTACT: Lourdes Henry, (202) 401-5440.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This proposed rule contains no information collection requirements that are subject to OMB review under the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Statutory Authority

These proposed regulations are published under the authority of the following provisions of the Social Security Act (the Act): (1) Section 464(a)(2)(B), as amended by section 5011(a) of Public Law 100-508, which deleted the January 1, 1991 cut-off date for use of the Federal income tax refund offset process in non-AFDC IV-D cases; (2) section 464(c), as amended by section 5011(b) of Public Law 100-508, to permit the use of the Federal income tax refund offset process in non-AFDC cases for the collection of past-due support due adult disabled children and for the collection of certain spousal support; and, (3) section 1102 which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which he is responsible under the Act.

Background and Description of Regulatory Provisions

1. Safeguarding of Information

In the course of performing their duties with regard to child support activities, child support practitioners may become aware that a child has been or potentially could be the victim of child abuse or neglect. Although they may feel compelled to report such suspicions or evidence, nondisclosure laws and rules such as the provisions in 45 CFR 303.21 may impose restrictions. Furthermore, all States have laws governing mandatory reporting of suspected child abuse or neglect. These laws define such elements as reportable conditions, persons required to report, and sanctions for failure to report. The mutual existence of Federal non-disclosure laws and Federally required State laws mandating reporting of child abuse and neglect laws frequently causes dilemmas for professionals subject to the provisions of both laws.

Currently, Federal regulations at 45 CFR 303.21 limit the use or disclosure of information concerning applicants or recipients of support enforcement services to purposes directly connected with the administration of the plan or program approved under parts A, B, C, or D of title IV, or under titles II, X, XIV, XVI, XIX or XX or the supplemental security income program established under title XVI; any investigation, prosecution or criminal or civil proceeding conducted in connection with the administration of any such plan or program; and the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need. Current regulations also prohibit the disclosure to any committee or legislative body (Federal, State or local) of any information that identifies by name or address any such applicant or recipient.

Section 5054 of Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990, amends section 402(a)(9) of the Act to allow disclosure to appropriate authorities of information on known or suspected child abuse or neglect in AFDC cases. Section 5054 also amends section 402(a)(16) of the Act to require the disclosure to an appropriate agency or official of information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child receiving AFDC. Because reporting of known or suspected child abuse or neglect is now required as part of a State's plan for administering its title IV-A program, we believe that authority exists for amending the current OCSE regulations at 45 CFR 303.21 to permit similar disclosure in the case of title IV-D applicants and recipients. We further believe that the proposed amendment would eliminate the dilemma often faced by child support practitioners. Therefore, we propose to amend § 303.21 by adding a new paragraph (a)(4) which would allow reporting to an appropriate agency or official known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child who is the subject of a child support enforcement activity under circumstances which indicate that the child's health or welfare is threatened thereby.

In addition, section 202(a) of the Family Support Act of 1988 repealed part C of title IV of the Act. Therefore, we propose to delete the reference to Part C from § 303.21(a)(1).

2. Requests for Collection of Past-Due Support by Federal Income Tax Refund Offset.

Currently, 45 CFR 303.72(a)(3)(i) allows the use of Federal income tax refund offset to collect past-due support in non-AFDC cases if the support is owed to or on behalf of a minor child. Referral of spousal support and support due an individual who is no longer a minor in non-AFDC cases is prohibited. For non-AFDC referrals, the State must differentiate between spousal and child support and only submit amounts owed on behalf of a minor child as defined by State law. Furthermore, the statute and regulations do not allow non-AFDC referrals on behalf of an individual who is no longer a minor even if the arrearage accrued while the person was a minor.

Section 5011(b) of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508), amends section 464(c) of the Act by: (1) Extending use of the Federal tax refund offset process to non-AFDC IV–D cases in which past-due support is due on behalf of adult disabled children for whom there is a support order in effect, and the child, while a minor, was determined to be disabled under title II (Federal Old-Age, Survivors, and Disability Insurance Benefits program), or title XVI (Supplemental Security Income for the Aged, Blind and Disabled program) of the Act, and to non-AFDC cases in which spousal support is past-due when spousal support and child support are included in the same support order and the spouse, or ex-spouse lives with the child; and (2) adding the term "qualified child" which means a child who is a minor, or who, while a minor, was determined to be disabled under title II or XVI of the Act, and for whom an order for support is in effect. This extension of the Federal tax refund offset process did not extend the availability of the process to collection of arrearages in non-AFDC cases for non-disabled individuals even if those arrearages accrued while the person was a minor.

To implement these changes, we are proposing to revise 45 CFR 303.72(a)(3)(i) to allow States to request collection by Federal income tax refund offset past-due support owed in non-AFDC cases to a qualified child (or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent). As a parallel change, § 301.1 would be amended by revising the definition of "past-due support" to specify that, for purposes of Federal income tax refund offset of support due an individual who is receiving services under § 302.33 of this chapter, "past-due support" means support owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child. We would also define "qualified child" as used in the definitions of "past-due support" to mean a child who is a minor or who, while a minor, was determined to be disabled under title II or XVI and for whom an order for support is in effect.

In addition, section 5011(a) amended section 464(a)(2)(B) of the Act by deleting the January 1, 1991 cut-off date for use of the Federal income tax refund offset process in non-AFDC IV–D cases. Therefore, we are proposing to delete the sunset provision at § 303.72(k) which presently limits offset of Federal income tax refunds to satisfy past-due support in non-AFDC cases to refunds payable after December 31, 1985 and before January 1, 1991.

Executive Order 12291

The Secretary has determined, in accordance with Executive Order 12291, that this proposed rule does not constitute a "major" rule. A major rule is one that is likely to result in:

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

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

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

This proposed rule is expected to have an insignificant impact on State expenditures because the costs of implementing these changes will be minimal. We believe that increased collections will far exceed increased administrative costs.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this proposed rule will not result in a significant impact on a substantial number of small entities. The primary impact is on State governments and individuals, which are not considered small entities under the Act.

List of Subjects in 45 CFR Parts 301 and 303

Child support, Grant programs—social programs.

(Catalog of Federal Domestic Assistance Program No. 93.023 Child Support Enforcement Program)

Dated: June 14, 1991.

Jo Anne B. Barnhart,

Assistant Secretary for Children and Families.

Dated: October 22, 1991.

Louis W. Sullivan,

Secretary.

For the reasons set forth in the preamble, we propose to amend 45 CFR chapter III as follows:

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

1. The authority citation for part 301 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 664, 666, 667 and 1302.

2. Section 301.1 is amended by revising the last sentence in the paragraph titled "Past-due support" and by adding a definition of "Qualified child" in alphabetical order to read as follows:

§ 301.1 General definitions.

* * * * *

Past-due support * * * For purposes of referral for Federal income tax refund offset of support due an individual who is receiving services under § 302.33 of this chapter, *past-due support* means support owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent.

* * * * *

Qualified child means a child who is a minor or who, while a minor, was determined to be disabled under title II or XVI of the Act, and for whom a support order is in effect.

* * * * *

PART 303—STANDARDS FOR PROGRAM OPERATIONS

3. The authority citation for part 303 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

4. Section 303.21 is amended by removing the letter "C" in paragraph (a)(1); removing the word "and" after the semicolon at the end of paragraph (a)(2); adding a seimcolon and the word "and" after the end of paragraph (a)(3); and adding a new paragraph (a)(4) to read as follows:

§ 303.21 Safeguarding information.

(a) * * *

(4) Reporting to an appropriate agency or official, information on known or suspected instances of physical or

mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement activity under circumstances which indicate that the child's health or welfare is threatened thereby.

* * * * *

5. Section 303.72 is amended by revising paragraph (a)(3)(i) and by removing paragraph (k) to read as follows:

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

(a) * * *

(3) * * *

(i) The support is owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent.

* * * * *

[FR Doc. 91-27654 Filed 11-15-91; 8:45 am]

BILLING CODE 4190-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87-268; FCC 91-337]

Radio Broadcast Services; Advanced Television Systems

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes policies and rules for implementing Advanced Television (ATV) service in this country. Specifically, this notice of proposed rulemaking (notice) seeks comment on the following aspects of a tentative plan for ATV terrestrial broadcast implementation: (1) Who should initially be eligible for ATV frequencies; (2) how the Commission should allot and assign ATV channels to eligible applicants; (3) how the Commission should resolve certain spectrum issues involving the noncommercial reserve, low power and translator station, and broadcast auxiliary services; (4) how the Commission should regulate the "conversion" from the existing broadcasting system to ATV; and (5) whether the Commission should require some transitional simulcasting of programming on both ATV and the existing broadcast channels during the conversion period. This notice is needed to compile an adequate record on which to base decisions to these questions.

DATES: Comments are due by December 20, 1991, and reply comments are due by January 20, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gina Harrison, Mass Media Bureau, Policy and Rules Division (202) 632-7792, Gordon Godfrey, Mass Media Bureau, Policy and Rules Division (202) 632-9660, or Alan Stillwell, Office of Engineering and Technology (202) 653-8162.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rulemaking in MM Docket No. 87-268, FCC 91-337, adopted October 24, 1991, and released November 8, 1991.

The complete text of this notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1919 M Street, NW., Washington, DC 20037.

Synopsis of Notice of Proposed Rulemaking

1. In this decision, the Commission seeks comment on a number of unresolved issues regarding implementation of ATV service in this country. The term ATV refers to any television technology, including High Definition Television (HDTV) and Enhanced Definition Television (EDTV), that provides improved audio and video quality or enhances the current television broadcast system. HDTV refers to systems that use new technology and provide a major improvement in television quality. The goal of HDTV systems generally is to offer approximately twice the horizontal and vertical resolution of existing broadcast receivers, and to provide picture quality approaching that of 35 mm film and sound quality rivaling that of compact discs. EDTV, on the other hand, refers to systems that provide limited improvements over the existing broadcasting system. HDTV systems are not receivable on conventional NTSC television sets, while EDTV systems may be receivable on current NTSC television receivers. The existing television broadcasting system is referred to as NTSC, after the National Television Systems Committee, an industry group established in 1940 to develop technical standards for television broadcasts and which reconvened in 1950 to develop technical standards for adding color to the monochromatic standards. The Commission has previously stated that it would not adopt an EDTV standard, if at all, prior to reaching a decision on an HDTV standard. In addition, the Commission previously decided that it would select an HDTV system of the type that operates on a standard 6 MHz channel, and that that ATV channel would be separate and independent of the existing NTSC channel. First Report and Order, 55 FR 39275 (Sept. 26, 1990).

2. The Commission purposes to limit initial eligibility for ATV channels to "existing broadcasters," including (1) all full-service television broadcast station licensees, (2) permittees authorized as of the date of adoption of this notice, and (3) all parties with applications for a construction permit on file as of the date of adoption of this notice who are ultimately awarded full-service television broadcast station licenses.

3. The Commission explains that its objective in this proceeding is to effect a major technological improvement in television transmission by allowing broadcasters to implement ATV, and not to launch a new and separate video service. The Commission believes its proposed approach to initial eligibility offers several advantages. First, existing broadcasters have invested considerable resources and expertise in the present system and represent a large pool of experienced talent. Through their support of the Advanced Television Test Center (which, with Cable Television Laboratories, is testing proponent ATV systems), existing broadcasters are also actively supporting the testing of ATV technologies. Additionally, given the risks inherent in ATV, existing broadcasters' continued involvement appears to be the most practical and expedient way to bring improved ATV service to the public. Second, the Commission does not believe it prudent to accompany a major change in technology, such as conversion to ATV, with a change in the ownership structure of the entire broadcasting industry. Initially restricting eligibility for ATV frequencies to existing broadcasters thus would appear to serve the public interest by hastening and smoothing the transition to ATV transmission. Finally, the Commission stresses that its award of an additional 6 MHZ channel to existing broadcasters would be interim in nature only, so that after "conversion" to ATV, broadcasters would have to surrender one of their 6 MHz channels. The Commission also adheres to its tentative view that restricting eligibility to existing broadcasters is legally permissible and consistent with the Supreme Court's decision in *Ashbacker Radio Corp.* v. *FCC*, 326 U.S. 327 (1945).

4. The Commission invites comment on its proposal for initial eligibility. The notice also solicits comment on whether the Commission should include within the class of eligible ATV applicants, those parties who have a petition for a new television allotment pending on the adoption date of this notice, whose allotment petition is granted, and who are subsequently granted a construction permit to use the NTSC channel. If the Commission does not award such a party a television construction permit as a result of a subsequent comparative case, the notice asks whether the actual grantee in such a proceeding (even though it had no pending petition or application on file as of the adoption of this notice) should be entitled to an ATV assignment. There also are parties seeking to obtain new licenses who have requests pending for waiver of the current freeze on television broadcast applications in major markets. The Commission is of the tentative view that such parties would be eligible for ATV channels if their waiver requests are granted, and if they are subsequently awarded NTSC authorizations.

5. Comment is also requested on whether, once the initial class of eligible applicants has been assigned ATV frequencies, the Commission should attempt to assign an ATV frequency to parties who were authorized to construct NTSC facilities in the interim period after adoption of the notice. (As discussed more fully *infra*, the Commission is proposing to cease issuing new NTSC licenses once the assignment of ATV channels to the class of initially eligible applicants is complete.) In order to ensure a smooth transition to ATV technology, the Commission is also proposing to suspend application of the television multiple ownership rules, 47 CFR 73.3555, for ATV spectrum on a limited basis. In particular, the Commission invites comment on its proposal to permit existing licenses that are awarded an additional ATV frequency to hold both their NTSC and ATV licenses even though these signals may overlap, and to permit group owners to hold both NTSC and paired ATV channels, even though nationwide ceilings are exceeded, until broadcasters are required to convert to ATV service exclusively.

6. Next, because the Commission sees no reason to continue limiting ATV channel eligibility once ATV assignments to existing broadcasters are made, the notice proposes at that point to permit any qualified party to file a petition for rulemaking to modify the ATV allotment table so as to add additional ATV channels where they are technically feasible. The Commission also proposes to permit any qualified applicant, not just existing broadcasters, to apply for an ATV frequency after it is determined that a given NTSC licensee has failed to construct an ATV facility or failed to apply for authority to construct within the required time, and is thereby leaving an allotment vacant. Similarly, ATV licensees would be subject to competing applications filed during the appropriate renewal window. The Commission proposes to issue ATV licenses for periods concurrent with the license of the associated NTSC channel. In this way, once the transition to ATV technology had been completed, eligibility for ATV frequencies would become unrestricted. The Commission seeks comment on these proposals for opening up eligibility once initial ATV allotments are made.

7. In keeping with the Commission's goal of expediting delivery of ATV service to the American public, the Commission proposes to limit the period of time during which existing broadcasters would have the right to apply for an ATV channel. Specifically, the Commission proposes to give existing broadcasters three years from the time that an ATV allotment table is adopted to apply for a construction permit for an ATV channel. After that time, existing broadcasters would forfeit their priority status, and ATV channels would be opened to all qualified applicants. Comment is invited on this proposal.

8. The Commission also tentatively concludes that existing broadcasters should be awarded an additional license for the ATV frequency, in lieu of treating the addition of an ATV frequency as a major modification to the NTSC license. The Commission also seeks comment, however, on whether there may be competing benefits to treating the addition of an ATV channel as a major modification to an existing broadcaster's license. The Commission would propose, however, not to permit an ATV license awarded to an existing NTSC licensee to be transferred independently of the associated NTSC license. It would defeat both the primary purpose of restricting initial eligibility—to permit television broadcasters to implement a major technological improvement—as well as jeopardize the Commission's plan for most efficient use of spectrum, if the commission were to permit the independent transfer of existing broadcasters' ATV and NTSC licenses. The Commission seeks comment on these initial views. The Commission also tentatively concludes that (1) an applicant for an ATV construction permit should lose its initial eligibility if its NTSC license is not renewed or is revoked while its ATV application is pending, and (2) if either the broadcaster's NTSC or ATV license is revoked or not renewed, the remaining license would be automatically revoked. The Commission seeks comment on these tentative conclusions.

9. The Commission's Rules currently require that holders of broadcast station construction permits either build their facilities within two years from the date of issuance of the permit, or forfeit the permit. The Commission believes that a similar construction time limit is necessary in the case of ATV to ensure that assigned spectrum does not lie fallow for an inordinate period of time. Such a restriction would appear to apply logically to existing broadcasters that receive ATV permits, as well as to other qualified parties that may later receive ATV permits. The Commission thus seeks comment on whether it should extend the existing Commission rules regarding the period of construction and forfeiture of construction permits to ATV permittees. In so doing, the Commission notes that preliminary data appears to indicate that a three-year application and two-year construction period will permit broadcasters sufficient time to begin transmission in ATV in the vast majority of cases. The Commission also asks interested parties to comment on whether to apply the Commission's policies regarding extensions of NTSC construction permits to ATV permits, including the policy that inadequate finances will not justify an extension of time.

10. In keeping with the Commission's current policy of allotting broadcast frequencies to particular communities, the notice proposes to allot ATV channels to each community of license currently listed in the Table of Allotments for television frequencies. As is currently the case, the Commission would retain the right to modify the Table of Allotments containing the new ATV allotments if changed circumstances necessitate such a revision. For purposes of administering this proceeding, the Commission proposes to treat all ATV frequencies as equivalent. Provided that there are sufficient channels available to accommodate all existing licensees, applications for ATV channels within a market will not be considered mutually exclusive. The notice solicits comment on this proposed general approach to allotments and assignments.

11. The Commission must also decide how to assign particular channels to existing broadcasters. The notice explores two basic alternatives and two supplemental options, and invites interested parties to comment on time, or on any other options they wish to suggest.

12. The first alternative is to formulate a Table of Allotments which not only allots ATV channels to each community, but also randomly matches particular ATV channels to existing NTSC channels listed on the table. The Commission tentatively finds that this is a practical, efficient and, under the circumstances, even-handed alternative for allotting particular ATV channels. Indeed, this approach effectively compresses two administrative steps, allotment to communities and pairing with particular licensees. In addition, random pairing provides an equitable means of allotting particular channels. The Commission seeks comment on its initial view of this approach.

13. The second alternative is to follow a procedure of allotting ATV channels to a community and then assigning these channels to qualified ATV applicants. The first stage would entail formulating a Table of Allotments that would allot ATV channels to each community now listed in the Table of Allotments. Next, existing NTSC licensees would be permitted to apply for ATV channels in a given community on a first-come, first-served basis during an initial filing "window." As part of their ATV applications, broadcasters would be required to list available ATV channels in order of preference. If more than one broadcaster applied for the same frequency, the Commission would use a random assignment procedure ("random ranking") that would rank applicants so that the top-ranked applicant would be granted its first choice, and the next-ranked applicant its highest choice that would not conflict with the first-ranked applicant, and so on. Broadcasters that had not filed in the first window would be able to apply after the random ranking on a first-come, first-served basis for those channels that were still available. If no random ranking were held in a market, the Commission would open a second window to permit remaining initially eligible applicants to apply on a first-come, first-served basis. Any applications by existing NTSC broadcasters would have to be filed within three years from the time that the initial filing window opened.

14. The Commission believes that this option would encourage ready, willing, and able applicants to apply early for ATV channels. It would also tend to maximize the possibility that applicants' preferences for particular ATV channels would be accommodated, and thus might minimize the possibility of challenges to awards and the delays that such challenges would cause. The notice requests comment on this proposed approach.

15. The Commission recognizes that the foregoing methods may not always give applicants the particular ATV frequencies they desire. To accommodate applicants' preferences to a greater extent, the notice also proposes to permit parties within the same market to negotiate among themselves after they have been awarded an ATV channel, on condition that any proceeds from such an exchange be used for the operation of the station's ATV facility. The Commission believes that such a negotiating process would be an economically efficient means of permitting licensees to effectuate their preferences. Comment is also requested on whether to permit those applicants awarded ATV frequencies within adjacent markets to negotiate channel changes, but not changes in communities of license, among themselves. Interested parties are also asked to comment on whether the Commission should eliminate or mitigate any inordinate delay resulting from such negotiations by adopting the proposed requirement, discussed above, that an ATV facility be built within two years after award of the construction permit.

16. Two of the important objectives underlying our approach to ATV implementation are (1) that the benefits of this new technology be made available to the American public as soon as possible and (2) that the spectrum earmarked for ATV be used as efficiently as possible. The Commission believes that both of these goals would be furthered if the Commission were to minimize the possibility of an ATV channel being assigned to a broadcaster who is incapable or unwilling to promptly begin construction of an ATV facility or diligently carry it to completion. Accordingly, the Commission seeks comment on whether to adopt a financial qualification showing as a condition for awarding an ATV frequency. Such a requirement could be imposed as a supplement to establishing a deadline by which construction must be completed. The Commission further seeks comment on whether a financial showing should consist of an estimate of the cost of constructing and operating an ATV facility for three months, together with proof either of available assets sufficient to cover this estimate, or of a firm financial commitment from a lender sufficient to cover these costs. Interested parties should also comment on whether such a requirement is likely to increase the time necessary to process applications for ATV construction permits, to the detriment of the Commission's goal of expediting delivery of ATV service to the public.

17. The Commission expects that, for the most part, there will be sufficient spectrum for all initially eligible ATV applicants. However, the Agency recognizes that a case conceivably may arise in which the Commission cannot grant all initial eligible applicants an ATV channel assignment. In this event, there are several options which might be pursued to determine which NTSC licensees would be entitled to an additional ATV channel.

18. First, in choosing among competing NTSC applicants, the Commission might employ decisional criteria which would select those licensees capable of maximizing the number of households reached by the ATV signal or of bringing ATV service to the area most expeditiously. However, although this criteria would help bring ATV technology to the largest number of households, it would require projections of viewership or coverage area that might be difficult, if not impossible, to make or verify. An alternative strategy would involve a financial qualification rule, a first-come, first-served approach to awarding channels, and strict enforcement of the two-year period for constructing an ATV facility. Under this approach, an applicant demonstrating its financial ability to construct and operate an ATV channel would be entitled to apply for a frequency on a first-come basis. The financial qualification requirement and a "use or lose" condition on construction permits would confine applications to those entities capable of building an ATV facility immediately, thereby furthering the goal of hastening delivery of ATV service to the public.

19. The second option for selecting among applicants competing for insufficient ATV spectrum would be to conduct a lottery pursuant to 47 U.S.C. 309(i) to determine which existing broadcasters would be entitled to a channel assignment. In the unlikely event a spectrum shortfall develops, it will probably be limited to major markets where numerous existing licensees will be vying for new ATV assignments. At that point, the Commission staff will already be hard-pressed to process frequency

assignments for all the other communities in the country where there is sufficient spectrum to accommodate all initially eligible applicants. Use of lotteries for markets where there is a spectrum shortfall would significantly speed the process of getting new ATV service to the public in those markets. Such cases would otherwise likely result in large, multiple-applicant comparative hearings which would cause lengthy delays, contrary to our goal of delivering ATV service to the public as quickly as possible. A lottery approach might thus be appropriate under these circumstances.

20. Internal technical studies thus far indicate that, for the most part, the Commission will be able to assign an additional 6 MHz of spectrum to existing stations for ATV without using vacant spectrum now reserved in specific communities for noncommercial stations. These Commission studies show, moreover, that in the majority of cases, assigning an additional 6 MHz ATV channel to these existing vacant noncommercial allotments will also be feasible. (See OET Technical Memorandum, FCC/OET TM89-1 (Dec. 1989) (1989 OET Study)).

21. In addition, should problematic cases arise, it may be possible to engineer the ATV facility involved so as to permit an additional ATV allotment for the facility while avoiding interference. The Commission tentatively finds that these studies mitigate previously expressed concerns of public broadcast interests that the noncommercial reserve will be used for ATV assignments. The Commission also tentatively finds that it will generally be able to associate ATV channels with vacant noncommercial allotments for noncommercial use. These tentative conclusions assume, of course, that the transmission system ultimately selected can function within the spacings ultimately adopted, which may be in some cases less than those in effect for NTSC today. The Commission invites comment on these tentative findings.

22. The Commission's spectrum planning policy has traditionally taken into account the important role noncommercial stations play and the financial constraints they face in constructing and operating stations. Internal technical studies lead the Commission to believe that this tradition can be continued within an ATV allotment scheme. The notice proposes to use the noncommercial reserve for ATV service only as a last resort. However, in the exceptional case where it may be necessary to use a vacant noncommercial allotment to allow present delivery of ATV service, the notice proposes to do so. The Commission seeks comment on this proposal and on the particular circumstances, such as lack of any other available channels, or the existence of a ready, willing and able ATV applicant, which might justify using a vacant noncommercial allotment. In no case, however, would we use a vacant VHF channel allotment reserved for noncommercial purposes for commercial ATV. Similarly, in the few cases where it would be impossible to allot ATV spectrum to vacant noncommercial allotments without precluding delivery of ATV service by an existing eligible applicant, the notice proposes to allow the spectrum to be used for the present delivery of ATV service. The Commission seeks comment on this proposal.

23. Spectrum studies by the staff and the Advisory Committee on Advanced Television Service (Advisory Committee) confirm that it will be a challenge to provide 6 MHz of supplemental spectrum for ATV to all full-service licensees. (See Interim Report: Estimate of Availability of Spectrum for Advanced Television (ATV) in the Existing Terrestrial Broadcast Bands, FCC/OET TM88-1; 1989 OET Study; Preliminary Analysis of VHF and UHF Spectrum Scenarios—Part III, Advisory Committee, Planning Subcommittee Working Party 3, Doc. 0174 (June 1991)). While the extent to which the assignment of these new ATV channels may displace LPTV and translator stations is not fully known, it is likely that LPTV and translator stations will be displaced to some degree in the major markets. For this reason, and to minimize the potential disruption to LPTV and translator service, the Commission has instituted a freeze on new low power station applications in major urban markets. It is less clear, however, whether in rural areas—where there are fewer, or maybe no full-service stations—the advent of ATV will mean widespread displacement of low power/translator stations.

24. From the time the Commission first authorized low power service, it stressed that low power service would be permitted only as a secondary service, despite the public benefits flowing from the diverse, locally responsive programming it could produce. Thus, low power stations may not interfere with full-service stations, and must yield to new full-service stations. Although low power interests have argued that displacement of LPTV stations by ATV would contravene the Communications Act by reducing diversity, diversity is not the only criterion that the Commission is bound to consider, or indeed, did consider when authorizing the low power service. One of the factors leading the Commission to accord secondary status to the low power service was spectrum demands of competing services, precisely the motivating factor today. In addition, the Commission finds that contrary to the arguments of low power interests, displacement by a new ATV station would not violate the first amendment rights of LPTV licensees.

25. The Commission thus proposes no change to the secondary status of LPTV and translator stations. They must yield to new ATV operations just as they would be required to yield to existing full-service operations. As part of the Commission's concern for the industry's development, however, it has previously modified its rules to permit a low power or translator station displaced by a full-service station to file an application for a vacant channel in the same area without being subject to competing applications. The Commission proposes to continue to afford this special treatment to low power or translator stations displaced by new ATV assignments. The Commission seeks comment on this proposed approach to any displacement of LPTV and translator stations by new ATV channels.

26. Next, the notice acknowledges that spectrum for auxiliary services associated with ATV will be limited because of the likely additional demand for such spectrum, at least in the early stages of ATV implementation, and because of the lack of readily available additional spectrum sources. The Commission does not believe that additional spectrum should be made available for ATV auxiliary use at this time. It is expected that some existing broadcasters will be able to operate auxiliary services for their additional ATV channel within the currently allotted broadcast auxiliary spectrum. The Commission also anticipates that licensees will be able to take better advantage of digital compression and other techniques to make optimum use of current spectrum, and/or use fiber optic or cable links for auxiliary purposes. If, ultimately, broadcasters air much of the same programming originally produced in ATV format over both NTSC and ATV channels, this in turn may reduce the need for dual auxiliary frequencies. In this case only a single STL could transmit programming to the transmitter site, where the programming could be processed

specially for NTSC transmission. For the foregoing reasons, the Commission tentatively concludes that it should not propose any additional allotments for broadcast auxiliary purposes. The Commission invites comment on this tentative conclusion.

27. The Commission envisions ATV as an improved form of television that, if successful, will eventually replace existing NTSC. In order to make a smooth transition to this technology, it was earlier decided to permit delivery on ATV on a separate 6 MHz channel. First Report and Order, *supra*. In order to continue to promote spectrum efficiency, the Commission intends to require broadcasters to "convert" entirely to ATV—*i.e.*, to surrender one 6 MHz frequency and broadcast only in ATV—when ATV becomes the prevalent medium. (At this point, the Commission intends to permit continued NTSC broadcasts only upon a showing of special circumstances.) The Commission believes that such a policy will help foster the development of ATV, permit the Agency to consider whether the surrendered channels could be put to other, additional uses, and help maximize the coverage areas of ATV stations.

28. Should an existing broadcaster have fortified its initial eligibility for an ATV channel, the Commission proposes to allow it to switch directly to an ATV channel at the time of required conversion if there is an available channel or if it is technically possible to use its existing NTSC channel for this purpose. The Commission also proposes to cease issuing new NTSC licenses once the assignment of ATV channels to existing NTSC licensees has been completed. From that point forward, in order to begin effectuating the transition to ATV, the Commission proposes to issue new television broadcast licenses for ATV transmission only. In addition, once initial ATV assignments have been made, and spectrum is increasingly depleted, it will become progressively more difficult to make dual NTSC–ATV channel assignments. For this additional reason the Commission believes it advisable to cease issuing NTSC licenses that, in order to have long-term viability, will have to be paired with an ATV frequency. The Commission encourages comment on its proposed regulatory approach to the role of NTSC in implementing and converting to ATV.

29. The Commission further tentatively concludes that the public interest requires setting a firm date or other triggering event for broadcasters to surrender their NTSC frequencies and convert entirely to ATV. Establishing such a definite point for conversion will provide clear notice of this transition to the broadcast industry, the viewing public, and other potential users of the spectrum to be relinquished. The Commission invites comment on this tentative conclusion, as well as on the underlying assumption that there may be other, superior uses for the spectrum to be surrendered.

30. The Commission now considers how to establish the date by which broadcasters must surrender one 6 MHz channel. In fixing an appropriate ATV conversion date, the Commission is most concerned that sufficient numbers of consumers purchase ATV receivers by that point so as to justify discontinuance of NTSC broadcasts. In this regard, the Commission notes that the Advisory Committee is currently studying projected ATV receiver penetration rates. (See, *e.g.*, Fourth Interim Report of the Working Party 5 on Economic Factors and Market Penetration of the Planning Subcommittee of the Advisory Committee on Advanced Television Service, March 4, 1991). Such studies are also taking into account the time and cost involved for broadcast stations to convert fully to ATV. The Commission asks interested parties to comment on the preliminary work done by the Advisory Committee on the conversion issue thus far, and to submit any additional or supplemental penetration analyses they believe are appropriate.

31. The Commission believes that there are several ways in which a conversion date for ATV could be selected. One option would use achievement of a specific nationwide penetration rate (defined as a percentage of households with ATV receivers) as the triggering event for ATV conversion, with all broadcast stations being required to convert to ATV transmission within a certain period of time after a particular penetration rate was achieved. The notice solicits comment on what the specific penetration rate should be under this option, and at what point after that rate is achieved full-scale conversion to ATV should be required.

32. The Commission recognizes, however, that use of a nationwide penetration rate as a conversion point for ATV, conceivably may pose a hardship to stations in smaller or less affluent markets. In such cases, there might be fewer financial resources to permit either consumers to purchase receivers or stations to construct and equip an ATV facility. The Commission thus seeks comment on whether to modify the first option to require conversion for ATV only after a specific penetration rate is achieved on a market-by-market basis. Interested parties are invited to address the relative advantages and disadvantages of such a market-by-market approach. Comment is also solicited on what the appropriate penetration rate should be, and how the Commission should assess when that rate has been achieved in a given market.

33. A final option would be to establish a firm date by which one frequency would have to be surrendered and the conversion to ATV completed. Such a date in itself would allow sufficient time for consumers to purchase new ATV receivers and adjust to this new transmission form. The Commission requests comment on whether establishment of the date certain alone is an appropriate way to schedule ATV conversion, and if so, what factors and types of data we should take into account in setting the date, and what the conversion date should be.

34. It is conceivable that after a period of time, stations may desire to switch their new ATV operations to their original NTSC channels. Based on preliminary staff studies,[1] it appears that ATV allotments may have spacing between ATV and NTSC co-channels shorter than spacing between ATV–ATV co-channels and NTSC–NTSC co-channels. This technical constraint poses problems for a station switching its NTSC to its ATV channel and vice versa, unless all stations with co-channel facilities at less than the minimum ATV–ATV spacing distance in a given area switch together. Switching ATV and NTSC frequencies otherwise may result in ATV stations with permanently much smaller service areas. In light of this engineering limitation, the Commission tentatively concludes that licensees can not be permitted to switch their ATV and NTSC channels on an individual basis, unless their ATV–NTSC separation is comparable to or greater than their ATV–ATV spacing prior to the switch. The notice invites comment on this

[1] These staff studies make several assumptions that should be noted for the record. For example these studies assume existing NTSC–NTSC co-channel separation. They conclude that ATV–NTSC separation is the critical factor in providing additional spectrum for ATV, and that to accommodate a high percentage of stations, a minimum ATV–NTSC separation distance of 100 miles appears necessary. They also make certain assumptions about the technical capability of ATV signals with respect to co-channel NTSC signals. For a detailed description of these assumptions and other information about the staff studies, see Footnotes 80 and 81 in the full text of the notice.

tentative conclusion and on the analysis leading to it. Interested parties are also invited to comment on whether, at the time of conversion to ATV, the Commission should nevertheless permit licensees to switch their ATV and NTSC frequencies where they would still meet appropriate spacing requirements.

35. Another approach would be to require all broadcasters to switch back to their former NTSC channels at some future date or, alternatively, to require some broadcasters to switch to new channels so that all ATV operations are reaccommodated in the most spectrally efficient manner, an approach which might simplify ATV receiver design and make contiguous spectrum available for other uses. The Commission recognizes, of course, that either of these latter alternatives would require sizeable re-investment by stations that would have to switch their ATV transmission facility to a new frequency. The Commission requests information on the scope of the investment necessary to make such a change in frequency. Interested parties are also requested to comment on the costs and benefits of these alternatives. Comment is further solicited on whether, under either alternative, the Commission should adopt a standard for waivers to allow a licensee to remain on its originally assigned ATV frequency, provided that this would not interfere with existing ATV channels.

36. As stated previously, it is in the public's and the industry's interest to ensure that the transition to ATV is made as smoothly as possible. In particular, the Commission believes the existing investment in consumer equipment during this transition period should be protected and that steps should be taken to ensure that consumers are not forced to purchase new television receivers in order to enjoy top quality, over-the-air television service. By requiring that at least a minimum amount or percentage of programming broadcast on the ATV channel is also broadcast on the NTSC channel, simulcasting would help ensure that consumers with conventional NTSC receivers are not relegated to receiving inferior programming during this transition period. This requirement could serve as, or be coupled with, a requirement that stations over time provide a progressively higher minimum amount of service on their ATV channel. The Commission also believes that any approach adopted should give broadcasters the flexibility necessary to ensure that the new ATV technology succeeds in the marketplace. The Commission seeks comment on whether, in principle, a simulcasting requirement would be a desirable means of protecting existing consumer investment in television equipment, and on whether there are any other equally desirable means of achieving this same goal. Should a simulcasting requirement be adopted, the Commission seeks comment on the amount or percentage of ATV programming which should be required, whether this requirement should be adjusted as the conversion period progresses, and if less than full time, on whether we should require that simulcasting occur at particular times, *e.g.*, prime time or non-prime time.

37. In light of the significance the Commission ascribes to consumer acceptance of ATV technology, the Agency believes it appropriate at this juncture to address the issue of patent licensing, a question it believes is important to achieving high levels of receiver penetration. The Commission expects that any proponent of an ATV transmission system selected as the nationwide standard will adopt a reasonable patent structure and royalty charging policy to ensure that all consumers can benefit from the implementation of ATV technology. In particular, the Commission believes that any winning system may have to be licensed to other manufacturing companies in order to generate the supply volumes necessary for the service to develop. The Commission invites comment on these patent licensing issues, and on the extent to which a proponent's patent licensing practices should be considered during the selection of an ATV transmission system.

38. Until this point, the Commission has considered implementation issues that bear on the use of ATV technology in the television transmission medium. However, this technology may have an impact on, or applications to, other media. ATV compatibility with other forms of transmission and applications would appear to be a desirable policy objective, provided that it does not unduly compromise other goals in this proceeding. To what extent can or should the Commission encourage compatibility of a terrestrial broadcast ATV system with other media, including other video delivery media such as satellite transmission or video cassette recorders, and with computer applications and other forms of data transmission? The Committee for Open High Resolution Systems (COHRS), an informal ad-hoc group with members from the computer and telecommunications industries, government and academia, believes that an ATV standard should be interoperable, extensible, scalable, and harmonious with standards for other applications. The Commission seeks comment on the desirability of these qualities in an ATV system and on the importance of an ATV system's overall ability to interconnect with other applications and delivery systems.

39. Finally, the Commission notes that, for the convenience of commenting parties, reports of the Commission staff and of the Advisory Committee, its subcommittees, or other subgroups, as well as other unpublished papers cited in the notice are listed in appendix B of the full text of the notice. All documents in that Appendix have been made part of the docket in this proceeding and are available in the Commission's public reference room. Copies are also available for a fee, from the Commission's independent copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422.

Procedural Matters

Ex Parte Consideration

40. This is a non-restricted proceeding. See § 1.1202 *et seq.* of the Commission's Rules, 47 CFR 1.1202 *et seq.* for rules governing permissible *ex parte* contacts.

Comment Information

41. Pursuant to applicable procedures set forth in § 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before December 20, 1991, and reply comments on or before January 20, 1992. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Initial Regulatory Flexibility Statement

I. Reason for the Action

42. This notice of proposed rulemaking suggests policies and rules for implementing Advanced Television (ATV) service in this country.

II. Objectives of the Action

43. It is intended that the comments engendered through this action will resolve some of the issues surrounding the introduction of ATV service in the United States. The record established from comments filed in response to this notice of proposed rulemaking, as well as other Commission decisions, and the combined efforts of the Commission, the affected industries, the Advisory Committee on Advanced Television Service, and the ATV testing process, will lead to implementation of ATV in the most harmonious fashion and to

selection of the most desirable ATV system.

III. Legal Basis

44. Authority for this action may be found in 47 U.S.C. 154 and 303.

IV. Reporting, Recordkeeping and Other Compliance Requirements

45. Such requirements will vary according to the decisions that are ultimately made as to the application and allocation procedures.

V. Federal Rules Which Overlap, Duplicate or Conflict With These Rules

46. There are no rules which would overlap, duplicate or conflict with these rules.

VI. Description, Potential Impact and Number of Small Entities Involved

47. There are now 1465 UHF and VHF broadcast television licensees who would be eligible to apply for an ATV frequency if it is decided to limit initial applications to existing broadcasters. Eligibility would be extended to full-service television licensees, permittees and parties with applications pending as of the adoption of this notice. These broadcasters would also be affected by any requirement to simulcast a minimum amount of programming on their NTSC and ATV channels. These same broadcasters could be affected by the type of ATV standard selected and by other aspects of ATV service which are still under consideration. For example, we propose that ultimately all existing broadcasters would be required to "convert" entirely to ATV, surrendering one 6 MHz simulcast frequency and broadcasting only in ATV. Additionally, other potential ATV applicants who are not existing broadcasters as well as electronic appliance retailers, and broadcast equipment suppliers could be favorably affected by the decisions reached in this proceeding. The impact, if any, on noncommercial licensees or potential noncommercial licensees would be minimal, in light of our tentative conclusion that ATV channels may for the most part be allotted to the noncommercial reserve, and that the noncommercial reserve would in most cases not be used for ATV assignments. It is likely that a decision to use existing broadcast band spectrum for ATV service would displace to some degree low power television (LPTV) and translator stations operating in or near major markets. It is less clear that LPTV and translator stations operating in rural areas also might be displaced. Finally, the potential of ATV to affect small entities beyond the broadcast industry is as yet undetermined, but ATV equipment is already in use in such fields as medicine, teaching, and printing, and may spur new or expanded business in these and other areas.

VII. Any Significant Alternatives Minimizing the Impact on Small Entities Consistent With Stated Objectives

48. We propose to limit ATV applications to existing broadcasters only as an initial matter. Ultimately, eligibility for ATV frequencies would be unrestricted. In addition, we propose that any qualified applicant could apply for an ATV channel after it is determined that a given NTSC licensee has failed to construct an ATV facility within the proposed time limit of two years from date of issuance of the permit. Under our proposal, existing broadcasters also risk losing their priority for ATV frequencies if they have not filed an application for a construction permit for an ATV channel within three years from the time that ATV allotments are made. All of these proposals should soften the advantage that existing broadcasters may gain over other ATV applicants through the initial restriction.

49. We seek to minimize delay and needless expense (for both the Commission and prospective applicants) by proposing to allot ATV frequencies to each community of license currently listed in the Table of Allotments and to treat all applicants for ATV channels within a given community as mutually exclusive with all other applications for channels within that community. We propose several options for assigning particular channels where there is sufficient frequency for all eligible applicants. One approach is to formulate a Table of Allotments which not only allots channels to each community, but also randomly pairs particular ATV channels to existing NTSC channels listed on the table. A second option is to follow a two-step procedure of allotment to community followed by channel assignment to licensees. After allotment, we would permit existing NTSC licensees to apply for a construction permit on a first-come, first-served basis. If more than one broadcaster applied for the same channel, we would randomly rank applicants so that the highest ranked applicant would be granted its first choice, and so on. Another, supplemental approach would also permit parties to negotiate channel changes among themselves after they had been awarded a channel, on condition that any profits derived therefrom be used for operation of an ATV facility. Finally, we might consider requiring broadcasters to demonstrate their financial qualifications to build and operate an ATV channel, as a deterrent to "warehousing" frequencies. In a rare case of insufficient ATV channels for all initially eligible applicants, we propose use of objective criteria or a lottery pursuant to 47 U.S.C. 309(i). All of these proposals would speed the licensing process and involve less expense for existing licensees, than if, for example, a comparative hearing procedure were used.

50. Given the important role that noncommercial stations play in the broadcasting industry, we intend to maximize the opportunity noncommercial interests have to take part in ATV, and to ensure that any negative effects on them are minimized. Technical studies indicate that it is unlikely that vacant noncommercial allotments will be used for ATV service and it is likely that such vacant channels can be paired with an ATV channel in most cases. In no case would a VHF channel assignment reserved for noncommercial purposes be used for commercial ATV. Also, as indicated in the proposed implementation plan, new commercial applicants would be able to petition for a rulemaking for an additional allotment after the ATV allotment table is adopted and would be able to seek a channel assignment for such new allotment or apply for ATV assignment when an existing broadcaster fails to comply with the application and construction deadlines. We have further tried to limit the negative impact to displaced LPTV and translator stations by continuing to allow a displaced LPTV station to file a noncompetitive application for another channel in the community.

51. In proposing a three-year time limit for submitting an application and a two-year time period for actual construction, we intend to permit broadcasters ample time to adjust to the conversion to ATV.

52. Moreover, we are aware that conversion from NTSC to ATV will not happen overnight, and we are allowing for a transition period before the NTSC frequency must be surrendered. However, a definite point must be established for determining the most efficient use of the 6 MHz "simulcast" channel awarded to existing broadcasters in order to effectuate a transition to ATV. If ATV is successful at that point, NTSC broadcast would largely cease.

53. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Written public comments are

requested on the IRFA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the notice, but they must have a separate and distinct heading designating them as responses to the Initial Regulatory Flexibility Analysis.

54. The Secretary shall send a copy of this notice of proposed rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq* (1981).

55. Accordingly, the Commission adopts this notice of proposed rulemaking pursuant to the authority contained in section 4(i) and (j) and 303 of the Commission Act of 1934, as amended, 47 U.S.C. 154 AND 303.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-27678 Filed 11-15-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Chapter VI

Petition for Rulemaking: Project Reefkeeper

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

ACTION: Notice of decision on petition for rulemaking; Project Reefkeeper.

SUMMARY: NMFS announces its decision not to undertake the rulemaking requested by a petition submitted by Project Reefkeeper at this time. Project Reefkeeper petitioned for a rule to abolish the taking and landing of live rock in the U.S. exclusive economic zone (EEZ) off the Caribbean Sea, Gulf of Mexico, and South Atlantic states. In lieu of rulemaking, NMFS will continue to work with the Regional Fishery Management Councils (Councils) to develop a comprehensive solution to issues relating to the harvest of live rock in the EEZ.

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3161.

SUPPLEMENTARY INFORMATION: Project Reefkeeper petitioned the U.S. Department of Commerce to promulgate a rule under emergency rulemaking or fishery management plan (FMP) action under the Magnuson Fishery Conservation and Management Act (Magnuson Act) to prohibit the taking and landing of live rock within the Agency's jurisdiction for the Caribbean, Gulf of Mexico, and South Atlantic. The petitioner did not submit a proposed rule with his request. The notice of receipt of petition for rulemaking and request for comments was published in the **Federal Register** on August 15, 1991 (56 FR 40594). The public comment period closed on September 30, 1991. A definition of live rock and discussion of the four types were contained in the notice and are not repeated here.

Eighteen comments were received from members of the Florida Marine Life Association, one from the New Jersey Marine Aquarium Society, and one from the Florida Marine Fisheries Commission. All of these commenters opposed emergency rulemaking and recommended conservation and management of the live rock resource through a comprehensive FMP covering state waters and the EEZ.

Discussion

NMFS has considered the petition and comments regarding the harvest of live rock from the EEZ. NMFS rejects the petition for two reasons. First, emergency action is a short-term solution since management authority by the Secretary of Commerce (Secretary) under the Magnuson Act is limited to a maximum of 180 days. Second, under the Magnuson Act, the Secretary may prepare an FMP or amendment if a Regional Fishery Management Council fails to develop an FMP or an amendment to an existing FMP, within a reasonable time frame. NMFS has determined that the Councils consideration of the issue, as described below, is reasonable.

Project Reefkeeper sent copies of the petition to the Caribbean, Gulf of Mexico, and South Atlantic Fishery Management Councils. On August 2, 1991, the Florida Marine Fisheries Commission reviewed the testimony and scientific information and voted to proceed with rulemaking to phase out state landings of live rock with an exception for aquaculture products. As part of the long-term solution, the South Atlantic and Gulf of Mexico Fishery Management Councils are reviewing the action by Florida and will consider whether to amend an existing or develop a new FMP to conserve and manage live rock in the EEZ. The Caribbean Fishery Management Council has voted to develop an FMP for coral and other invertebrates within its area of jurisdiction. This FMP would address the "live rock" issue.

Dated: November 12, 1991.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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50 CFR Parts 672 and 675

[Docket No. 911177-1277]

RIN 0648-AE45

Groundfish of the Gulf of Alaska, and Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 25 to the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska and Amendment 20 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. The amendments authorize regulations to afford protection to marine mammal populations. Regulations are proposed to implement the following measures: (1) year-round trawl closures in the Gulf of Alaska and Bering Sea/Aleutian Islands area within 10 nautical miles (nm) of key Steller sea lion rookeries; and (2) new Gulf of Alaska pollock management districts, and a limitation on pollock seasonal harvest allowances specified for these districts. These actions are necessary to minimize potential adverse effects of groundfish fisheries on Steller sea lions. They are intended to further the goals and objectives contained in both FMPs that govern these fisheries.

DATES: Comments are invited until December 30, 1991.

ADDRESSES: Comments may be sent to Dale R. Evans, Chief, Fishery Management Division, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802. Individual copies of proposed Amendments 20 and 25 and the associated environmental assessment/regulatory impact review/initial regulatory flexibility analyses (EA/RIR/IRFAs) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510. Comments on the environmental assessments are particularly requested.

FOR FURTHER INFORMATION CONTACT: Dale R. Evans, Chief, Fishery Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Exclusive Economic Zone (EEZ) of the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands Area (BSAI) are managed according to FMPs prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR parts 672 and 675. General regulations that also pertain to the U.S. fishery appear at 50 CFR part 620.

At times, amendments to the FMPs and/or their implementing regulations are necessary to respond to fishery conservation and management issues. Amendments 20 and 25 to the FMPs are intended to minimize potential impacts of the groundfish fisheries on marine mammal populations such as Steller sea lions (sea lions), by authorizing a variety of protective regulatory measures.

The BSAI and GOA groundfish fisheries developed in the geographic area that has historically supported the majority of the sea lion breeding population. In this same geographic area, the number of sea lions counted on rookeries declined about 78 percent during the years 1956–1990. Causes of the observed decline are not known, but could be related to changes in the sea lion's food availability, intentional killing, incidental take by fishing gear, and disease. In response to the population declines, sea lions have been listed as threatened under authority of the Endangered Species Act (55 FR 49204; November 26, 1990).

Sea lions and commercial fisheries are known to interact in ways that may be detrimental to both fishermen and sea lions. Potential adverse effects of the Alaska groundfish fishery on sea lions include: (1) Reduction of food availability (quantity and/or quality) due to groundfish harvests, (2) unintentional entanglement of sea lions in fishing gear, (3) intentional harassment (including killing and wounding) of animals by fishermen, and (4) disturbance by vessels and fishing operations in rookery and foraging areas that are important to sea lions.

During its September 23–29, 1991, meeting, the Council reviewed information and analyses contained in draft EA/RIR/IRFAs that were prepared to analyze possible groundfish management measures that might be implemented for purposes of affording protection to sea lions. The Council recognized that actual reasons for declines in sea lion populations are not known, but that changes in the conduct of the groundfish fisheries should be implemented in an attempt to mitigate potential impacts of groundfish fishing on sea lions. Consequently, the Council considered measures that would: (1) Geographically separate groundfish fishing from important sea lion foraging habitat, and (2) spread the fishing effort both geographically and over time, preventing potential adverse effects that might result from intense fisheries in localized areas.

The Council reviewed actions taken by NMFS to afford more protection for sea lions. NMFS implemented the following conservation measures coincident with the 1990 "threatened" listing under the Endangered Species Act: (1) All vessel entry within 3 nm of sea lion rookeries in the GOA and BSAI was prohibited; (2) shooting at or near sea lions was prohibited; and (3) the allowable level of incidental sea lion mortality resulting from commercial fisheries in Alaskan waters was reduced. On June 19, 1991, NMFS published in the **Federal Register** an emergency rule under the authority of the Magnuson Act that prohibited groundfish trawling within 10 nm of GOA sea lion rookeries, and placed further time and area constraints on the GOA pollock harvest (56 FR 28112). These measures were extended (56 FR 47425; September 19, 1991) and will expire on December 16, 1991.

The Council considered testimony from its Scientific and Statistical Committee, Advisory Panel, and representatives of the fishing industry concerning possible management measures that might better protect sea lions. The Council also heard testimony from NMFS officials concerning proposed management measures analyzed in the draft EA/RIR/IRFAs prepared for Council consideration.

After considerable discussion, the Council recommended the following management measures to implement Amendments 20 and 25:

(1) Areas would be closed to fishing by vessels using trawl gear within 10 nm of sea lion rookeries located in the GOA and in the Bering Sea subarea of the BSAI.

(2) In the GOA, the specified total allowable catch (TAC) for pollock in the combined Western/Central (W/C) Regulatory Area would be further divided into three pollock management districts.

A description of, and the reasons for, each of these recommended measures follow:

Fishing Restrictions Within 10 nm of Sea Lion Rookeries

Year-round closures to vessels using trawl gear within 10 nm of rookeries located in the GOA and in the Bering Sea subarea are intended to separate trawl fishing operations from important sea lion breeding and foraging habitat, thereby reducing any effects that groundfish trawling may have on sea lions, particularly to their foraging success. In the Aleutian Islands subarea, however, trawling would be allowed, but retention of pollock by trawlers would be prohibited during the period the vessels fished within 10 nm of sea lion rookeries.

These restrictions highlight the importance of sea lion rookeries for breeding, pupping, and foraging. Sea lions also use rookery sites during the non-reproductive season for rest and refuge. Protection of rookeries is essential to the survival and recovery of sea lion populations.

The proposed trawl closures are intended to reduce likely interactions between vessels and sea lions. These interactions can result in unintentional capture and mortality of sea lions. An estimated 21,000 sea lions were killed incidental to BSAI and GOA trawl fisheries between 1973 and 1988. Such incidental mortality may have been a contributing cause in the observed decline of the sea lion population in Alaska accounting for approximately 16 percent of the decline in the BASI and 6 percent of the decline in the GOA during this period. Available data indicate that the number of sea lions killed incidental to BSAI and GOA groundfish fisheries has declined significantly in recent years. Based on fishery observer data, NMFS estimates that 23 sea lions were taken incidental to BSAI and GOA groundfish trawl fisheries during 1990. Available NMFS data indicate that a similar number will be taken in 1991.

Deliberate killing of sea lions by fishermen and others is also considered to be a possible contributing factor in the observed population decline. In 1990, NMFS prohibited intentional killing or wounding of sea lions, including shooting near or at the animals. This prohibition, as well as the 3-mile rookery buffer zones, have probably significantly reduced, but not entirely eliminated, this source of mortality.

The proposed closures also are intended to reduce competition between commercial groundfish fishermen and sea lions for available groundfish in important foraging habitat. The BSAI and GOA groundfish fisheries harvest fish stocks that are major components of

the sea lion's diet. Large fishery harvests from areas proximal to sea lion rookeries could interfere with the sea lion's foraging efficiency.

The Council considered whether larger or smaller closures than 10 nm should be implemented. Information based on satellite data obtained from nursing female sea lions during the breeding season showed that these sea lions swim an average distance of 8 nm on a feeding trip. Ten nm approximates this average. Although other observations indicate that sea lions can forage beyond 10 nm from rookeries, the proposed closures protect zones proximal to rookeries that are likely to be important feeding areas throughout the year.

The Council considered whether all gear types should be prohibited within the 10-mile closures. It determined that groundfish harvests by vessels using hook-and-line and pot gear within the closed areas should continue without restriction. The primary reasons for excluding only trawl gear are: (1) The trawl fishery harvests the majority of the catch, (2) the risk of lethal incidental take of sea lions in non-trawl gear is low, and (3) groundfish harvest with trawl gear results in the bycatch of other non-target species, such as juvenile pollock, squid, octopus, and herring, which are also important prey items for sea lions.

NMFS accepts all the Council's recommendations with one exception. NMFS has determined that the Aleutian Islands exception would be inconsistent with the reasons justifying total closures around the GOA and Bering Sea subarea rookeries, including the need to prevent unintentional capture and possible sea lion mortality. Allowing trawling within 10 nm of the Aleutian Islands rookeries for non-pollock species would not separate important sea lion foraging habitat from the trawl fleet as intended, and might result in negative interactions. In fact, NMFS information from the 1991 fishery through April shows that all of the observed 1991 groundfish fishery lethal incidental takes of sea lions (six animals) occurred within 10 nm of Aleutian Islands sea lion rookeries. Adverse interactions between trawl vessels and sea lions might be expected, whatever the groundfish species being fished.

Also, NMFS has determined that prohibiting retention of pollock during the period that vessels trawl in any of the Aleutian Islands closed areas would be difficult to enforce, given existing agency enforcement resources. While NMFS notes that vessel operators could be required to maintain records of their fishing locations and catches in the closed areas, violations of recordkeeping requirements are difficult to detect. Attempts to monitor vessels to determine actual fishing locations to verify whether they had entered any of the 15 rookeries in the Aleutian Island subarea would be extremely labor-intensive.

Therefore, NMFS is proposing that all trawling for groundfish be prohibited within 10 nm of sea lion rookeries located in the Aleutian Islands, subarea, which is the same prohibition proposed for the Bering Sea subarea and the GOA.

NMFS notes that the Council made its recommendation after reviewing industry concerns that the TAC specified for Atka mackerel, and perhaps for other groundfish species as well, might not be achieved, because most of the Atka mackerel fishery occurs within 10 nm of some of the rookeries. As summarized in the EA/RIR/IRFA prepared for this measure, 84 percent of the Atka mackerel harvest occurred within 10 nm during 1990. The historical catch information in the EA/RIR/IRFA shows that more than 50 percent of the Atka mackerel harvest has occurred outside of 10 nm during 5 years of the 1980–1989 period. Not all of the available harvest is expected to be foregone as a result of this proposal to close all trawling with 10 nm of sea lion rookeries in the Aleutian Islands subarea.

Establishment of New Pollock Management Districts in the Gulf of Alaska and Limitations on Seasonal Pollock Harvests

New pollock management districts—During the 1970s, foreign pollock fisheries harvested large quantities of pollock annually from offshore areas throughout the Gulf of Alaska. Catches by foreign vessels were relatively evenly distributed throughout the year. With the domestic displacement of foreign fishing operations in the early 1980s, the fishery concentrated in Shelikof Strait, where it was conducted primarily in late fall and early spring. Thus, the pollock fisheries became geographically and temporally concentrated compared to the 1970s. Local depletions of pollock and other sea lion prey may have occurred due to this concentration of fishing effort, which could have contributed to the decline of sea lion populations. For this reason, geographical and temporal restrictions were imposed on the Gulf of Alaska pollock fishery by emergency rule in June 1991.

The Council determined that measures that would spread pollock fishing across wider areas might be more effective to protect sea lions, given the importance of pollock in their diet. The Council recommended that three new management districts in the combined W/C Regulatory Area be established for purposes of managing pollock. They are proposed as follows: Statistical Area 61 between 170° and 159° W. longitudes; Statistical Area 62 between 159° and 154° W. longitudes; and Statistical Area 63 between 154° and 147° W. longitudes.

These Statistical Areas are already defined in 50 CFR 672.2. An existing management district, named Shelikof Strait, would be eliminated and subsumed into Statistical Areas 62 and 63. This district had been in place to promote pollock recovery by specifying a numerically small TAC in an area where significant roe fishery had existed in prior years.

The purpose of these new districts is to spread fishing effort geographically across a wider area to prevent an entire quarterly allowance of pollock from being harvested in local areas within the W/C Regulatory Area. Otherwise, such harvests could result in local depletion of pollock, albeit temporary, which may adversely affect the feeding success of sea lions. This measure provides protection to the four major sea lion rookeries (on Sugarloaf, Marmot, and the Chowiet and Chirikof Islands) in the Gulf of Alaska where sea lion populations have shown the steepest recent declines. The limited data available suggest that sea lions from these four rookeries feed in or around important commercial fishing areas on the east side of Kodiak Island, namely Barnabus Gully, Chiniak Gully, Marmot Gully, and Marmot Bay. These areas have accounted for a high proportion of pollock catch since 1987. Spreading fishing effort geographically as well as allocating pollock TAC quarterly could reduce the potential impacts on sea lions from localized high levels of fish removal.

The Council's recommendation is a change from an existing measure, which requires that a single pollock TAC be specified for the W/C Regulatory Area. This change would now require that the pollock TAC specified for the W/C Regulatory Area be further apportioned among the three pollock management districts in amounts proportional to distribution of biomass observed during the most recent NMFS pollock stock assessment.

Limitations on seasonal pollock harvests—The Council reviewed existing measures that would temporally spread pollock fishing effort. Existing

regulations at 50 CFR 672.20(a)(2)(iv) require the pollock TAC for the W/C Regulatory Areas to be divided equally into four quarterly allowances. Existing regulations also require that any unharvested amount of a quarterly allowance, or excessive harvests of a quarterly allowance, will be added to, or subtracted from, the subsequent quarters' allowances in equal proportions.

To prevent excessive accumulations of any quarterly allowance, the Council recommended a limit on the maximum amount of any quarterly allowance of 150 percent of the initial quarterly allowance. For example, if each initial quarterly allowance of pollock TAC is 10,000 mt in each of the pollock management districts, the maximum amount of any subsequent quarterly allowance resulting from the accumulations of pollock unharvested in previous quarters is 15,000 mt in each of the three districts. The purpose of this measure is to prevent excessive harvests of pollock in any quarter, which could reduce temporarily amounts of food available for sea lions, or which could limit their feeding efficiency.

NMFS is proposing certain other regulatory changes in 50 CFR part 672 as necessary to implement the above sea lion protection measures. Definitions of a "trip" at 50 CFR 672.20(h) are proposed to be changed for purposes of implementing directed fishing standards for pollock. These measures are designed to mitigate potential, but as yet unproved, adverse effects on sea lions.

Classification

Section 304(a)(1)(C) of the Magnuson Act, as amended by Public Law 99-659, requires the Secretary to publish regulations proposed by a Council within 15 days of receipt of the FMP amendment and regulations. At this time the Secretary has not determined that the FMP amendments these regulations would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making the determination, will take into account the data, views, and comments received during the comment period.

The Council prepared environmental assessments (EAs) for these FMP amendments that discuss the impact on the environment as a result of this rule. A copy of the EAs may be obtained from the Council (see **ADDRESSES**) and comments on them are requested.

On April 19, 1991, NMFS concluded formal section 7 Consultation on the BSAI and GOA groundfish FMPs and fisheries. The biological opinions issued for these consultations concluded that the FMPs and fisheries are not likely to jeopardize the continued existence and recovery of any endangered or threatened species under the jurisdiction of NMFS. Formal section 7 consultation also has been conducted on the Gulf of Alaska 1991 pollock TAC (June 5, 1991) and the fourth quarter pollock fishery (September 20, 1991). These biological opinions concluded that the 1991 Gulf of Alaska pollock fishery, under the time and area constraints imposed by NMFS, is not likely to jeopardize the continued existence of Steller sea lions. Adoption of the management measures described in the proposed amendments will not affect listed species in a way that was not already considered in the aforementioned biological opinions. In fact, these management measures are designed to reduce the potential adverse effects of the Bering Sea/Aleution Islands and Gulf of Alaska groundfish fisheries on Steller sea lions and thus may aid recovery of the species. NMFS has determined that no further section 7 consultation is required for adoption of these FMP amendments.

The Assistant Administrator for Fisheries, NOAA, determined that the proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The proposed rule, if adopted, is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. The Council prepared a regulatory impact review that concludes that none of the proposed measures in this rule would cause impacts considered significant for purposes of this Executive Order. A copy of this review is available from the Council (see **ADDRESSES**).

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review that concludes this proposed rule, if adopted, would have significant effects on small entities. The estimated value of the 1990 total catch of groundfish within the proposed 10 nm closed areas around Steller sea lion rookeries is $74.3 million. However, fishermen may compensate for this foregone catch by redistributing fishing effort to other areas that remain open. The effects of the closed areas will be greater for fishermen in the Aleutian Islands because of the large number of Steller sea lion rookeries. A copy of this analysis is available from the Council (see **ADDRESSES**).

This proposed rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

The Council determined that this rule, if adopted, will be implemented in a manner that is consistent with the maximum extent practicable with the approved coastal 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.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: November 13, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

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

§ 672.2 [Amended]

2. In § 672.2, the definition of statistical area is amended by removing paragraph (3), Statistical Area 621, and redesignating paragraphs (4) through (7) as paragraphs (3) through (6).

3. In § 672.20, paragraphs (a)(2)(iv), (h)(2) and (i)(4) are revised to read as follows:

§ 672.20 General limitations.

(a) * * *

(2) * * *

(iv) The TAC for pollock in the combined Western and Central Regulatory Areas will be apportioned among statistical areas 61, 62, and 63 in proportion to the distribution of the pollock biomass as determined by the most recent NMFS surveys. Each apportionment will be divided equally into the four quarterly reporting periods of the fishing year. Within any fishing year, any unharvested amount of any quarterly allowance of TACs will be added in equal proportions to the quarterly allowances of the following

quarters, resulting in a sum for each quarter not to exceed 150 percent of the initial quarterly allowance. Within any fishing year, harvests in excess of a quarterly allowance of any TAC will be deducted in equal proportions from the quarterly allowances of each of the remaining quarters of that fishing year.

* * * * *

(h) * * *

(2) *Trip.* For purposes of this paragraph, the operator is engaged in a single fishing trip from the commencement of or the continuation of fishing for any groundfish after the effective date of a notice prohibiting directed fishing under paragraph (c)(2) or (f)(1) of this section prohibiting directed fishing, until any offload or transfer of any fish or fish product from that vessel, or until the vessel enters or leaves a regulatory area, or district, or statistical area to which a directed fishing prohibition applies, whichever occurs first.

(i) * * *

(4) Trip. For purposes of this paragraph, a trip is defined as set forth under paragraph (h)(2) of this section.

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4. In § 672.24, paragraph (e) is revised to read as follows:

§ 672.24 Gear limitations.

* * * * *

(e) Steller sea lion protection areas. Trawling is prohibited year-round in the Gulf of Alaska within 10 nautical miles of each of the following 14 Steller sea lion rookeries:

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
Outer I.	59°20.5 N	150°23.0 W	59°21.0 N	150°24.5 W
Sugarloaf I.	58°53.0 N	152°02.0 W		
Marmot I.	58°14.5 N	151°47.5 W	58°10.0 N	151°51.0 W
Chirikof I.	55°46.5 N	155°39.5 W	55°46.5 W	155°43.0 W
Chowiet I.	56°00.5 N	156°41.5 W	56°00.5 N	156°42.0 W
Atkins I.	55°03.5 N	159°18.5 N		
Chernabura I.	54°47.5 N	159°31.0 W	54°45.5 N	159°33.5 W
Pinnacle Rock	54°46.0 N	161°46.0 W		
Clubbing Rks–N	54°43.0 N	162°26.5 W		
Clubbing Rks–S	54°42.0 N	162°26.5 W		
Ugamak I.	54°14.0 N	164°48.0 W	54°13.0 N	164°48.0 W
Akun I.	54°17.5 N	165°34.0 W	54°18.0 N	165°31.0 W
Akutan I.	54°03.5 N	166°00.0 W	54°05.5 N	166°05.0 W
Ogchul I.	53°00.0 N	168°24.0 W		

NOTE: Each site extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower low water to the second set of coordinates; if only one set of geographic coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

5. The authority citation for part 675 continues to read as follows:

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

6. In § 675.24, paragraph (f) is added to read as follows:

§ 675.24 Gear limitations.

* * * * *

(f) *Steller sea lion protection areas*—(1) *Bering Subarea.* Trawling is prohibited year-round within 10 nautical miles of each of the following eight Steller sea lion rookeries:

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
Sea Lion Rks	55°28.0 N	163°12.0 W		
Ugamak I.	54°14.0 N	164°48.0 W	54°13.0 N	164°48.0 W
Akun I.	54°17.5 N	165°34.0 W	54°18.0 N	165°31.0 W
Akutan I.	54°03.5 N	166°00.0 W	54°05.5 N	166°05.0 W
Bogoslof I.	53°56.0 N	168°02.0 W		
Ogchul I.	53°00.0 N	168°24.0 W		
Adugak I.	52°55.0 N	169°10.5 W		
Walrus I.	57°11.0 N	169°56.0 W		

NOTE: Each site extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower low water to the second set of coordinates; if only one set of geographic coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.

(2) *Aleutian Islands subarea.* Trawling is prohibited year round within 10 nautical miles of each of the following 15 Steller sea lion rookeries:

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
Yunaska I.	52°42.0 N	170°38.5 W	52°41.0 N	170°34.5 W
Seguam I.	52°21.0 N	172°35.0 W	52°21.0 N	172°33.0 W
Agligadak I.	52°06.25 N	172°54.0 W		
Kasatochi I.	52°10.0 N	175°31.0 W	52°10.5 N	175°29.0 W
Adak I.	51°36.5 N	176°58.5 W	51°38.0 N	176°59.5 W
Gramp Rock	51°29.0 N	178°20.5 W		
Tag I.	51°33.5 N	178°34.5 W		
Ulak I.	51°20.0 N	178°57.0 W	51°18.5 N	178°59.5 W

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
Semisopochnoi	51°58.5 N	179°45.5 E	51°57.0 N	179°46.0 E
Semisopochnoi	52°01.5 N	179°37.5 E	52°01.5 N	179°39.0 E
Amchitka I.	51°22.5 N	179°28.0 E	51°22.0 N	179°25.0 E
Amchitka I.	51°32.5 N	178°50.0 E		
Column Rocks:				
Ayugadak Pt.	51°45.5 N	178°24.5 E		
Kiska I.	51°57.5 N	177°21.0 E	51°56.5 N	177°20.0 E
Kiska I.	51°52.5 N	177°13.0 E	51°53.5 N	177°12.0 E
Buldir I.	52°20.5 N	175°57.0 E	52°23.5 N	175°51.0 E
Agattu I.	52°24.0 N	173°21.5 E		
Gillion Point:				
Agattu I.	52°23.5 N	173°43.5 E	52°22.0 N	173°41.0 E
Attu I.	52°57.5 N	172°31.5 E	52°54.5 N	172°28.5 E

NOTE: Each site extends in a clockwise direction from the first set of geographic coordinates along the shoreline at mean lower low water to the second set of coordinates; if only one set of geographic coordinates is listed, the site extends around the entire shoreline of the island at mean lower low water.

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Notices

Federal Register
Vol. 56, No. 222
Monday, November 18, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Student Community Service Projects; Availability of Funds

AGENCY: ACTION.

ACTION: Notice of availability of funds; Student Community Service Projects.

The Student Community Service Program, ACTION, announces the availability of funds for Fiscal Year 1992 for VISTA/Student Community Service grants authorized by section 114 of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113, title I, part B, 42 U.S.C. 4974).

Application kits and technical assistance on grant application preparation are available from the ACTION State Office. One completed application form and two copies, with original signatures on all the documents, must be received in the appropriate ACTION State Office no later than 5 p.m. local standard time on January 22, 1992. Any application received after that date will not be considered for Fiscal Year 1992 funding. However, applications post-marked 5 days before the deadline date will be accepted for consideration.

Background on the Student Community Service Program

The following information sets out the final guidelines under which Student Community Service Projects operate. The guidelines are divided into seven parts which deal with the overall program philosophy, responsibilities of the sponsor staff, volunteers, and volunteer placement sites. Furthermore, the guidelines provide basic data on the administration of a Student Community Service Project.

Grant Awards

Only first-year applicants may apply for funds available through this notice. First-year applicants may apply for a maximum of $20,000 with at least a 20 percent match above the Federal dollar amount; second-year applicants may apply for a maximum of $15,000 with at least a 30 percent match above the Federal dollar amount; and third-year applicants may apply for a maximum of $10,000 with at least a 50 percent match above the Federal dollar amount.

DATES: These Guidelines took effect on April 22, 1991.

FOR FURTHER INFORMATION CONTACT: Valerie Wheeler, ACTION, 1100 Vermont Avenue, NW., room 8100, Washington, DC 20525, 202/606–4824.

I. Introduction

The Student Community Service Project guidelines are contained in seven parts:

Part I—Introduction
Part II—Purpose
Part III—Grantee Eligibility and Selection Criteria
Part IV—Grant Application Procedures
Part V—Project Management
Part VI—Student Volunteer Assignments
Part VII—Restrictions

These guidelines were published in their final form in the **Federal Register** on March 6, 1991, (Vol. 56, No. 44, pages 9340–9343) and became effective on April 22, 1991.

II. Purpose

Student Community Service Projects are authorized under title I, part B, section 111 and section 114 of the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93–113,1 42 U.S.C. 4971, 4974). The statutory purpose of these projects is to encourage students to undertake volunteer service in their communities in such a way as to enhance the educational value of the service experience through participation in activities which address poverty-related problems. Student volunteers must be enrolled in secondary, secondary vocational or post-secondary schools on an in-school or out-of-school basis. They serve part-time and without a stipend.

Service opportunities must result in student volunteers gaining learning experiences through service in low-income communities, whether or not they receive academic credit.

The intent of Student Community Service Projects is to join community, school and youth in developing the scope and nature of volunteer experiences which serve the needs of poverty communities while securing resources by which the effort can be continued and expanded, if needed, after Federal support ends.

Local communities should determine what their problems are and how best to solve them. ACTION resources may be made available to assist in helping communities solve some of their problems through fostering student volunteer service. The community must generate increasing resources to enable the project to continue once ACTION grant funds are no longer provided.

Technical assistance and training in project management, fundraising, and recruiting will be provided by ACTION as required.

III. Grantee Eligibility and Selection Criteria

The following criteria will be considered by ACTION in the selection and approval of Student Community Service Projects:

A. The applicant must be a Federal, State, or local agency, or private non-profit organization or foundation in the United States, the District of Columbia, Virgin Islands, Puerto Rico, American Samoa, or Guam, which has the authority to accept and the capability to administer a Student Community Service Project grant.

B. Student volunteer activities must be poverty-related in scope and otherwise comply with the provisions of the legislative authority outlined in part II.

C. Grant funds must be used to initiate or expand a student volunteer community service project which addresses the needs of the low-income community.

D. The grantee must develop and maintain community support for the Student Community Service Project through a planned program including public awareness and communications.

E. Proposed community representation in the project's planning and operation, including representatives of youth groups, school systems, educational institutions, etc., must be identified in the grant application.

F. The grant application must demonstrate that project goals and objectives are quantifiable, measurable, and show benefits to the student volunteers and to the low-income community. It must describe the expected learning outcomes which will

result from the service experience. The projected number of student volunteers who will serve in the project and hours of service are to be included in project goals and objectives.

G. The grant application must demonstrate how student volunteers will be recruited and how they will receive orientation appropriate to their assignments.

H. The grantee must identify resources which will permit continuation of the Student Community Service Project, if needed, upon the conclusion of Federal funding as outlined in Part II.

I. The grantee must comply with all programmatic and fiscal aspects of the project and may not delegate or contract this responsibility to another entity. This includes compliance with applicable financial and fiscal requirements established by ACTION or other elements of the Federal government. This does not refer to agreements made with volunteer placement sites as discussed in Part VI.

J. The grantee must ensure compliance with the restrictions outlined in Part VII. The Director of VISTA/Student Community Service Programs may use additional factors in choosing among applicants who meet the minimum criteria specified above, such as:

1. Geographic distribution;
2. Availability of volunteer activities to students from all segments of society;
3. Applicants' accessibility to alternate resources, both technical and financial;
4. Allocation of Student Community Service resources in relation to other ACTION funds.

IV. Grant Application Procedures

A. Scope of Grant

Student Community Service Project grants are awarded for up to a twelve-month period. Requests for second- or third-year reduced funding can be sought by grantees. The levels of funding and matching requirements are published in **Federal Register** announcements of funding availability. The grantee is required to contribute a local share each year. Final determination of the actual amount of grant awards rests with the ACTION Regional Director. ACTION seeks sponsoring organizations which can demonstrate the ability to raise sufficient local support in order to achieve 100% non-ACTION funding of their Student Community Service Projects after Federal funding ends.

Applicants for new or renewal grants must comply with the provisions of Executive Order 12372, the "Intergovernmental Review of Federal Programs" as set forth in 45 CFR part 1233. Contact the ACTION State Office for specific instructions on how to fulfill this requirement.

Publication of this announcement does not obligate ACTION to award any specific number of grants or to obligate the entire amount of funds available, or any part thereof, for grants under the VISTA/Student Community Service Projects.

B. Procedures for New Grantees

Project application forms are available from ACTION State Offices, which will also establish schedules for application submission. Grant allowable costs are contained in ACTION Handbook 2650.2, Grants Management Handbook for Grantees, which is available from ACTION State or Regional Offices.

Applications are to be submitted to the appropriate ACTION State Office for review and subsequently forwarded to the ACTION Regional Office for comment prior to their submission to the Director of VISTA/Student Community Service Programs, who will make the final selection of new Student Community Service Project grantees.

The Regional Directors will notify all applicants of the final decisions, and the Regional Grants and Contracts Officers will issue Notices of Grant Awards to the grantees upon notification from the Director of VISTA/Student Community Service Programs.

C. Procedures for Renewal Grantees

Applications for renewal projects will be evaluated using the factors identified in selecting initial grantees, as well as the grantee's compliance with these guidelines and the grantee's performance during the previous year(s), particularly in the achievement of measurable goals and objectives. All project renewals are subject to the availability of funds.

Applications for renewal for second- and third-years are reviewed at the ACTION State Office level and submitted to the ACTION Regional Director for final approval. If the second- or third-year renewal application is denied, the sponsor will be notified that the ACTION Regional Director intends to deny the application for renewal; and the sponsor will be given an opportunity to show cause why the application should not be denied in accordance with 45 CFR Part 1206. This regulation is available from ACTION State or Regional Offices.

V. Project Management

Sponsors shall manage grants awarded to them in accordance with the provisions of these guidelines and ACTION Handbook 2650.2, Grants Management Handbook for Grantees, which will be furnished to the sponsor at the time the initial grant is awarded.

Project support provided under an ACTION grant will be furnished at the lowest possible cost consistent with the effective operation of the project. Project costs for which ACTION funds are budgeted must be justified as being essential to project operation.

A. Local Support Contributions

The Student Community Service Project sponsor shall be responsible for providing a non-Federal share contribution for each year of the grant's operation. This amount can be obtained through cash and/or allowable in-kind contributions. Local share can include, but is not limited to, cash or in-kind contributions such as office space, office equipment, supplies, accounting services, insurance, vehicles, telephones, printing, postage, recognition, travel and personnel which directly benefit the project.

B. Reporting Requirements

Sponsors must comply with fiscal reporting requirements specified in the Notice of Grant Award and must maintain records in accordance with generally accepted accounting principles. Records shall be kept available for inspection at the request of ACTION and shall be preserved for at least three years following the date of submission of the final Financial Status Report for each budget period.

If any litigation, claim, or audit is started before the expiration of the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

Project progress reports shall also be submitted to the ACTION State Office. Sponsors are required by ACTION to provide accurate and timely preparation and submission of project reports.

C. Insurance

Grantees are responsible and must show evidence that student volunteers, while performing their assignments, have adequate accident, personal liability, and automobile liability insurance coverage consistent with other insurance maintained by the organization, and with sound institutional and business practices.

D. Transportation

The sponsor should structure student volunteer assignments to minimize transportation expenses and requirements.

When transportation is not provided, volunteers may be reimbursed for actual costs within the limitations prescribed by the local project and the availability of funds.

E. Project Staff

Each grantee will designate a person to serve as the project director. A full-time director is desirable. A rationale for less than a full-time project director must be included with the project application. The project director should be hired within 30 days of the project start date. Supervision of the project director is the responsibility of the sponsor.

Student Community Service Project staff are employees of the grantee organization and are subject to its personnel policies and practices.

F. Community Relations

1. Community Support

A viable community support system needs to be initiated to ensure project success and project continuation without Federal funds. Project support may be sought from school districts, governmental entities, religious and service groups, foundations, the business community, youth organizations, etc. One method of enlisting and maintaining community support for the project's operation is through the establishment of a project advisory council and/or working committee of the sponsor's board. Initial outreach to representatives of these groups, as evidenced by accompanying letters of support, is seen as an effective step toward the development of the application.

2. Volunteer Recognition

With the participation of the sponsor, the staff, and volunteer placement sites, recognition should be given to student volunteers for service to the community. Projects can also provide recognition to local individuals and agencies or organizations for significant activities in support of project goals. Specific recognition activities should be reflected in the application narrative and budget.

3. Public Awareness

A strong community relations program ensures public awareness of start-up and continuing project activities. It is essential for the successful recruiting of volunteers and for the recognition of volunteer service. The project sponsor and project director should inform community, city and county officials, and the media about development, growth and success of the Student Community Service project.

VI. Student Volunteer Assignments

Student volunteers are assigned to serve low-income communities in a variety of ways. Local sponsors are expected to develop volunteer service opportunities taking into consideration the focus of the project, the age, skills, and interests of student volunteers, as well as the value of the learning experience itself. Clear understanding concerning the responsibilities of volunteer placement sites must be reached between representatives of the grantee's project staff and the volunteer site supervisor. Agreements may be formally arranged through the utilization of a Memorandum of Understanding, a Letter of Agreement, or other means.

A formal agreement between the project staff and volunteer site will greatly assist the staff and volunteers in the management of volunteers. Issues and responsibilities concerning volunteer recruitment, orientation/training, volunteer transportation, recognition and reporting of service hours, are functions outlined in this agreement.

VII. Restrictions

A. Special Restrictions on Student Community Service Project Grantees

1. Political Activities

a. Grant funds shall not be used to finance, directly or indirectly, any activity to influence the outcome of any election to public office or any voter registration activity.

b. No project shall use grant funds to provide services, employ or assign personnel or volunteers for, or take any action which would result in the identification or apparent identification of the project with:

(1) Any partisan or non-partisan political activity or any other political activity associated with a candidate, or contending faction or group, in an election for public or party office;

(2) Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any election; or

(3) Any voter registration activity.

2. Lobbying

a. No grant funds or volunteers may be used by the sponsor in any activity for the purpose of influencing the passage or defeat of legislation or proposals by initiative petition, except as follows:

(1) In any case in which a legislative body, a committee of a legislative body, or a member of a legislative body requests a student volunteer, a sponsor chief executive, his or her designee, or project staff to draft, review, or testify regarding measures or to make representations to such legislative body, committee, or member; or

(2) In connection with an authorization or appropriation measure directly affecting operation of the program. Regulations found in 45 CFR part 1226, "Prohibitions On Electoral and Lobbying Activities," apply fully hereto, and provide further details on the limitations of political and lobbying activities that apply to volunteers and sponsors. Each grantee is obliged to know, and to communicate to staff and volunteers, the prohibitions included therein.

3. Special Restriction on State or Local Government Employees

If the sponsor receiving a grant from ACTION is a State or local government agency, certain restrictions contained in chapter 15 of title 5 of the United States Code are applicable to persons who are principally employed in activities associated with the project. The restrictions are not applicable to employees of educational or research institutions. An employee subject to these restrictions may not:

a. Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office.

b. Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency or person for political purposes; or

c. Be a candidate for elective office, except in a non-partisan election. "Non-partisan election" means an election at which none of the candidates is to be nominated or elected as representing a political party any of whose candidates for Presidential election received votes in the last preceding election at which Presidential electors were selected. If a project staff member, whose salary is traceable in whole or in part to an ACTION grant, is also a State or local government employee, the staff member is covered by provisions of the Hatch Act, restricting in many instances public participation in partisan political activities. Questions about the coverage of the Hatch Act may be addressed to ACTION, Office of General Counsel, 1100 Vermont Avenue, NW., room 9200, Washington, DC 20525.

4. Nondiscrimination

No person with responsibility for the operation of a project shall discriminate with respect to any activity or program because of race, creed, belief, color, national origin, sex, age, handicap, or political affiliation.

5. Religious Activities

Volunteers and project staff funded by ACTION shall not give religious instruction, conduct worship services, or engage in any form of proselytization as part of their duties.

6. Labor and Anti Labor Activity

No grant funds shall be directly or indirectly utilized to finance labor or anti-labor organization or related activity.

7. Nondisplacement of Employed Workers

A student volunteer may not perform any service or duty which would supplant the hiring of workers who would otherwise be employed to perform similar services or duties; or result in the displacement of employed workers or impair existing contracts for service.

8. Noncompensation for Services

No volunteer or other person, organization, or agency shall request or receive any compensation for services of student volunteers. No volunteer site or any member or cooperating organization shall be requested or required to contribute, or to solicit contributions, to establish any part of a local share. This does not prevent the acceptance of cash contributions made voluntarily and without condition to the grantee for legitimate charitable purposes.

9. Volunteer Status

Student volunteers are not employees of the sponsoring organization or the U.S. Government while volunteers.

10. Nepotism

Persons selected for project staff positions may not be related by blood or marriage to other project staff, sponsor staff or officers, or members of the sponsor Board of Directors unless there is concurrence by ACTION.

(42 U.S.C. 4974)

Following is an address list of ACTION Regional Offices, along with the addresses of ACTION State Offices under their jurisdiction:

Region I

ACTION Regional Office, 10 Causeway Street, room 473, Boston, MA 02222-1039 Telephone: 617/565-7000.

ACTION State Office, 1 Commercial Plaza, 21st Floor, Hartford, CT 06103-3510 Telephone: 203/240-3237.

ACTION State Office, U.S. Courthouse, room 305, 76 Pearl Street, Portland, ME 04101-4188 Telephone: 207/780-3414.

ACTION State Office, 10 Causeway Street, room 473, Boston, MA 02222-1039 Telephone: 617/565-7018.

(New Hampshire/Vermont)

ACTION State Office, Federal Post Office & Courthouse, 55 Pleasant Street, room 223, Concord, NH 03301-3939 Telephone: 603/225-1450.

ACTION State Office, John O. Pastore Federal Bldg., room 232, Two Exchange Terrace, Providence, RI 02903-1758 Telephone: 401/528-5424.

Region II

ACTION Regional Office, 6 World Trade Center, room 758, New York, NY 10048-0206 Telephone: 212/466-3481.

ACTION State Office, 6 World Trade Center, room 758, New York, NY 10048-0206 Telephone: 212/466-4471.

ACTION State Office, 44 South Clinton, suite 702, Trenton, NJ 08609-1507 Telephone: 609/989-2243.

(Puerto Rico/Virgin Islands)

ACTION State Office, U.S. Federal Office Building, 150 Carlos Chardon Avenue, suite G-49, Hato Rey, PR 00917-1737 Telephone: 809/766-5314

Region III

ACTION Regional Office, U.S. Customs House, room 108, 2nd & Chestnut Streets, Philadelphia, PA 19106-2912 Telephone: 215/597-9972.

(Delaware/Maryland)

ACTION State Office, Federal Building, 31 Hopkins Plaza, room 1125, Baltimore, MD 21201-2814 Telephone: 301/962-4443.

ACTION State Office, Federal Building, room 372-D, 600 Martin Luther King, Jr. Place, Louisville, KY 40202-2230 Telephone: 502/582-6384.

ACTION State Office, Leveque Tower, room 304A, 50 W. Broad Street, Columbus, OH 43215-2888 Telephone: 614/469-7441.

ACTION State Office, Gateway Building, 3535 Market Street, room 2460, Philadelphia, PA 19104 Telephone: 215/596-4077

(Virginia/District of Columbia)

ACTION State Office, 400 N. 8th Street, room 1119, P.O. Box 10066, Richmond, VA 23240-1832 Telephone: 804/771-2197.

ACTION State Office, 603 Morris Street, 2nd Floor, Charleston, WV 25301-1409 Telephone: 304/347-5246.

Region IV

ACTION Regional Office, 101 Marietta Street, NW., suite 1003, Atlanta, GA 30323-2301 Telephone: 404/331-2860.

ACTION State Office, Beacon Ridge Towers, room 770, 600 Beacon Parkway West, Birmingham, AL 35209-3120 Telephone: 205/290-7184.

ACTION State Office, 3165 McCrory Street, suite 115, Orlando, FL 32803-3750 Telephone: 407/648-6117.

ACTION State Office, 75 Piedmont Avenue, N.E., suite 462, Atlanta, GA 30303-2587 Telephone: 404/331-4646.

ACTION State Office, Federal Building, room 1005-A, 100 West Capital Street, Jackson, MS 39269-1092 Telephone: 601/965-5664.

ACTION State Office, Federal Building, P.O. Century Station, 300 Fayetteville Street Mall, room 131, Raleigh, NC 27601-1739 Telephone: 919/856-4731.

ACTION State Office, Federal Building, room 872, 1835 Assembly Street, Columbia, SC 29201-2430 Telephone: 803/765-5771.

ACTION State Office, 265 Cumberland Bend Drive, Nashville, TN 37228-1890 Telephone: 615/736-5561.

Region V

ACTION Regional Office, 175 West Jackson Boulevard, suite 1207, Chicago, IL 60604-2704 Telephone: 312/353-5107.

ACTION State Office, 175 West Jackson Blvd., room 1207, Chicago, IL 60604-2704 Telephone: 312/353-3622.

ACTION State Office, 46 East Ohio Street, room 457, Indianapolis, IN 46204-1922 Telephone: 317/266-6724.

ACTION State Office, Federal Building, room 722, 210 Walnut Street, Des Moines, IA 50309-2195 Telephone: 515/284-4816.

ACTION State Office, Federal Building, room 658, 231 West Lafayette Blvd., Detroit, MI 48226-2799 Telephone: 313/226-7848.

ACTION State Office, 431 South 7th Street, room 2480, Minneapolis, MN 55415 Telephone: 612/334-4083.

ACTION State Office, Federal Building, 517 East Wisconsin Avenue, room 601, Milwaukee, WI 53202-4507 Telephone: 414/291-1118.

Region VI

ACTION Regional Office, 1100 Commerce, room 6B11, Dallas, TX 75242-0696 Telephone: 214/767-9494.

ACTION State Office, Federal Building, room 2506, 700 West Capitol Street, Little Rock, AR 72201-3291 Telephone: 501/324-5234.

ACTION State Office, Federal Building, room 248, 444 SE. Quincy, Topeka, KS 66603-3501 Telephone: 913/295-2540.

ACTION State Office, 640 Main Street, suite 102, Baton Rouge, LA 70801-1910 Telephone: 504/389-0471.

ACTION State Office, Federal Office Building, 911 Walnut, room 1701, Kansas City, MO 64106-2009 Telephone: 816/426-5256.

ACTION State Office, First Interstate Plaza, 125 Lincoln Avenue, suite 214-B, Santa Fe, NM 87501-2026 Telephone: 505/988-6577.

ACTION State Office, 200 NW. 5th Street, suite 912, Oklahoma City, OK 73102-6093 Telephone: 405/231-5201.

ACTION State Office, 611 East Sixth Street, suite 404, Austin, TX 78701-3747 Telephone: 512/482-5671.

Region VIII

ACTION Regional Office, Executive Tower Building, suite 2930, 1405 Curtis Street, Denver, CO 80202-2349 Telephone: 303/844-2671.

(Colorado/Wyoming)

ACTION State Office, Columbine Building, room 301, 1845 Sherman Street, Denver, CO 80203-1167 Telephone: 303/866-1070.

ACTION State Office, Federal Office Building, Drawer 10051, 301 South Park, room 192, Helena, MT 59626-0101 Telephone: 406/449-5404.

ACTION State Office, Federal Building, room 156, 100 Centennial Mall North, Lincoln, NE 68508-3896 Telephone: 402/437-5493.

(North & South Dakota)

ACTION State Office, Federal Building, room 225, 225 S. Pierre Street, Pierre, SD 57501-2452 Telephone: 605/224-5996.

ACTION State Office, Frank E. Moss U.S. Courthouse, 350 South Main Street, room 484, Salt Lake City, UT 84101-2198 Telephone: 801/524-5411.

Region IX

ACTION Regional Office, 211 Main Street, room 530, San Francisco, CA 94105-1914 Telephone: 415/744-3046.

ACTION State Office, 522 North Central, room 205-A, Phoenix, AZ 85004-2190 Telephone: 602/379-4825.

ACTION State Office, Federal Building, room 11221, 11000 Wilshire Blvd., Los Angeles, CA 90024-3671 Telephone: 213/575-7421.

(Hawaii/Guam/American Samoa)

ACTION State Office, Federal Building, #3326, P.O. Box 50024, 300 Ala Moana Blvd., Honolulu, HI 96850-0001 Telephone: 808/541-2832.

ACTION State Office, 4600 Kietzke Lane, suite E-141, Reno, NV 89502-5033 Telephone: 702/784-5314.

Region X

ACTION Regional Office, Jackson Federal Office Building, 915 Second Avenue, suite 3190, Seattle, WA 98174-1103 Telephone: 206/553-1558.

(Alaska/Washington).

ACTION State Office, Jackson Federal Office Building, 915 Second Avenue, suite 3190, Seattle, WA 98174-1103 Telephone: 206/553-4975.

ACTION State Office, 304 North 8th Street, room 344, Boise, ID 83702-5835 Telephone: 208/334-1707.

ACTION State Office, Federal Building, room 647, 511 NW. Broadway, Portland, OR 97209-3416 Telephone: 503/326-2261

Dated in Washington, DC. on November 13, 1991.

Jane A. Kenny,

Director, ACTION.

[FR Doc. 91-27680 Filed 11-15-91; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 91-036N]

National Advisory Committee on Microbiological Criteria for Foods; Nominations for Membership

This notice announces the Department's intent to solicit nominations for membership on the National Advisory Committee on Microbiological Criteria for Foods.

The Committee was established in April 1988 as a result of a recommendation by a 1985 report of the National Academy of Sciences' Committee on Food Protection, Subcommittee on Microbiological Criteria, entitled "An Evaluation of the Role of Microbiological Criteria for Foods."

The Committee provides advice and recommendations to the Secretaries of Agriculture and Health and Human Service concerning the development of microbiolocial criteria by which the safety and wholesomeness of food can be assessed, including criteria for microorganisms that indicate whether food has been processed using good manufacturing practices.

Nominations for membership are being sought from individuals with scientific expertise in the fields of Epidemiology, Food Technology, Microbiology, Packaging, Pathology, Public Health, and/or Toxicology.

Appointment(s) to the Committee will be made by the Secretary of Agriculture, after consultation with the Secretary of Health and Human Services. Nominees will be considered without discrimination for any reason such as race, color, religion, sex, national origin, age, or marital status. Because of the complexity of the issues to be addressed, it is anticipated that the full Committee will meet quarterly and subcommittees will meet as deemed necessary.

Interested persons are invited to submit a typed resume to Executive Secretariat, Food Safety and Inspection Service, room 3175-South building, 14th and Independence Avenue, SW., Washington, DC 20250. Nominations for membership must be postmarked no later than December 18, 1991. For additional information, please contact Linda Hayden at the above address, or by telephone on (202) 720-9150.

Done at Washington, DC, on: November 12, 1991.

Ronald J. Prucha,

Acting Administrator.

[FR Doc. 91-27554 Filed 11-15-91; 8:45 am]

BILLING CODE 3410-DM-M

Forest Service

Grand Island Advisory Commission Meeting Notice

AGENCY: Forest Service, USDA.

ACTION: Grand Island Advisory Commission Meeting.

SUMMARY: The Grand Island Advisory Commission Meeting originally scheduled for November 24 at 1:00 pm at the Munising Ranger District Office in Munising, Michigan (cited in the **Federal Register** as 56 FR 56972, November 7, 1991) has been cancelled. The meeting has been rescheduled for December 15 at 1:00 pm at the Munising Ranger District Office in Munising, Michigan. An agenda for that meeting will consist of Update on East Channel Lighthouse past and future, Michigan State Update on surveys being done, updated from Core Team on suggested changes in alternatives and further discussion on a new alternative.

Interested members of the public are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions about this meeting to Art Easterbrook, Staff Officer, Hiawatha National Forest, 2727 N. Lincoln Road, Escanaba, MI 49829, (906) 786-4062.

Dated: November 12, 1991.

William F. Spinner,

Forest Supervisor.

[FR Doc. 91-27736 Filed 11-15-91; 8:45 am]

BILLING CODE 3410-11-M

National Agricultural Statistics Service

Cattle Report Date Changes

Notice is hereby given that the National Agricultural Statistics Service (NASS) has changed release dates for Cattle inventory and Cattle On Feed reports to Fridays beginning in 1992. When Friday is a holiday, the report will be issued on the last workday before the holiday. This change was supported by both the public comments received on the proposal in the **Federal Register** of September 25, 1991, and analysis of the effects of different release days on cattle prices and marketings.

The specific release dates for 1992 are: Cattle inventory report, February 7 and July 24; and Cattle On Feed report, January 31, February 21, March 20, April 24, May 22, June 19, July 24, August 21, September 18, October 23, November 20, and December 18.

For more information contact William L. Pratt, Chief, Livestock, Dairy and Poultry Branch, Estimates Division, room 5906-S, NASS/USDA, Washington, DC 20250.

Dated: November 12, 1991.

Charles E. Caudill,

Administrator.

[FR Doc. 91-27570 Filed 11-15-91; 8:45 am]

BILLING CODE 3410-20-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; Ebrahim Esmaili-Shad; Order Denying Permission to Apply For or Use Export Licenses

In the matter of: Ebrahim Esmaili-Shad, 34E Elsham Road, Kensington, United Kingdom, and c/o Overseas Hybrid Systems, Unit #3, Catherine Wheel Road, Brentford, Middlesex TW8 8BD, United Kingdom, Respondent.

On May 16, 1990, Ebrahim Esmaili-Shad (Shad) was convicted of violating section 2410(a) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. 2401–2420 (1991)) (EAA).[1] Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of a violation of the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR parts 768–799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person has any interest at the time of his conviction may be revoked.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Shad's conviction for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Shad permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on May 16, 2000. I have also decided to revoke all export licenses issued pursuant to the EAA in which Shad had an interest at the time of his conviction.

Accordingly, *it is hereby Ordered.*

I. All outstanding individual validated licenses in which Shad appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Shad's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until May 16, 2000, Ebrahim Esmaili-Shad, 34E Elsham Road, Kensington, United Kingdom, and c/o Overseas Hybrid Systems, Unit #3, Catherine Wheel Road, Brentford, Middlesex TW8 8BD, United Kingdom, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization, or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Shad by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until May 16, 2000.

VI. A copy of this Order shall be delivered to Shad. This Order shall be published in the **Federal Register.**

Dated: November 5, 1991.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 91–27634 Filed 11–15–91; 8:45 am]

BILLING CODE 3510–DT–M

[1] The EAA expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991)).

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the EAA.

International Trade Administration

[A–583–009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners, a domestic interested party, and certain respondents, the Department of Commerce has conducted an administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan. The review covers one manufacturer/exporter of this merchandise to the United States,

Proton Electronic Industrial Co., Ltd., for the period April 1, 1989 through March 31, 1990. The preliminary results indicate the existence of dumping margins for the respondent during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 18, 1991.

FOR FURTHER INFORMATION CONTACT: G. Leon McNeill, or Maureen Flannery, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 31378) the final results of its last administrative review of the antidumping duty order on color television receivers, except for video monitors, from Taiwan (49 FR 18336, April 30, 1984). In April 1990, the petitioners, a domestic interested party, and certain respondents requested, in accordance with § 353.22(a) of the Department's Regulations, that we conduct an administrative review of the April 1, 1989 through March 31, 1990 period.

We published a notice of initiation of the antidumping duty administrative review on June 1, 1990 (55 FR 22366).

The Department initiated a review for Action, AOC, Capetronic, Funai, Hitachi, Kuang Yuan, Nettek, Paramount, Philips, Proton Electronic Industrial Co., Ltd. (Proton), RCA, Sampo, Sanyo, Shinlee Corp., Shirasuna, Tatung, and Teco Electric and Machinery Co., Ltd. for the period March 1, 1989 through April 31, 1990. Preliminary results for Action, AOC, Capetronic, Funai, Hitachi, Kuang Yuan, Nettek, Paramount, Philips, RCA, Sampo, Sanyo, Shinlee Corp., Shirasuna, Tatung, and Teco Electric and Machinery Co., Ltd. were published in the **Federal Register** on August 1, 1991 (56 FR 36765). Due to the timely filing of an allegation of sales made in the home market below the cost of production, preliminary results for Proton were not included in the August 1, 1991 notice. The Department has now conducted the administrative review from Proton for the April 1, 1989 through March 31, 1990 period, in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

On August 20, 1990 and June 21, 1991, Proton submitted its questionnaire response to the Department. On June 25, 1991, Zenith alleged that Proton sold color televisions in the home market during the April 1, 1989 through March 31, 1990 period at prices below the cost of production. After considering Zenith's allegation, we initiated a cost investigation. On September 3, 1991, Proton submitted its cost questionnaire response to the Department.

Scope of the Review

Imports covered by the review are shipments of color television receivers, except for video monitors, complete or incomplete, from Taiwan. The order covers all television receivers regardless of tariff classification. Effective January 1, 1989, this merchandise is classified under Harmonized Tariff Schedule (HTS) items 8528.10.80, 8529.90.15, 8529.90.20, and 8540.11.00. Prior to January 1, 1989, the merchandise was classifiable under item numbers 684.9246, 684.9248, 684.9250, 684.9252, 684.9253, 684.9255, 684.9256, 684.9258, 684.9262, 684.9263, 684.9270, 684.9275, 684.9655, 684.9656, 684.9658, 684.9660, 684.9663, 684.9864, 684.9866, 687.3512, 687.3513, 687.3514, 687.3516, 687.3518, and 687.3520 of the Tariff Schedules of the United States Annotated (TSUSA). TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

This review covers one manufacturer/exporter of this merchandise to the United States, Proton, for the period April 1, 1989 through March 31, 1990.

United States Price

In calculating United States price (U.S. price), the Department used exporter's sales price (ESP), as defined in section 772 of the Tariff Act. ESP was based on the packed delivered prices to the first unrelated purchasers in the United States. We made deductions, where appropriate, for ocean freight, marine insurance, U.S. and foreign inland freight, U.S. and foreign brokerage fees, U.S. customs duties, discounts, rebates, credit expenses, warranty expenses, advertising, sales promotion expenses, royalties, commissions to unrelated parties, inventory carrying costs, and the U.S. subsidiary's indirect selling expenses. Where applicable, we made an addition to import duties not collected on imported raw materials used to produce subsequently exported merchandise.

We accounted for commodity tax imposed in Taiwan, but not collected by reason of exportation to the United States, by multiplying the appropriate duty paying value (DPV) of the merchandise sold in the United States by the tax rate in Taiwan, and adding the result to the U.S. price. In Taiwan, the DPV is the ex-factory price for merchandise produced in a bonded factory; for merchandise produced in an unbonded factory, the DPV is the price to the first unrelated purchaser in the United States.

We accounted for the value-added tax (VAT) imposed in Taiwan, but not collected by reason of exportation to the United States, by multiplying the U.S. invoice value by the VAT rate, and adding the result to U.S. price. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value (FMV), we used home market price, or constructed value, as defined in section 773 of the Tariff Act, as appropriate.

Zenith alleged that Proton sold televisions in the home market at prices below the cost of production. We considered the allegation sufficient to warrant an investigation of possible sales below the cost of production.

When more than ten percent of the home market sales of a particular model are determined to be below cost, we exclude those below-cost sales from our FMV calculation. In this case, we found it unnecessary to exclude sales in the home market, because less than ten percent of sales were below cost.

Home market price was based on the packed, delivered price to unrelated purchasers in the home market. Where applicable, we made adjustments for inland freight, insurance, rebates, credit expenses, discounts, warranty expenses, advertising, royalties, after-sale warehousing, differences in the physical characteristics of the merchandise, and differences in packing.

We also made adjustments to home market price, where applicable, for indirect selling expenses to offset commissions, and to offset U.S. selling expenses deducted in ESP calculations, but not for amounts exceeding the U.S. commissions and expenses. Finally, we made circumstance-of-sale adjustments for commodity tax differences and VAT differences, where appropriate. No other adjustments were claimed or allowed.

We used constructed value when there were no contemporaneous sales of such or similar merchandise in the home market. Constructed value consisted of the sum of the costs of materials, fabrication, and general expenses; profit; and the cost of export packing. We used the actual amounts exceeded the statutory minimum amounts.

We made adjustments to constructed value, where applicable, for credit, warehousing, warranty, advertising, royalty, and indirect selling expenses.

Preliminary Result of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margin exists for the period April 1, 1989 through March 31, 1990:

Manufacturer/exporter	Margin (percent)
Proton Electronic Industrial Co., Ltd	1.54

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first workday thereafter.

Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication.

The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties of 1.54 percent based on the above margin shall be required for Proton. For any future entries of this merchandise from an exporter not covered in this or prior reviews, who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of estimated antidumping duties of 7.07 percent shall be required. This figure is the highest non-BIA rate from the most recent period for any firm in this case (56 FR 36765, August 1, 1991). These deposit requirements are effective for all shipments of color television receivers, except video monitors, from Taiwan, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations (19 CFR 353.22) (1990).

Dated: November 6, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-27674 Filed 11-15-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-045]

Steel Wire Rope From Japan; Determination Not To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of 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 steel wire rope from Japan.

EFFECTIVE DATE: November 18, 1991.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes or Thomas F. Futtner, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-8120/3814.

SUPPLEMENTARY INFORMATION:

Background

On October 1, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 49745) its intent to revoke the antidumping finding on steel wire rope from Japan (38 FR 28571, October 15, 1973). The Department may revoke an order if the Secretary concludes that the order is no longer of interest to interested parties. We did not receive a request for administrative review of the finding for the last five consecutive annual anniversary months, and therefore, published a notice of intent to revoke the finding pursuant to 19 CFR 353.25(d)(4).

On October 2, 1991, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers objected to our intent to revoke the finding. Therefore, we no longer intend to revoke the finding.

Dated: November 8, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary For Compliance.

[FR Doc. 91-27675 Filed 11-15-91; 8:45 am]

BILLING CODE 3510-DS-M

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, DOC.

ACTION: Notice of partially closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app., notice is hereby given that the National Institute of Standards and Technology Visiting Committee on Advanced Technology will meet on Tuesday, December 3, 1991, from 8:30 a.m. to 5 p.m. The Visiting Committee on Advanced Technology is composed of nine members appointed by the Director of the National Institute of Standards and Technology who are eminent in such fields as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. The purpose of this meeting is to review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress. Presentations will be given on implementation of industrial relations policies, an overview of the Computer Systems Laboratory, reviews of competence programs in biotechnology and lightwave technology, the Fastener Certification Program, and the Advanced Technology Program. The meeting will include laboratory tours on earthquake research, molecular spectroscopy on surfaces, and microstructure research.

The discussion on NIST Budget, scheduled to begin at 4 p.m. and end at 5 p.m. on December 3, 1991, will be closed.

DATES: The meeting will convene December 3, 1991, at 8:30 a.m. and will adjourn at 5 p.m..

ADDRESSES: The meeting will be held in Lecture Room A, Administration Building, National Institute of Standards and Technology, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Dale E. Hall, Visiting Committee Executive Director, National Institute of Standards and Technology,

Gaithersburg, Maryland 20899, telephone number (301) 975–2158.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on August 20, 1990, that portions of the meeting of the Visiting Committee on Advanced Technology which involve examination and discussion of the budget for the Institute may be closed in accordance with section 552(b)(9)(B) of title 5, United States Code, since the meeting is likely to disclose financial information that may be privileged or confidential.

Dated: November 8, 1991.

John W. Lyons,

Director.

[FR Doc. 91–27563 Filed 11–15–91; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Bycatch Reduction in Shrimp Fisheries off the South Atlantic States and in the Gulf of Mexico

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

ACTION: Notice of availability of Shrimp Trawl Bycatch Research Requirements Document and announcement of a regional bycatch research planning effort.

SUMMARY: NMFS announces the availability of a document entitled "Shrimp Trawl Bycatch Research Requirements." This document responds to Congressional requirements imposed pursuant to 1990 Amendments to the Magnuson Fishery Conservation and Management Act (Magnuson Act). Section 304(g) of the Magnuson Act, as amended, requires the Secretary of Commerce (Secretary) to "establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery" operating in areas under the authority of the South Atlantic and Gulf of Mexico Fishery Management Councils. In the document, the Secretary establishes scientific protocols for updating bycatch estimates, collecting data needed to assess the status and condition of fish stocks significantly affected by shrimp trawler bycatch, developing and evaluating bycatch reduction devices (BRDs), and for evaluating impacts of selected management options. The document also discusses the bycatch research program being conducted through a coordinated planning effort with commercial and recreational fishing interests, state fishery management agencies, Regional Fishery Management Councils, regional marine fishery commissions, and environmental organizations. By making this document available to interested parties, the Secretary intends to promote cooperative efforts to resolve this critical shrimp trawl bycatch problem.

ADDRESSES: Requests for copies of this document should be sent to Mr. Ronald L. Schmied, Southeast Regional Office, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Ron Schmied (813–893–3141) or Scott Nichols (601–762–4591).

SUPPLEMENTARY INFORMATION: While many fisheries target single species or stocks and employ the most efficient techniques and gear in the directed harvest of these species, gear is seldom totally selective and other species are taken incidentally. Most fisheries worldwide have an incidental capture of nontarget species. These nontarget species are collectively termed bycatch.

In some fisheries, the bycatch is commercially valuable and is landed along with the target species. In others, bycatch consists of non-marketable species or age groups that are discarded after the target species have been removed. In such cases, the bycatch is a nuisance to the fishery. However, the mortality of some bycatch species may adversely affect other fisheries and the ecosystem as a whole.

Bycatch discards in the shrimp fisheries of the Gulf of Mexico and along the southern Atlantic coast of the United States have been estimated at over 10 billion fish per year, with most of the catch composed of groundfish like croaker, seatrout, porgies, and spot. The principal gear used in these fisheries is the otter trawl, a non-selective bottom trawl that incidentally catches a variety of fish and invertebrate species. The species and size of individuals captured determines the edibility and marketability of bycatch.

Historically, in shrimp fisheries, bycatch that was edible or marketable was either consumed by the crew and their families or sold to supplement share-based wages. There are neither any economic studies of the retained finfish bycatch and its economic impact at the vessel operating level, nor many studies concerning the potential economic impact of discarded fish (especially small or juvenile specimens) on other fisheries. Also, while bycatch estimates by species exist for some Gulf of Mexico finfish, these estimates are based on data collected during the 1970s and early 1980s and, as such, need to be updated.

Recent (November 1990) amendments to the Magnuson Act are indicative of a growing Congressional interest in the shrimp bycatch problem. Section 304(g) of the Magnuson Act, as amended, directly relates to this issue:

(1) Within 9 months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, after consultation with the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council, establish by regulation a 3-year program to assess the impact on fishery resources of incidental harvest by the shrimp trawl fishery within the authority of such Councils.

(2) The program established pursuant to paragraph (1) shall provide for the identification of stocks of fish which are subject to significant incidental harvest in the course of normal shrimp trawl fish activity.

(3) For stocks of fish identified pursuant to paragraph (2), with priority given to stocks which (based upon the best available scientific information) are considered to be overfished, the Secretary shall conduct—

(A) a program to collect and evaluate data on the nature and extent (including the spatial and temporal distribution) of incidental mortality of such stocks as a direct result of shrimp trawl fishing activities;

(B) an assessment of the status and condition of such stocks, including collection of information which would allow the estimation of life history parameters with sufficient accuracy and precision to support sound scientific evaluation of the effects of various management alternatives on the status of such stock; and

(C) a program of data collection and evaluation for such stocks on the magnitude and distribution of fishing mortality and fishing effort by sources of fishing mortality other than shrimp trawl fishing activity.

(4) The Secretary shall, in cooperation with affected interests, commence a program to design, and evaluate the efficacy of, technological devices and other changes in fishing technology for the reduction of incidental mortality or nontarget fishery resources in the course of shrimp trawl fishing activity. Such program shall take into account local conditions and include evaluation of any reduction in incidental mortality, as well as any reduction or increase in the retention of shrimp in the course of normal fishing activity.

The "Shrimp Trawl Bycatch Research Requirements Document" announced by this **Federal Register** notice has been prepared by NMFS in partial response to the above Congressional mandates. The principal goal of the document is to provide a scientifically sound basis for developing and implementing a comprehensive, well-coordinated research plan for understanding and reducing shrimp fishery bycatch in the Southeast Region. Specific objectives are to:

1. Update and expand bycatch estimates temporally and spatially,

including offshore, nearshore, and inshore waters;

2. Assess the status and condition of fish stocks significantly impacted by shrimp trawler bycatch with emphasis given to overfished species under the authority of the Gulf and the South Atlantic Fishery Management Councils; and

3. Identify, develop, and evaluate gear, non-gear and tactical fishing options for reducing bycatch.

These objectives will only be achieved through a fully cooperative research and development effort directly involving NMFS, the commercial and recreational fishing industries, universities, state fishery management agencies, regional marine fisheries commissions, Regional Fishery Management Councils, and environmental organizations. Coordination with these diverse interest groups will be accomplished in part through a 30-member Finfish Bycatch Program Steering Committee established by the Gulf and South Atlantic Fisheries Development Foundation (G&SAFDF) using grant funds provided by NMFS under the Saltonstall Kennedy (S-K) and Marine Fisheries Initiative (MARFIN) programs. Questions regarding the G&SAFDF Steering Committee and shrimp trawler bycatch program should be directed to Mr. Peter Hoar in Tampa, Florida (813-286-8390).

Topics covered in the Research Requirements Document extend from a summary by the bycatch problem to outreach and technology transfer options. Current shrimp fisheries are described, a review of bycatch-related literature is presented, recent developments in the shrimp fishery are outlined, and predicted bycatch impacts on other fisheries are discussed. Additionally, ongoing NMFS, state, university, and shrimp industry research and development activities related to bycatch are summarized. A discussion of data collection needs and sampling requirements is presented, and an overview is provided on stock assessments and current status of stock knowledge. A development, testing, and sampling protocol for BRDs is outlined and approaches for evaluating management options from biological and economic perspectives are presented. Finally, the Requirements Document discusses communication and coordination needs, and administrative and management requirements.

The document places considerable research emphasis on characterization of shrimp trawl bycatch. A clear understanding of when, where, and how many individuals of a given species and age group may be impacted by shrimp trawling is essential for effective management by bycatch in the Southeast. Once shrimp trawl bycatch is adequately described and quantified, stock assessments can be conducted to establish the status and condition of impacted species, and bycatch reduction options can be evaluated in terms of their impacts on the shrimping industry and other commercial and recreational fisheries.

Notably, the Gulf of Mexico Fishery Management Council (Council) has prepared draft Amendment 6 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico. If approved, this amendment would require all shrimpers trawling for shrimp in the Gulf of Mexico EEZ to obtain a vessel permit. It would also require vessels selected by the Regional Science and Research Director to carry an observer to collect shrimp harvest and bycatch data. These provisions could substantially assist in the implementation of a bycatch research program. The Gulf of Mexico Fishery Management Council (Council) will be holding public hearings on this draft amendment in November and December 1991. Copies of the draft amendment and information on the specific dates and locations of the public hearings are available from the gulf of Mexico Fishery Management Council (Council), Lincoln Center, suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

The Magnuson Act Amendments specify that stock assessments be conducted on those species found to be subject to significant incidental harvest by the shrimp trawl fishery, especially those under Federal jurisdiction that are considered to be overfished. Data required to conduct stock assessments for numerous long-lived species may be prohibitively costly to collect because of the need to adequately sample all age categories within the population. Given these constraints, a sampling program to obtain vital information needed for stock assessments is discussed in the document.

The document also emphasizes technical requirements for development and evaluation of BRDs. Cooperative work with industry has already led to the identification of several trawl gear modifications for reducing bycatch. Through a cooperative research program, these approaches and others will be thoroughly tested and evaluated under a wide range of environmental and fishing conditions.

The shrimp industry needs to play a major role in the development, modification, and improvement of BRDs. Industry involvement will be sought through participation on the G&SAFDF Finfish Bycatch Program Steering Committee and through direct interaction with shrimp and related industry associations.

Economic considerations also must be incorporated in the development of long-term management strategies for bycatch control. Shrimp bycatch management measures are perceived by some to have negative impacts on the shrimp fishery through reduced catch rates, increased unit cost of production, and compressed fishing seasons or harvest areas. Further, some believe adverse effects may occur if operators of trawlers their effort to other fisheries to avoid bycatch reduction management measures. While these effects may be true for certain management options, other measures may have positive benefits in the form of increased count size and value of harvested shrimp, improved towing efficiency, and reduced labor required in culling the catch. Additionally, there may be positive economic effects if bycatch mortality is sufficiently reduced to produce significant gains in impacted commercial and recreational finfish fisheries.

The need for analysis of alternative management measures and combinations thereof is anticipated and discussed in the document as a research need best met through the development and use of predictive bioeconomic models. While shrimp vessel, shrimp fleet, and biological models already exist, integrated models that reflect biological, social, and economic impacts on other fisheries need to be developed, refined, and verified. Impacts on commercial and recreational fisheries will need to be examined, along with other public impacts, including the cost of management and impacts on the structure and economies of coastal communities.

With sufficient funding and cooperation, viable bycatch reduction options (e.g., gear modifications and fishing technique changes) should be available for use by the shrimp industry by January 1994. Some new gear and fishing techniques or tactics may be available for voluntary industry use before 1994.

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

Dated: November 12, 1991.

David S. Crestin,

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

[FR Doc. 91-27572 Filed 11-15-91; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Prospective Grant of Exclusive Patent License

This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Technical Information Service (NTIS), U.S. Department of Commerce, is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Patent Number 4,321,251 to CMT Associates, Inc. having a place of business in Washington Crossing, PA. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention describes a method of clinical diagnosis and a composition for detecting malignant lesions of the oral cavity by utilizing toluidine blue as a rinse, preferably in a solution of acetic acid, water and ethanol.

The availability of the invention for licensing was published in the **Federal Register** of March 26, 1981. The availability of the patent as an application for licensing was also published in the Government Inventions for Licensing of March 17, 1981. A copy of the above-identified patent may be purchased for $1.50 from the Commissioner of Patents and Trademarks, Box 9, Washington, DC 20231.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Papan Devnani (telephone 703/487-4738), Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Applications for a license filed in response to this notice will be treated as objections to the grant of the contemplated license. Only written comments and/or applications for a license which are received by NTIS within sixty (60) days of this notice will be considered.

Douglas J. Campion,

Center for Utilization of Federal Technolgy, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91-27635 Filed 11-15-91; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Union of Soviet Socialist Republics

November 12, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 19, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Categories 313/315 is being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 49676, published on November 30, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 12, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 26, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton textile products, produced or manufactured in the Union of Soviet Socialist Republics and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on November 19, 1991, you are directed to amend the November 26, 1990 directive to increase the limit for Categories 313/315 to 25,000,000 square meters [1], as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the Union of Soviet Socialist Republics.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-27673 Filed 11-15-91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

The Secretary of Defense

Ada Board; Meeting

ACTION: Notice of meeting.

SUMMARY: A meeting of the Ada Board will be held Tuesday and Wednesday, December 10 and 11, 1991 from 9 a.m. to 5 p.m. at the Holiday Inn—Melbourne Oceanfront, 2605 North AIA, Indialantic, Florida 32903.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Carlson, Ada Information Clearinghouse c/o IIT Research Institute, 4600 Forbes Boulevard, Lanham, Maryland, 20706, (703) 685-1477.

Dated: November 12, 1991.

L.M. Bynum,

Office of the Secretary of Defense, Federal Register Liaison Office, Department of Defense.

[FR Doc. 91-27566 Filed 11-15-91; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Science Board Task Force on Joint Precision Interdiction (JPI)

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Joint Precision Interdiction (JPI) will meet in closed session on January 16-17, 1992 at Fort Monroe, Virginia.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1990.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will review acquisition strategies needed for an optimum family of surveillance, reconnaissance, and target acquisition systems, C3I systems and weapon systems required to perform the JPI mission.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law 92-463, as amended (5 U.S.C. app. II, (1988)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c) (1) (1988), and that accordingly this meeting will be closed to the public.

Dated: November 13, 1991.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-27642 Filed 11-15-91; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Canada, concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/CA(EU)-18, for the transfer of 25 kilograms of uranium metal, enriched to 93.15 percent in the isotope uranium-235 from the United Kingdom to Canada, for the manufacture of MTR fuel elements.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC on November 13, 1991.

Richard H. Williamson,

Associate Deputy Assistant Secretary for International Affairs.

[FR Doc. 91-27669 Filed 11-15-91; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER92-174-000, et al.]

The Cincinnati Gas & Electric Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 8, 1991.

Take notice that the following filings have been made with the Commission:

1. The Cincinnati Gas & Electric Co.

[Docket No. ER92-174-000]

Take notice that on November 1, 1991, The Cincinnati Gas & Electric Company (CG&E) tendered for filing with the Commission a Third Party Limited Term Agreement between CG&E and Cleveland Public Power (CPP) dated October 3, 1991, a Letter Agreement between CG&E and CPP dated August 6, 1991 and a Third Party Short Term Agreement between CG&E and The City of Piqua, Ohio (Piqua) dated September 17, 1991. The CG&E/CPP contracts are being filed in connection with CG&E's FERC Rate Schedule No. 13 and the CG&E/Piqua contract is being filed in connection with CG&E FERC Rate Schedule No. 39.

Copies of this filing were served upon Cleveland Public Power, The City of Piqua, Ohio, The Dayton Power & Light Company, American Electric Power Service Corporation and the Ohio Public Utilities Commission.

Comment date: November 22, 1991 in accordance with Standard Paragraph E at the end of this notice.

2. Montaup Electric Co.

[Docket No. ER92-148-000]

Take notice on November 1, 1991, Montaup Electric Company ("Montaup" or "the Company") tendered for filing rate schedule revisions incorporating the 1992 forecast billing rate for its purchased capacity adjustment clause (PCAC) for all-requirements service to Montaup's affiliates Eastern Edison Company ("Eastern Edison") in Massachusetts and Blackstone Valley Electric Company ("Blackstone") in Rhode Island and contract demand service to one affiliate Newport Electric Corporation and two non-affiliated customers: The Town of Middlesborough in Massachusetts and the Pascoag Fire District in Rhode Island. The new forecast billing rate is $14.06832/kW-Mo. Montaup requests that the new rate become effective January 1, 1992 in accordance with the PCAC.

Montaup's filing was served on the affected customers, the Attorneys General of Massachusetts and Rhode Island, the Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. West Texas Utilities Co.

[Docket No. ER92-173-000]

Take notice that on November 1, 1991, West Texas Utilities Company (WTU) tendered for filing an Agreement for Firm Transmission Service Between WTU, Tex-La Electric Cooperative of Texas, Inc. (Tex-La) and Rayburn Country Electric Cooperative, Inc. (Rayburn). The Agreement relates to transmission service to be provided by WTU in connection with the purchase by Tex-La and Rayburn of 7 MW of reserve capacity for delivery to Brazos Electric Power Cooperative, Inc.

WTU requests an effective date of January 1, 1992. Copies of the filing were served on Tex-La, Rayburn and the Public Utility Commission of Texas.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. PacifiCorp Electric Operations

[Docket No. ER92-178-000]

Take notice that PacifiCorp Electric Operations ("PacifiCorp"), on November 6, 1991, tendered for filing in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations, an Operation and Maintenance Service Agreement ("Agreement") between PacifiCorp Electric Operations ("PacifiCorp") and Wasco Electric Cooperative, Inc. ("WASCO") dated October 18, 1991.

Under terms of the Agreement, PacifiCorp will provide operation and maintenance service for WASCO's 69 kV circuit breaker located in PacifiCorp's Warm Springs Substation.

PacifiCorp requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that an effective date of January 1, 1987 be assigned to the Agreement, this date being consistent with the date of commencement of service and an effective date of January 1, 1992 be

assigned to the Annual Charge shown in Exhibit A to the Agreement.

Copies of this filing were supplied to WASCO and the Public Utility Commission of Oregon.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. Ocean State Power II

[Docket No. ER92-136-000]

Take notice that on October 25, 1991, Ocean State Power II tendered for filing a Notice of Cancellation of Supplement No. 10 in this docket.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. The Washington Water Power Co.

[Docket No. ER92-96-000]

Take notice that on November 1, 1991, The Washington Water Power Company (WWP) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.11 an Amendment 1 to its FERC Electric Tariff Volume No. 4. WWP states that the purpose of the amendment is to request an effective date of November 1, 1991 and to request a waiver of the sixty (60) filing requirement. Also included in the amendment was a signed service agreement from Portland General Electric.

A copy of the filing was served upon Portland General Electric.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Florida Power & Light Co.

[Docket No. ER92-143-000]

Take notice that Florida Power & Light Company (FPL), on October 31, 1991, tendered for filing the Long-Term Agreement to Provide Capacity and Energy by Florida Power & Light Company to Florida Keys Electric Cooperative Association, Inc. FPL requests that the agreement be made effective January 1, 1992.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Central Power & Light Co.

[Docket No. ER92-171-000]

Take notice that on November 1, 1991, Central Power and Light Company (CPL) tendered for filing:

1. Amendment No. 2 (Amendment No. 2) to the Transmission Service Agreement dated January 22, 1981 (Transmission Services Agreement) between CPL and the City of Brownsville, Texas, acting by and through the Public Utilities Board of the City of Brownsville, Texas (PUB); and

2. A Letter Agreement dated October 21, 1991 (Letter Agreement) that provides for the sale by CPL to PUB of capacity and associated energy during the period beginning January 1, 1992 and ending December 31, 1995.

Amendment No. 2 provides for increased wheeling charges applicable to the delivery by CPL to PUB of PUB's entitlement to capacity and energy generated at the Falcon and Amistad hydroelectric facilities of the International Boundary Waters Commission. The Letter Agreement provides for the sale by CPL to PUB in the calendar years 1992 through 1995, inclusive, of capacity in amounts ranging from 10 to 25 MW.

CPL requests an effective date of January 1, 1992. Copies of the filing were served upon PUB and the Public Utility Commission Texas.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Co.

[Docket No. ER92-175-000]

Take notice that on November 4, 1991, Southern California Edison Company (Edison) tendered for filing a change of rate for scheduling and dispatching services under the provisions of Edison's agreements with the parties listed below as embodied in their FERC Rate Schedules. Edison requests that the new rates for these services be made effective January 1, 1992.

	Rate schedule FERC No.
1. City of Anaheim	130, 164, 241, 246
2. City of Azusa	160, 242, 247
3. City of Banning	159, 243, 248
4. City of Colton	162, 244, 249
5. City of Riverside	129, 245, 250
6. City of Vernon	149, 154, 172, 207, 257, NA [1]
7. Arizona Electric Power Cooperative (AEPCO)	132, 161
8. Arizona Public Service Company (APS)	132, 161
9. California Department of Water Resources (CDWR)	112, 113, 161
10. City of Burbank (Burbank)	166
11. City of Glendale (Glendale)	143
12. City of Los Angeles Department of Water and Power (LA)	102, 118, 140, 141, 163, 188
13. City of Pasadena (Pasadena)	158
14. Imperial Irrigation District (IID)	259
15. M-S-R Public Power Agency (M-S-R)	153
16. Northern California Power Agency (NCPA)	240
17. Pacific Gas and Electric Company (PG&E)	117, 147, 256
18. San Diego Gas & Electric Company (SDG&E)	151, 232
19. Western Area Power Administration (WAPA)	120

[1] FERC rate number "not available," pending approval, filed on October 8, 1991, Docket No. ER92-112-000.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

10. Central Vermont Public Service Corp.

[Docket No. ER92-145-000]

Take notice that Central Vermont Public Service Corporation ("Central Vermont") on October 31, 1991 tendered for filing an agreement for the sale of Central Vermont system incremental power and energy to the municipal utilities of Orleans, Enosburg Falls and Barton.

Central Vermont requests that the Commission waive its notice requirement in order to allow the agreement to become effective on November 1 in accordance with its terms. In support of its request Central Vermont states that the agreement was filed on the same day that it was entered into.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

11. New York Power Pool

[Docket No. ER92-142-000]

Take notice that on October 30, 1991, the members of the New York Power Pool ("NYPP") filed proposed amendments to the NYPP Agreement, on file with the Commission as NYPP FERC Rate Schedule No. 1. These amendments take the form of proposed rate and non-rate changes to the Agreement. The principal non-rate change is to make the status of the Power Authority of the State of New York ("Authority") under the Agreement as similar as practicable to that of the non-governmental NYPP members, giving due recognition to the Authority's status as an instrumentality of the State of New York. The proposed rate change is the implementation of a new methodology used to compute the charges that compensate members for

their provision of transmission services in conjunction with economy energy transactions (known as "T-Fund" charges).

NYPP requests that all proposed changes be effective as of January 1, 1992, and states that all NYPP members have agreed to the proposed changes and the proposed effective date. NYPP further states that copies of the filing were served on all NYPP members and the New York Public Service Commission.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

12. Pacific Gas & Electric Co.

[Docket No. ER92-147-000]

Take notice that on November 1, 1991, Pacific Gas and Electric Company ("PG&E") tendered for filing two agreements dated October 4, 1991: (1) between PG&E and Puget Sound Power & Light company ("Puget") for the seasonal exchange of capacity and associated energy ("the Exchange Agreement"), and (2) between PG&E and Bonneville Power Administration of the United States Department of Energy ("Bonneville") for the mitigation energy associated with the Exchange Agreement, Puget will provide up to 300 megawatts of capacity and 413,000 megawatt-hours of energy during four summer months each year, and in exchange PG&E will provide Puget with an equal amount of capacity and energy during four winter months. This Exchange Agreement has a minimum term of ten years and may be terminated by either party with five years' written notice. Under the Mitigation Agreement, PG&E will provide Bonneville with 18,000 megawatt-hours of mitigation energy per year between September and March, and in return Bonneville will transmit the power under the Exchange Agreement between PG&E's electric system and that of Puget under its Assured Delivery service. The Mitigation Agreement will terminate at the same time as the related transmission service agreement between Bonneville and Puget.

Copies of this filing have been served upon Puget, Bonneville and the California Public Utilities Commission.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

13. Central Power and Light Co.

[Docket No. ER92-172-000]

Take notice that on November 1, 1991, Central Power and Light Company (CPL) tendered for filing an Agreement for Firm Transmission Service between CPL, Tex-La Electric Cooperative of Texas, Inc. (TEX-LA) and Rayburn Country Electric Cooperative, Inc. (Rayburn). The Agreement relates to transmission service to be provided by CPL in connection with the purchase by Tex-La and Rayburn of 7 MW of reserve capacity for delivery to Brazos Electric Power Cooperative, Inc.

CPL requests an effective date of January 1, 1992. Copies of the filing were served on Tex-La, Rayburn and the Public Utility Commission of Texas.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

14. PSI Energy, Inc.

[Docket No. ER92-144-000]

Take notice that on October 31, 1991, PSI Energy, Inc. (PSI) tendered for filing an Interchange Agreement dated October 29, 1991 between PSI and Baltimore Gas and Electric Company (BG&E). The Interchange Agreement provides for a single service by PSI to BG&E: Service Schedule A Short-Term Power. The Interchange Agreement will accommodate the later addition of other Service Schedules.

Also, a Power Release Agreement between PSI and BG&E dated October 29, 1991 was filed. This agreement contains provisions that the parties have agreed to concerning how they intend to implement any temporary release of their respective obligations to sell and to purchase short-term power pursuant to Service Schedule A.

PSI has requested waiver of the Commission's notice requirements to allow an effective date of December 30, 1991.

Copies of the filing were served on the Maryland Public Service Commission.

Comment date: November 22, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27579 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2409-035]

Calaveras County Water District, CA; Availability of Environmental Assessment

November 8, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to install a 300-kilowatt microturbine at the existing McKays Point Dam on the North Fork Stanislaus River in Calaveras and Tuolumne Counties, California. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27580 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-131-000, et al.]

Texas Gas Transmission Corp., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Texas Gas Transmission Corp.

[Docket No. CP92-131-000]

November 1, 1991.

Take notice that on October 28, 1991, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP92-131-000 an application for partial abandonment of sales service pursuant to section 7(b) of the Natural Gas Act to each of four customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas indicates that, as part of its currently-pending general rate case in Docket No. RP90-104-000, *et al*, its sales service customers were given the option to renominate their current D-1 or daily sales contract demand service levels and to convert such quantities to firm transportation service by Texas Gas or reduce those D-1 levels on Texas Gas' system. Texas Gas states that Memphis Light, Gas and Water Division has request data conversion of 50,000 million Btu per day of its existing contract demand to firm transportation service by Texas Gas and also requested a reduction in firm sales contract demand of 40,000 million Btu per day resulting in a new sales contract demand of 250,000 million Btu per day.

Texas Gas also states that Central Illinois Public Service Company has requested a conversion to firm transportation on Texas Gas of 1,000 million Btu per day, resulting in a new sales contract demand of 12,000 million Btu per day. It is also stated that Mississippi Valley Gas Company has requested a conversion to firm transportation on Texas Gas of 9,500 million Btu per day, resulting in a new sales contract demand of 82,527 million Btu per day. In addition, Texas Gas states that City of Elizabethtown, Kentucky has requested a conversion to firm transportation on Texas Gas' system of 2,225 million Btu per day, resulting in a new sales contract demand of 7,495 million Btu per day.

Texas Gas states that it is seeking authority to abandon its sales obligation to these customers by the amounts sought to be converted and/or reduced effective November 1, 1991. Texas Gas indicates that it cannot utilize the automatic abandonment authority provided in § 284.10(d) of the Commission's Regulations because the service agreements between Texas Gas and these customers are not "eligible firm sales service agreements" as defined in § 284.10(b) of the Commission's Regulations.

Texas Gas requests an effective date of the conversions/reductions of November 1, 1991, based on all four customers' agreement not to call on Texas Gas for sales service transportation and/or reduced after the requested effective date. It is indicated that Texas Gas would perform the requested transportation service pursuant to its blanket certificate issued in Docket No. CP89-686-000.

Texas Gas indicates that no abandonment of facilities is proposed.

Comment date: November 22, 1991, in accordance with standard paragraph F at the end of this notice.

2. HPL Gas Co.

[Docket No. CI92-6-000]

November 1, 1991.

Take notice that on October 28, 1991, HPL Gas Company (HPL Gas) of P.O. Box 1188, Houston, Texas 77251-1188, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing sales for resale in interstate commerce of natural gas from any source including gas purchased from an interstate pipeline under an existing or subsequently approved blanket certificate authorizing interruptible sales for resale of surplus system supply (ISS gas), imported gas and gas purchased from non-first sellers such as intrastate pipelines and local distribution companies, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: November 21, 1991, in accordance with standard paragraph J at the end of the notice.

3. Westar Marketing Co.

[Docket No. CI92-5-000]

November 1, 1991.

Take notice that on October 28, 1991, Westar Marketing Company (Westar), c/o Universal Resources Corporation, 79 South State Street, P.O. Box 11070, Salt Lake City, Utah 84147, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorizing it to make sales for resale in interstate commerce of natural gas imported by Westar from Canada, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: November 14, 1991, in accordance with standard paragraph J at the end of this notice.

4. United Gas Pipe Line Co.

[Docket No. CP92-137-000]

November 6, 1991.

Take notice that on October 30, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP92-137-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a 2-inch tap and related facilities, 1,000 feet of 2-inch pipeline, a meter station and regulator facilities located in Jones County, Mississippi, to transport natural gas to Gulf South, under United's blanket certificate issued in Docket No. CP82-430-000 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 for public inspection.

United states that the proposed tap and related facilities would enable United to transport up to 240 Mcf of natural gas per day to Gulf South for delivery to Southern Hens, Inc., a chicken processing plant, under United's ITS rate schedule.

United states further that it would construct and operate the proposed tap and related facilities in compliance with 18 CFR part 157, subpart F, and that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Comment date: December 23, 1991, in accordance with standard paragraph G at the end of this notice.

5. United Gas Pipe Line Co.

[Docket No. CP92-136-000]

November 6, 1991.

Take notice that on October 30, 1991, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP92-136-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a 6-inch tap and related facilities, located in Escambia County, Alabama, to transport natural gas for Southern Gas Transmission Inc. (Southern Gas), under United's blanket certificate issued in Docket No. CP82-430-000 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.

United states that the proposed tap and related facilities would enable United to transport up to 10,000 Mcf of natural gas per day for Southern Gas Company under United's ITS rate schedule.

United states further that it would construct and operate the proposed tap and related facilities in compliance with 18 CFR part 157, subpart F, and that it has sufficient capacity to render the proposed service without detriment or disadvantage to its other existing customers.

Comment date: December 23, 1991, in accordance with standard paragraph G at the end of this notice.

6. Southern Natural Gas Co.

[Docket No. CP92-124-000]

November 6, 1991.

Take notice that on October 24, 1991, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP92-124-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain segments of mainline transmission pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern states that it proposes to abandon, in place, its auxiliary 14-inch Sabine River Crossing pipeline (Sabine auxiliary), consisting of approximately 932 feet, located on Southern's 14-inch Logansport Line (Logansport Line) in Shelby County, Texas and De Soto Parish, Louisiana. Southern states that a 14-inch main pipeline crossing and the Sabine auxiliary were constructed to deliver natural gas from wells in the Joaquin Field to Southern's system near Logansport, Louisiana. Since the 14-inch main pipeline crossing, which was replaced in 1982, has existing operational capability and capacity sufficient to deliver the Joaquin Field volumes to Southern's system, Southern states that the costs to repair another leak which has developed in the Sabine auxiliary or to replace the Sabine auxiliary would not be economical. Further, Southern indicates that the abandonment of the Sabine auxiliary would result in savings in annual operation and maintenance costs. The total estimated cost of the abandonment of these facilities is $3,500, it is indicated. Southern states that the proposed abandonment would not affect sales or service to Southern's customers and the effect on Southern's overall capacity would be *de minimus*.

Comment date: November 27, 1991, in accordance with standard paragraph F at the end of this notice.

7. El Paso Natural Gas Company

[Docket No. CP92-122-000]

November 6, 1991.

Take notice that on October 24, 1991, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP92-122-000, a request pursuant to section 7(b) of the Natural Gas Act and § 157.5 of the Commission's Regulations for permission and approval to abandon certain exchanges of natural gas with Phillips 66 Natural Gas Company (Phillips 66), successor in interest to Phillips Petroleum Company, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that it proposes to abandon gas exchanges with Phillips that were provided in accordance with the provisions of gas exchange agreements dated June 21, 1976, November 15, 1976 and June 18, 1982, between El Paso and Phillips 66 (gas exchange agreements). El Paso indicates that the gas exchange services are performed pursuant to special Rate Schedules X-37, X-38 and X-63 of its FERC Gas Tariff, Third Revised Volume No. 2. The application states that El Paso and Phillips 66 have agreed that, with the implementation of open-access transportation services, the case-specific certificated exchange agreements can be effectively and efficiently consolidated and further transportation service necessary by El Paso for Phillips 66 can be provided under El Paso's blanket transportation certificate. El Paso indicates that El Paso and Phillips 66 have agreed to consolidate any imbalances currently existing under the gas exchange agreements into a blanket certificate agreement under part 284 of the Commission's Regulations. The application states that relative to the gas exchange agreement dated June 18, 1982, as amended, El Paso was advised by Phillips 66 that it will seek the necessary abandonment authorization from the Commission and, upon receipt of such authorization, will file to cancel its FERC Gas Rate Schedule No. 698.

Comment date: November 27, 1991, in accordance with standard paragraph F at the end of this notice.

8. Northern Natural Gas Co.

[Docket No. CP92-129-000, Docket No. CP92-130-000]

November 6, 1991.

Take notice that on October 28, 1991, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP86-435-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Northern and is summarized in the attached appendix.

Comment date: December 23, 1991, in accordance with standard paragraph G at the end of this notice.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP92-129-000 (10-28-91)	Texaco Gas Marketing, Inc. (Marketer).	21,560 16,170 7,869,400	KS, OK, TX	KS, OK	10-1-91 FT-1, Firm.	ST92-206-000 10-1-91.
CP92-130-000 (10-28-91)	Mobile Natural Gas, Inc. (Marketer).	121,000 90,750 44,165,000	KS	KS	9-9-91, FT-1, Firm.	ST92-204-000 10-1-91.

[1] These prior notice requests are not consolidated.

9. Panhandle Eastern Pipe Line Co.

[Docket No. CP92-123-000]

November 6, 1991.

Take notice that on October 24, 1991, Panhandle Eastern Pipe Line Company (Panhandle) filed in Docket No. CP92-123-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon sales service to four small volume customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle proposes to abandon sales service to the customers as shown in the table below. Panhandle states that the four Rate Schedule SSS customers listed in the table have elected to terminate their sales service and convert to firm transportation under Rate Schedule SCT. Panhandle does not propose to abandon any facilities.

Customer	Current rate schedule	Current peak CD (Mcf)	Proposed rate Schedule SCT (Dth/d)	Proposed effective date
Town of Bainbridge, IN	SSS	364	364	10-1-91
Town of Roachdale, IN	SSS	600	600	11-1-91
Montezuma Municipal Utilities	SSS	850	850	11-1-91
Westfield Gas Corporation	SSS	1,150	1,150	11-1-91

Comment date: November 27, 1991, in accordance with standard paragraph F at the end of this notice.

10. Tennessee Gas Pipeline Co.

[Docket No. CP92-138-000]

November 6, 1991.

Take notice that on October 31, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-138-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Centran Corporation, a producer, under the blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that, pursuant to an agreement dated January 31, 1989, under its Rate Schedule IT, it proposes to transport up to 18,974 Dth per day equivalent of natural gas. Tennessee indicates that the gas would be transported from various receipt points on its system, and would be redelivered in various delivery points. Tennessee further indicates that it would transport 18,974 Dth on an average day and 6,925,510 Dth, annually.

Tennessee advises that service under § 284.223(a) commenced September 1, 1989.

Comment date: December 23, 1991, 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 convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the protest to the request. If no protest is filed within the time allowed therefore, 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.

Standard Paragraph

J. Any person desiring to be heard or make any protest with reference to said filings 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, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27581 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-1-000]

Alabama-Tennessee Natural Gas Co. Proposed PGA Rate Adjustment

November 8, 1991.

Take notice that on November 1, 1991, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee),

tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective January 1, 1992:

Twenty-Eighth Revised Sheet No. 4
Alternate Twenty-Eighth Revised Sheet No. 4

Alabama-Tennessee states that the purpose of the filing is to adjust its rates to conform to the rates of its suppliers. Alabama-Tennessee states that the instant filing represents its annual purchased gas cost adjustment pursuant to Section 154.305 of the Commission's Regulations and contains the Assessment of Past Performance required by § 154.306.

According to Alabama-Tennessee, the tariff sheets reflect alternate methods for computing the surcharge rate for refunding the credit balance in Alabama-Tennessee's current deferral subaccount of FERC Account 191 under § 154.305(d) of Commission's Regulations and section 20.2 of the General Terms and Conditions of Alabama-Tennessee's FERC Gas Tariff.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected state regulatory 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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 25, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27582 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TF92-1-20-000, TM92-5-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

November 8, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on November 1, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Primary Tariff Sheets

Proposed to be effective November 1, 1991

8 Rev Sheet No. 21
8 Rev Sheet No. 22
4 Rev Sheet No. 25
8 Rev Sheet No. 26
8 Rev Sheet No. 27
8 Rev Sheet No. 28
7 Rev Sheet No. 29

Algonquin states that the revised tariff sheets listed above are being filed as part of an Interim Purchased Gas Adjustment ("PGA") and a Transmission and Compression by Others ("T&C") Tracker pursuant to sections 17 and 39 of the General Terms and Conditions of Algonquin's FERC Gas Tariff to reflect reductions in Algonquin's firm sales rates. The primary tariff sheets reflect a reduction in Algonquin's demand and commodity sales rates of 7.30¢ and 12.55¢ per MMBtu, respectively, from those rates contained in Algonquin's out-of-cycle PGA in Docket Nos. TQ92-1-20-000 and TM92-3-20-000, filed September 30, 1991.

Algonquin states that the above tariff sheets are based upon the primary tariff sheets in Texas Eastern Transmission Corporation's ("Texas Eastern's") latest Quarterly PGA, Docket No. TQ92-1-17-000, filed on October 1, 1991.

Algonquin is also submitting the following alternate tariff sheets:

Alternate Tariff Sheets

Proposed to be effective November 1, 1991

Alt 8 Rev Sheet No. 21
Alt 8 Rev Sheet No. 22
Alt 4 Rev Sheet No. 25
Alt 8 Rev Sheet No. 26
Alt 8 Rev Sheet No. 27
Alt 8 Rev Sheet No. 28
Alt 7 Rev Sheet No. 29

If the Commission approves the secondary rates filed in Texas Eastern's Docket No. TQ92-1-17-000, Algonquin proposes to place into effect the above alternate tariff sheets on November 1, 1991. Algonquin states that the demand and commodity sales rates reflected in these alternate revised tariff sheets represent a reduction of 25.20¢ and 12.11¢ per MMBtu, respectively, from those rates contained in Algonquin's out-of-cycle PGA in Docket Nos. TQ92-1-20-000 and TM92-3-20-000.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 15, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27583 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ92-2-20-000, & TM92-6-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

November 8, 1991.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on November 1, 1991, tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1, as set forth in the revised tariff sheets:

Primary Tariff Sheets

Proposed to be effective December 1, 1991

9 Rev Sheet No. 21
9 Rev Sheet No. 22
5 Rev Sheet No. 25
9 Rev Sheet No. 26
9 Rev Sheet No. 27
9 Rev Sheet No. 28
8 Rev Sheet No. 29

Algonquin states that the revised tariff sheets listed above are being filed as part of Algonquin's regularly scheduled Quarterly Purchased Gas Adjustment ("PGA") and Transportation Cost Adjustment ("TCA"). The demand and commodity sales rates contained herein reflect a reduction of 7.40¢ and 94.09¢ per MMBtu, respectively, from those rates contained in Algonquin's out-of-cycle PGA in Docket Nos. TQ92-1-20-000 and TM92-3-20-000, filed September 30, 1991.

Algonquin also states that the above tariff sheets are based upon the primary rates in Texas Eastern Transmission Corporation's ("Texas Eastern's") latest Quarterly PGA, Docket No. TQ92-1-17-000, filed on October 1, 1991.

Algonquin is also submitting the following alternate tariff sheets:

Alternate Tariff Sheets

Proposed to be effective December 1, 1991

Alt 9 Rev Sheet No. 21
Alt 9 Rev Sheet No. 22
Alt 5 Rev Sheet No. 25
Alt 9 Rev Sheet No. 26

Alt 9 Rev Sheet No. 27
Alt 9 Rev Sheet No. 28
Alt 8 Rev Sheet No. 29

Algonquin states that if the Commission approves the secondary rates filed in Texas Eastern's Docket No. TQ92-1-17-000, Algonquin proposes to place the alternate tariff sheets listed above into effect as of December 1, 1991. The demand and commodity sales rates reflected in these alternate revised tariff sheets represent a reduction of 25.20¢ and 93.61¢ per MMBtu, respectively, from those rates contained in Algonquin's out-of-cycle PGA in Docket Nos. TQ92-1-20-000 and TM92-3-20-000.

Algonquin states that the instant filing reflects the purchases and sales projected to be made for the three month period beginning December 1, 1991 as well as the underlying costs of standby and transportation services.

Algonquin notes that copies of this filing were served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 15, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27584 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-195-013, CP89-638-006]

CNG Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 8, 1991

Take notice that CNG Transmission Corporation ("CNG"), on October 31, 1991, filed the following tariff sheets to its FERC Gas Tariff, Original Volume No. 2A, to be effective November 1, 1991:

Second Revised Sheet No. 4, Superseding First Revised Sheet No. 4
First Revised Sheet No. 5, Superseding Original Sheet No. 5
Original Sheet No. 6
Original Sheet Nos. 397-477.

CNG states that the purpose of this filing is to comply with two Commission orders, both of which authorize CNG to perform firm transportation service to various customers. The first order, dated September 13, 1990, in Docket No. CP88-195-005, authorizes CNG to perform transportation service in Phase III of the Niagara import point project. The second order, dated June 11, 1991, in Docket No. CP89-638-000, *et al.*, authorizes CNG to provide transportation as part of Phase II of the ANR Project. The filed tariff sheets add X-rate schedules to Volume 2A of CNG's FERC Gas Tariff, relating to these authorized transportation services.

The proposed effective date of Rate Schedule X-69 is November 1, 1990; the proposed effective date of Rate Schedules X-70 through X-75 is November 1, 1991.

CNG states that copies of the filing were served upon parties to the captioned proceedings, as well as 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 rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 15, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27585 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM92-5-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 8, 1991.

Take notice that on October 31, 1991, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the following tariff sheets, with a proposed effective date of December 1, 1991:

First Revised Substitute Third Revised Sheet No. 26.1
First Revised Substitute Third Revised Sheet No. 26A.1
First Revised Substitute Fourth Revised Tenth Revised Sheet No. 26C
First Revised Substitute Fourth Revised First Revised Sheet No. 26D.

Columbia states that the purpose of the filing is to recalculate the interest portion of Columbia's volumetric surcharge to reflect the impact of actual FERC published interest rates.

Columbia states that copies of the filing were served by Columbia upon each of its wholesale customers, interested state commissions and to each of the parties set forth on the official service list.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motion or protests should be filed on or before November 18, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27586 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-1-2-000]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

November 8, 1991.

Take notice that on November 1, 1991, East Tennessee Natural Gas Company (East Tennessee), pursuant to § 154.305(c)(4) of the Commission's regulations, filed the following revised tariff sheets to First Revised Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1992:

Thirteenth Revised Sheet No. 4
Thirteenth Revised Sheet No. 5

East Tennessee states that the purpose of its revisions is to institute its annual Purchased Gas Adjustment (PGA) pursuant to §§ 21.1-21.3 of the General Terms and Conditions of its FERC Gas Tariff. East Tennessee's filing included a negative demand surcharge of $0.18 and a negative commodity surcharge of approximately $0.0869 cents to flow through Account No. 191 overcollections. The tariff revisions are accompanied by a report, in paper form,

of the information required by FERC Form 542–PGA.

East Tennessee states that the Current Purchased Gas Cost Rate Adjustments reflected on Revised Sheet Nos. 4 and 5 consist of a <$.2558> per dekatherm adjustment to the gas rate and SWS summer rates and a $3.29 per dekatherm adjustment applicable to the demand rate. The stated adjustments reflect changes from the rates filed in Docket No. TQ92–1–2.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before November 25, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a 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. 91–27587 Filed 11–15–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ92–3–4–000]

Granite State Gas Transmission, Inc.; Proposed Changes In Rates

November 8, 1991.

Take notice that on November 1, 1991, Granite State Gas Transmission, Inc. (Granite State), 300 Friberg Parkway, Westborough, Massachusetts 01581–5039, tendered for filing with the Commission Eighth Revised Sixth Revised Sheet No. 21 in its FERC Gas Tariff, Second Revised Volume No. 1, containing changes in rates for effectiveness on November 1, 1991.

Granite State states that its out-of-cycle purchased gas cost adjustment revises its projected gas costs for the remainder of the fourth quarter of 1991. According to Granite State its revised rates reflect the seasonal increase in the cost of gas purchased from Boundary Gas, Inc. and projected increases in the cost for purchases from Shell Canada Limited. Also, it is stated that Granite State projects lesser spot market purchases because of reduced availability of interruptible transportation capacity on Tennessee Gas Pipeline Company (Tennessee) beginning with the heating season and increased firm purchases from Tennessee during the heating season. Granite State further states that the out-of-cycle purchase gas cost adjustment is necessary to avoid under collection of its gas purchase costs.

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., Washington, DC 20426 in accordance with rules 211 and 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 November 18, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–27588 Filed 11–15–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP92–25–000 and MT92–1–000]

Iroquois Gas Transmission System, L.P.; Tariff Filing

November 8, 1991.

Take notice that on November 6, 1991, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing proposed changes in its proposed FERC Gas Tariff, Original Volume No. 1, to be effective December 1, 1991. Iroquois states that the filing is being made to update and make more accurate Iroquois' proposed FERC Gas Tariff as filed on October 1, 1991, to comply with the Commission's Opinion No. 357.

Iroquois states that in addition to specific proposals to change provisions of its tariff, Iroquois has incorporated a new section 22A titled "Compliance with the Marketing Affiliates Rule." Iroquois states that the tariff provisions are filed to comply with the requirements of Order Nos. 497 and 497–A.

Iroquois states that copies of the filing were served upon the Iroquois jurisdictional customers, interested state regulatory commissions, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 15, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–27589 Filed 11–15–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–35–013]

Midwestern Gas Transmission Co.; Filing of Refund Report

November 8, 1991.

Take notice that on October 28, 1991, Midwestern Gas Transmission Company (Midwestern) filed its report of refunds disbursed to Tennessee Gas Pipeline Company in the amount of $131,541.50.

Midwestern notes that on October 25, 1991 it disbursed the $131,541.50 by issuing a check to Tennessee Gas Pipeline Company (Tennessee). As provided by section 2 of Article III of the Stipulation and Agreement (Stipulation) in the instant docket, the refund disbursed to Tennessee as shown on Schedule 1 was determined as a proportionate value based on the difference between the rates that were in effect from June 1, 1988 through December 31, 1988, and the rates that should have been in effect for that period after giving effect to the

termination of the recovery of Midwestern's unfunded future tax liability, calculated pursuant to of the Stipulation. Midwestern states that the refund consists of $96,737.14 principal and $34,804.36 interest. Interest is calculated pursuant to § 154.67 of the Code of Federal Regulations.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 15, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27590 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA92-1-59-000 and TM92-2-59-000]

Northern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 8, 1991.

Take notice that on November 1, 1991, Northern Natural Gas Company, (Northern) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2 tariff sheets to be effective January 1, 1992.

Northern states that such tariff sheets are required in order that Northern may place into effect proposed rates in accordance with section 154.305 of the Commission's regulations and as required by the Commission's Order Nos. 483 and 483-A. Northern states further that these rates reflect changes pursuant to the tracking mechanisms of its FERC Gas Tariff covering its purchased gas costs and the costs of transportation of gas through the Alaska Natural Gas Transportation System.

Northern states that since the projection of First Quarter 1992 gas purchased costs may not reflect the level of gas purchased costs it actually will experience on January 1, 1992, it may not bill the commodity rates established in its filing on January 1, 1992. Instead, Northern states that it will utilize its flexible PGA tariff mechanism, if necessary, to reflect in the commodity rates on January 1, 1992, the estimated actual cost of purchased gas being experienced at that time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 25, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27591 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-1-55-000]

Questar Pipeline Co.; Rate Change

November 8, 1991.

Take notice that on November 6, 1991, Questar Pipeline Company tendered for filing and acceptance to its FERC Gas Tariff to be effective December 1, 1991, Fifteenth Revised Sheet No. 12, Original Volume No. 1.

Questar states that the purpose of this filing is to adjust the purchased gas cost under Questar's sale-for-resale Rate Schedule CD-1 effective December 1, 1991.

Questar states that the Fifteenth Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.39018/Dth which is $0.35183/Dth lower than the currently effective rate of $2.74201/Dth. The demand base cost of purchased gas as adjusted remained unchanged at $0.00614/Dth.

Questar states that it has provided a copy of the filing to Mountain Fuel Supply Company and interested state public service 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 385.211 and 385.214. All such protests should be filed on or before November 15, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27592 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA92-1-9-000 and TM92-2-9-000]

Tennessee Gas Pipeline Co. Tariff Change

November 8, 1991.

Take notice that on November 1, 1991, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following revised tariff sheets to its FERC Gas Tariff to be effective January 1, 1992:

Third Revised Volume No. 1:

Item A

Second Revised Fifth Revised Sheet No. 20
Second Revised Fifth Revised Sheet No. 21
Second Revised Fifth Revised Sheet No. 22
Second Revised Fifth Revised Sheet No. 23
Second Revised Fifth Revised Sheet No. 25
Second Revised Fifth Revised Sheet No. 26

Item B

Third Revised Sheet Nos. 32-37

Original Volume No. 2

Item C

Second Revised Twenty-Fourth Revised Sheet No. 5
Second Revised Twenty-Third Revised Sheet No. 6

Tennessee states that the purpose of the filing is to implement the annual Purchased Gas Adjustment to Tennessee's Gas Rates and certain transportation rates schedules whose fuel rates track the Gas Rate.

Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory 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 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 25, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27593 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-20-000]

Texas Gas Transmission Corp.; Tariff Filing

November 8, 1991.

Take notice that on October 31, 1991, Texas Gas Transmission Corporation (Texas Gas) tendered for filing the following tariff sheets to its FERC Gas Tariff, First Revised Volume No. 2-A, with a proposed effective date of December 1, 1991:

First Revised Sheet No. 32
Second Revised Sheet No. 55
First Revised Sheet No. 173-187
Original Sheet No. 188

Texas Gas states that the tariff sheets are being filed to comply with the September 30, 1991, Commission Order No. 537, a final rule amending the regulations governing transportation by intrastate and interstate pipelines under section 311 of the Natural Gas Policy Act and transportation by interstate pipelines under blanket certificates issued pursuant to § 284.211 of the Commission's regulations. Texas Gas further states that the tariff sheets are being filed to clarify Texas Gas's tariff to be in compliance with Order No. 537 in general, and new § 284.102(e).

Texas Gas states that copies of the filing have been served upon Texas Gas's jurisdictional customers, interested state commissions, and all parties on the official service list for this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before November 15, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27594 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC81-9-003, et al.]

Texas Gas Transmission Corp.; Technical Conference

November 8, 1991.

Take notice that on December 10 and 11, 1991, a technical conference will be convened at the offices of the Federal Energy Regulatory Commission in Texas Gas Transmission Corporation's (Texas Gas) proceeding in Docket Nos. TC81-9-003, TC81-9-004, TC81-9-005, and TC81-9-006. The technical conference will be held to discuss the issues raised by intervenors and described in the Commission's November 7, 1991, order in Docket No. TC81-9-003, *et al.* The Commission's November 7th order accepted, suspended, and rejected tariff sheets submitted by Texas Gas.

In this proceeding, Texas Gas filed tariff sheets to its FERC Gas Tariff, Original Volume No. 1 in order to implement a revised sales curtailment plan for its system. The proposed changes are: (1) The establishment of a priority 2 category for essential agricultural end-users; (2) the collection and updating of new end-use data for the Revised Index of Quantity Entitlements (RIQE); and (3) provisions which compel periodic updates to the RIQE on a three-year basis.

In response, intervenors raised issues concerning (1) the method by which Texas Gas assigned curtailment volumes under the new plan; (2) the inclusion of "temporary failure of gas supply" as part of the definition of force majeure; (3) the relationship between the new curtailment plan and Texas Gas' pending certificate application for a gas inventory charge; and (4) the appropriateness of the curtailment demand charge crediting provision in the general terms and conditions in section 10.5 of the tariff. As a result of these concerns, the Commission's November 7th order further directed that a technical conference for Docket No. TC81-9-003, *et al.*, be held within 45 days from the date of the order and that all intervening parties wishing to attend come fully prepared to discuss each of the issues described in the Commission's November 7th order.

The Commission invites all parties who have filed motions to intervene to attend the technical conference. It is requested that the parties bring adequate copies of any written materials that are to be provided in support of their positions. The conference will be held at 810 First Street NE, Washington, DC. The room will be posted on the 8th floor of that building on the day of the conference.

For further procedural information, please contact Kenneth P. Niehaus of the Commission Staff at (202) 208-0325.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27595 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

Tomcat; Petition for Declaratory Order or Request for Blanket Certificate

[Docket No. CP92-134-000]

November 8, 1991.

Take notice that on October 31, 1991, TOMCAT, 14811 St. Mary's Lane, suite 200, Houston, Texas 77079, filed a petition for declaratory order and conditional request for a blanket certificate in Docket No. CP92-134-000 requesting primarily that the Commission clarify the status of TOMCAT with respect to its future transportation of natural gas, all as more fully set forth in the petition and request of conditional blanket authorization, which is on file with the Commission and open to public inspection.

TOMCAT states that it is a Texas general partnership owned by TPC Pipeline, Inc. and Transco Matagorda Pipeline Company and operates as an intrastate pipeline company and operates facilities extending 28.23 miles from Texas state waters to an interconnection with United Texas Transmission Company onshore in Calhoun County, Texas. It is stated that in December 1988, TOMCAT initiated transportation of gas produced from State Tract 525, Matagorda Island Area, offshore Texas for Entex, a local distribution company, in intrastate commerce. It is stated that TOMCAT in February 1989 commenced transportation of gas for Texas Eastern Transmission Corporation pursuant to section 311(a)(2) of the Natural Gas Policy Act of 1978 (NGPA) and obtained rate approval to charge fair and equitable rates for this service. TOMCAT then states that in August 1989 production ceased from State Tract 525, the only Texas offshore tract to which it was connected, when the reservoir depleted. TOMCAT then indicates that since then it has sought other shippers of Texas offshore gas but to no avail. TOMCAT points out that in view of these events its status as an

intrastate pipeline as set forth in section 2(16) of the NGPA is subject to question.

TOMCAT states that all of the gas it transports for intrastate shippers is gas exempt from Natural Gas Act (NGA) jurisdiction pursuant to section 601(a) of the NGPA. TOMCAT also states that all of the OCS gas received into its system is gathered in the OCS and delivered to TOMCAT across the federal/state boundary at State Tract 558. It is stated that the Commission has held that gathering may occur without regard to whether the facilities cross federal to state boundaries. TOMCAT also states that it is an intrastate pipeline because that status attaches to the corporate entity and not to operations or facilities and that TOMCAT's status as an intrastate pipeline was established when it first began operations as an intrastate pipeline.

TOMCAT requests that the Commission declare that the transportation and delivery of non-NGA gas by TOMCAT to its intrastate pipeline customers would be exempt from NGA jurisdiction and, also, that such transportation may be provided by TOMCAT as an intrastate pipeline under state authority without the necessity of any NGPA section 311(a)(2) authorization.

TOMCAT also requests that, in the event the Commission determines that its future transportation of gas for both interstate and intrastate pipelines cannot be performed as an intrastate pipeline, the Commission determine that (1) TOMCAT is a Hinshaw pipeline under section 1(c) of the NGA, (2) to the extent TOMCAT delivers gas to intrastate pipelines, such transportation can be effected under state authority as a Hinshaw pipeline without resort to NGA or NGPA authority and (3) to the extent TOMCAT transports gas for delivery to interstate pipelines, it be issued a blanket certificate pursuant to section 284.224 of the Commission's Regulations to effect this transportation.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 29, 1991, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for TOMCAT to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27596 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-223-001]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

November 8, 1991.

Take notice that Tunkline Gas Company (Trunkline) on October 31, 1991, tendered for filing the following substitute revised tariff sheet to its FERC Gas Tariff, Original Volume No. 1:

Sub Fourth Revised Sheet No. 9-DG.1

Trunkline proposes that this sheet become effective October 17, 1991.

Trunkline states that this substitute revised tariff sheet is being filed in compliance with the Commission's Order dated October 16, 1991 in the above-referenced proceeding. Specifically, Trunkline's filing reflects the tariff clarification of primary and secondary firm point(s) of receipt priority for firm shippers under Trunkline's Rate Schedule PT-Firm previously reflected in the September 17, 1991 general tariff filing in Docket No. RP91-223-000.

Trunkline states that a copy of this letter and enclosures were served on all affected customers subject to the tariff sheet and applicable 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 rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before November 15, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27597 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP91-126-005]

United Gas Pipe Line Co., Compliance Filing

November 8, 1991.

Take notice that on November 6, 1991 United Gas Pipe Line Company ("United"), Post Office Box 1478, Houston, Texas 77251-1478, filed the following revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 with a proposed effective date of October 1, 1991 for all tariff sheets except Substitute First Revised Sheet No. 4C which has a proposed effective date of November 1, 1991:

Original Sheet No. 1
Original Sheet No. 1A
Original Sheet No. 1B
Original Sheet No. 1C
Original Sheet No. 1D
Original Sheet No. 1E
Original Sheet No. 1F
Substitute Original Sheet No. 4
Substitute Original Sheet No. 4A
Substitute Original Sheet No. 4B
Substitute First Revised Sheet No. 4C
Substitute Original Sheet No. 4D
Substitute Original Sheet No. 4E
Substitute Original Sheet No. 4F
Substitute Original Sheet No. 4G
Substitute Original Sheet No. 4H
Substitute Original Sheet Nos. 20 through 28
Substitute Original Sheet Nos. 31 through 32
Substitute Original Sheet Nos. 38 through 40
Substitute Original Sheet No. 64
Substitute Original Sheet Nos. 66 through 127
Substitute Original Sheet No. 138
Substitute Original Sheet No. 176
Substitute Original Sheet No. 177
Substitute Original Sheet No. 185
Substitute Original Sheet No. 201
Substitute Original Sheet No. 204
Substitute Original Sheet No. 217
Substitute Original Sheet No. 220
Second Substitute Original Sheet No. 240
Second Substitute Original Sheet No. 240A
Second Substitute Original Sheet No. 240B

Second Substitute Original Sheet No. 240C
Second Substitute Original Sheet No. 240D
Second Substitute Original Sheet No. 240E
Original Sheet No. 240F

United submitted the sheets listed above electronically and states that this filing is in compliance with the Commission's order issued October 22, 1991 Approving Settlement as Modified, and Issuing Certificates of Public Convenience.

United states that it has served a copy of the filing to its restricted service list in the above-referenced docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rule 211 of the Commission's Rules of Practice and Procedures, 18 CFR 385.211. All such protests should be filed on or before November 18, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91-27598 Filed 11-15-91; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 91-62-NG]

Tarpon Gas Marketing, Ltd.; Order Granting Authorization To Export Natural Gas to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Tarpon Gas Marketing Ltd. blanket authorization to export a total of 100 Bcf of U.S. natural gas to Canada over a two-year period commencing with the date of first delivery

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 11, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91-27670 Filed 11-15-91; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. FE C&E 91-21; Certification Notice—89]

Filing Certification of Compliance: Coal Capability of New Electric Powerplant Pursuant to Provisions of the Powerplant and Industrial Fuel Use Act, as Amended

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended (42 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load powerplant without the capability to use coal or another alternate fuel as a primary energy source (FUA section 201(a), 42 U.S.C. 8311 (a), Supp. V. 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to FUA section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. Two owners and operators of proposed new electric base load power plants have filed self-certifications in accordance with section 201(d).

Further information is provided in the SUPPLEMENTARY INFORMATION section below.

SUPPLEMENTARY INFORMATION: The following companies have filed self-certifications:

Name	Date received	Type of facility	Megawatt capacity	Location
Kamine/Besicorp Natural Dam L.P., Union, NJ	11-06-91	Combine Cycle	58	Gouverneur, NY.
Kamine/Besicorp Syracuse L.P., Union, NJ	11-06-91	Combine Cycle	79	Solvay, NY.

Amendments to the FUA on May 21, 1987 (Public Law 100-42), altered the general prohibitions to include only new electric base load powerplants and to provide for the self-certification procedure.

Copies of this self-certification may be reviewed in the Office of Fuels Programs, Fossil Energy, room 3F-056, FE-52, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, or for further information call Myra Couch at (202) 586-6769.

Issued in Washington, DC on November 12, 1991.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 91-27671 Filed 11-15-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-4031-3]

Diesel Fuel Sulfur Content; Petition for Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed decision.

SUMMARY: On April 30, 1991, the Governor of American Samoa submitted a petition for an exemption from all requirements of section 211(i) of the Clean Air Act, as amended (Act), except for the minimum cetane index requirement. This petition also seeks an exemption for American Samoa from the requirements of certain regulations which specify diesel fuel requirements for use in on-highway motor vehicles and engines. See 40 CFR part 80. The petition seeks this exemption pursuant to section 325 of the Act.

The Administrator of the EPA proposes in this notice to grant the petition for exemption as requested by the Governor of American Samoa. The exemption would be based on a finding that it is unreasonable to require persons in American Samoa to comply with the requirements of section 211(i) of the Act and EPA's motor vehicle diesel fuel regulations, 40 CFR part 80, due to American Samoa's unique geographical, meteorological and economic factors, as well as other significant local factors.

The Administrator shall take final action on this petition within 12 months from the date of the petition, pursuant to section 211(i)(4) of the Act. EPA will consider this petition in accordance with section 307(d) of the Act. To aid in preparing EPA's final response to the petition, EPA hereby invites public comment on the proposed decision to grant the petition for exemption as requested.

DATES: EPA has not scheduled a public hearing on this Notice of Proposed Decision. A hearing will be held in Washington, DC on this petition if one is requested on or before December 18, 1991. Comments on this Notice of Proposed Decision must be submitted on or before December 18, 1991. If a hearing is held, comments must be submitted on or before 30 days from the date of such hearing.

Parties who wish to request a hearing should contact Steven E. Hoover at (202) 260–9040. If a hearing is scheduled based on a request, a notice will be published in the **Federal Register**. Parties wishing to testify should contact Steven E. Hoover. It is also requested that six copies of prepared hearing testimony be available at the time of the hearing for distribution to the hearing panel. Hearing testimony should also be submitted to the EPA Air Docket in Washington, DC and the Region IX docket. Additional information on the submission of comments to both dockets may be found below in the "**ADDRESSES**" section of this notice.

ADDRESSES: Copies of information relevant to this petition are available for inspection in public docket A–91–40 at the Air Docket (LE–131) of the EPA, room M–1500, 401 M Street SW., Washington, DC 20460, (202) 382–7548, between the hours of 8:30 a.m. to noon and 1:30 p.m. to 3:30 p.m. Monday through Friday. A duplicate public docket, R9–AS–DF–01, has been established at U.S. EPA, Region 9, Air & Toxics Division, 17th Floor, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1227, and is available between the hours of 8 a.m. to 4:30 p.m. Monday through Friday.

Any comments (in duplicate if possible) from interested parties should be addressed to both dockets with a copy forwarded to Mary T. Smith, Director, Field Operations and Support Division (EN–397F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Steven E. Hoover, Chief, Plans and Program Section, Field Operations and Support Division (EN–397F), 401 M Street SW., Washington, DC 20460, (202) 260–9040.

SUPPLEMENTARY INFORMATION:

I. Background

Section 211(i)(1) of the Act makes it unlawful, effective October 1, 1993, for any person to manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 percent (by weight) or which fails to meet a cetane index minimum of 40. EPA is required to promulgate regulations to implement and enforce these requirements no later than November 15, 1991 pursuant to section 211(i)(2). Section 211(i)(3) establishes the sulfur content for fuel used in the certification of heavy-duty diesel vehicles and engines. In addition, section 211(i)(4) requires the Administrator to take final action on any petition filed under section 324 [1] of the Act, which seeks exemption from the requirements of section 211(i), within 12 months of the date of such petition.

Prior to enactment of section 211(i), EPA promulgated regulations which closely mirror the sulfur content and minimum cetane index requirements of section 211(i) (55 FR 34120, August 21, 1990). EPA has published a Notice of Proposed Rulemaking amending these regulations so they conform with section 211(i) (56 FR 32533, July 17, 1991).

Section 325(a)(1) of the Act provides that upon application by the governor of Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands, the Administrator may exempt any person or source in such territory from various requirements of the Act, including section 211(i). Such exemption may be granted if the Administrator finds that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological or economic factors of such territory, or such other local factors as the Administrator deems significant.

II. Petition for Exemption

On April 30, 1991, the Honorable Peter Tali Coleman, Governor of American Samoa, submitted a petition to exempt motor vehicle diesel fuel in American Samoa from all the requirements of section 211(i) except the minimum cetane index of 40 requirement [2], and regulations promulgated under 40 CFR part 80 (55 FR 34120, August 21, 1990). The petition is based on geographical, climatological, meteorological, air quality, economical and environmental factors.

According to the petition, "(t)he source to be exempted is diesel fuel for use in motor vehicles * * *". If granted, the exemption would therefore apply to all persons in American Samoa subject to the prohibitions of section 211(i) of the Act and the diesel fuel requirements in 40 CFR part 80. The exemption would apply to all persons who manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce, in American Samoa, motor vehicle diesel fuel. This includes but is not limited to the Government of American Samoa.

[1] Section 211(i)(4) mistakenly refers to exemptions under section 324 of the Act ("Vapor Recovery for Small Business Marketers of Petroleum Products"), while the proper reference is to section 325. Congress clearly intended to refer to section 325, as shown by the language used in section 211(i)(4), and the United States Code citation used in section 806 of the Clean Air Act Amendments of 1990, Public Law No. 101–549. Section 806 of the Amendments, which added paragraph i to section 211 of the Act, used 42 U.S.C. 7625–1 as the United States Code designation for section 324. This is the proper designation for section 325 of the Act. Also see 136 Cong. Rec. S17236 (daily ed. October 26, 1990) (statement of Sen. Murkowski).

[2] Section 211(i) of the Act authorizes EPA to establish an equivalent alternative aromatic level to the minimum cetane index specification. EPA's current regulations provide for such an alternative aromatic level. 40 CFR 80.29(a). Since ASG does not seek an exemption from the minimum cetane index requirement, presumably they also do not seek exemption from the alternative aromatic level requirement.

The following discussion summarizes the contents of the petition.

A. Geography and Location of American Samoa

The Territory of American Samoa consists of seven islands of volcanic origin located approximately 2,500 miles south of Honolulu, Hawaii, almost 4,500 miles southwest of Los Angeles, California and 1,600 miles northeast of Auckland, New Zealand. The total land area is 76 square miles. The main island of Tutuila has a land area slightly over 52 square miles and is the home of approximately 45,000 of the Territory's 48,000 inhabitants and the capital, Pago Pago. Tutuila has approximately 92 miles of paved road where the maximum speed limit is 30 mph. Tutuila's volcanic terrain is highly mountainous. The other islands have no paved roads, except for Ta'u which has a small paved strip used by fewer than 50 vehicles.

B. Climate, Meteorology and Air Quality

The climate on Tutuila is tropical with an average rainfall of 180 inches annually. Temperatures range between 70 degrees F to 90 degrees F with an average humidity of 80 percent. Strong and ever-present trade winds, combined with the lack of any heavy industries, prevent any air pollution from gathering. American Samoa has no sulfur dioxide or sulfate particulate air pollution problem and does not foresee any. It is classified as Priority III for all pollutants and air quality levels are below the national secondary ambient air quality standards for all pollutants. 40 CFR part 50. EPA has not identified any areas as having the potential for violation of the national ambient air quality standards within ten years. 40 CFR 52.2826(a) (1989), 51 FR 40675 (November 7, 1986).

C. Economic Factors

American Samoa is remote compared to the United States mainland and must rely on materials shipped in by sea or air. The cost of construction is 25–50 percent higher than on the mainland, yet the annual per capita income is only $3,900 and the highest minimum wage is $2.82 per hour. The unemployment rate is approximately 13 percent.

The American Samoa Government (ASG) is the owner of the only petroleum storage facilities in the Territory, which is leased to PRI South Pacific, Inc. (PRI), a wholly-owned subsidiary of Pacific Resources, Inc., a petroleum refiner based in Honolulu, Hawaii and in turn a wholly-owned subsidiary of Broken Hill Proprietary, Ltd., an Australian corporation. PRI shares the storage facilities with Shell Company (Pacific Islands) Ltd. (Shell) and BP South-West Pacific, Ltd. (BP), both Australian corporations. The lease terminates on December 31, 1994. The petroleum storage facilities were constructed by the United States Navy during 1942 as part of its World War II South Pacific operations. The ASG began a total upgrade of the facilities in 1988, which was to be completed in 1992. However, due to lack of adequate funding, many projects had to be curtailed or delayed and completion does not appear likely until 1995 or beyond.

Without an exemption, the ASG claims it will be required to construct segregated tank storage, service lines and modifications to the load racks at an estimated minimum cost of $300,000, not including the necessary containment berms, which could add an additional $250,000 to the costs. The ASG does not have the funds to construct segregated storage at this time nor does it anticipate having funds available in the foreseeable future.

All petroleum currently consumed in American Samoa is imported in small tankers. Due to the lack of demand for 0.05 weight percent sulfur diesel fuel in the Pacific, Shell and BP have advised they will not furnish it to American Samoa. PRI estimates that diesel fuel which complies with section 211(i)(1)'s sulfur restrictions will cost $0.08 to $0.10 per gallon more than the diesel fuel currently imported to American Samoa. If the ASG is required to comply and construct segregated storage facilities, a tax in excess of $0.25 per gallon would need to be imposed over the current cost of diesel fuel on Tutuila. Fuel is supplied to the outer islands in 55 gallon drums by barge or small vessels from Tutuila, thus creating even higher costs.

D. Environmental Factors

Current ASG petroleum specifications for diesel fuel require a maximum sulfur content of 0.4 weight percent and a minimum cetane index of 40. The ASG set this sulfur content specification to provide high quality diesel fuel for the ASG's electric utility. By regulation, the ASG prohibits burning of any fuel in excess of 1.5 weight percent sulfur. The Territorial Energy Office (TEO) analysis of diesel fuel imports during fiscal year 1990 disclosed that the weighted average of the sulfur content was 0.1918 weight percent and the average cetane index was 52.4. The petroleum suppliers advised the ASG that they should be able to continue to supply diesel fuel at or below the current sulfur levels. The ASG's sulfur content restrictions apply to the diesel fuel used for all power generation, and both highway and off-highway vehicles.

American Samoa has only 60 vehicles licensed for highway use that require diesel fuel. The ASG owns 31 of these and the remaining 29 are commercial vehicles. These vehicles are necessary for government and commercial use and cannot be replaced with gasoline powered vehicles. Based on a TEO survey, these vehicles consume on average fewer than 14 gallons per week of diesel fuel. Based on the current diesel fuel sulfur weight percentage of diesel fuel in American Samoa, this totals less than 600 pounds of sulfur annually from all the vehicles. This small amount of sulfur emitted over a year, coupled with the trade winds which disperse any pollutant, does not constitute a health risk nor would it cause any air quality standard to be exceeded.

III. Proposed Decision

American Samoa must rely totally on the costly importation of petroleum supplies, including diesel fuel, based on its remote location as a group of Pacific islands, along with its lack of internal petroleum supplies or refining capability. Given the petroleum storage infrastructure in American Samoa, compliance with section 211(i)'s diesel fuel requirements could be accomplished in only one of two ways.

First, ASG, as owner of the only storage facility for such fuel, could build segregated storage space for 0.05 weight percent sulfur diesel fuel. This would impose a great burden on the economy, and may be financially infeasible. The high cost is exacerbated by American Samoa's remote location. The second alternative for compliance would allow importation into American Samoa of only complying diesel fuel. In effect, instead of building another storage tank for low sulfur diesel fuel, only low sulfur diesel fuel would be imported for storage in the single tank. The single storage facility would then continue to service all the uses for diesel fuel, including power generation, on-highway fuel and off-highway fuel. The cost of this alternative is clearly exorbitant, given that on-highway diesel fuel comprises only 0.112 percent of all imports of diesel fuel. It would cost over 4 million dollars per year to bring much less than one percent of the diesel fuel in compliance with section 211(i), and would be much more expensive than building segregated storage facilities.

This major economic burden would provide almost no environmental benefit, in a context where there are no current air pollution problems.

American Samoa is currently classified as Priority III, with no identified potential for violations of national ambient air quality standards. The Territory has only 92 miles of paved roads and fewer than 60 diesel fueled vehicles licensed for highway use. The estimated 600 pounds of sulfur currently emitted by these vehicles is dispersed by the islands' trade winds and presents no public health or welfare risk at this time. Exemption from section 211(i)'s requirements would not lead to future problems, in light of American Samoa's current regulatory limits and purchase specifications on diesel fuel sulfur content. In addition, section 211(i)'s diesel sulfur requirements are designed primarily to protect the emission control hardware on model year 1994 and later heavy-duty vehicles, and the already very small American Samoa fleet can be expected to contain few if any of these vehicles for the indefinite future.[3] Imposition of section 211(i)'s requirements are therefore not necessary to either solve an air pollution problem or to avoid one in the future.

The economic and environmental factors discussed above flow directly from the unique geography, meteorology and economic situation of American Samoa. The severe economic burden which would be imposed by section 211(i)'s requirements far outweighs the almost non existent environmental benefit from application of these requirements to American Samoa. The Agency therefore proposes to find that compliance with the requirements of section 211(i) (1) and (2) of the Act, and compliance with 40 CFR 80.29(a), with the exception of the minimum cetane index requirement and any alternative aromatic level requirement in these sections of the Act or EPA regulations, is unreasonable for persons of American Samoa, and propose to exempt American Samoa from these provisions.

For the same reasons, the Agency also proposes to exempt American Samoa from those provisions of section 211(g)(2) of the Act which prohibit the fueling of motor vehicles with high-sulfur diesel fuel.[4] Although American Samoa did not explicitly request exemption from this provision in its petition, it is reasonable to read the petition as including such a request. Section 211 (g) and (i) both restrict the use of high-sulfur motor vehicle diesel fuel, and exempting American Samoa from section 211(i)'s sulfur content requirements but not from section 211(g)'s related prohibition would provide no relief in fact from the problems American Samoa presented in their petition.

IV. Statutory Authority

Authority for the action proposed in this notice is section 325(a)(1) of the Clean Air Act, as amended (42 U.S.C. 7625-1(a)(1)).

V. Administrative Designation and Regulatory Analysis

Under Executive order (EO) 12291, the Agency must judge whether a regulation is "major" and thus subject to the requirement to prepare a regulatory impact analysis. The decision proposed today is not a regulation or rule as defined in EO 12291, therefore no regulatory impact analysis has been prepared.

VI. Impact on Small Entities

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 through 612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact on small entities. Since today's proposed decision is not a rulemaking, no regulatory flexibility analysis has been prepared.

VII. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

Dated: November 7, 1991.

William K. Reilly,

Administrator.

[FR Doc. 91-27665 Filed 11-15-91; 8:45 am]

BILLING CODE 6560-50-M

[3] During the diesel fuel rulemaking, EPA considered the general applicability of the diesel fuel requirements to Hawaii and the Pacific territories. 55 FR 34134 (August 21, 1990). Comments submitted by ASG and Pacific Resources, Inc. in that rulemaking questioned whether the diesel fuel requirements should apply to Hawaii and the Pacific territories. EPA did not accept the commenters' suggested geographic limits on the scope of the rule, primarily because of the potential use of 1994 and later heavy-duty diesel vehicles in these areas. That decision cannot be compared to today's proposed decision, however, as EPA's focus in that rulemaking was Hawaii and the Pacific territories viewed as a whole. The basic focus of this proposed decision is one specific territory, American Samoa.

[4] This subsection makes it unlawful for any person to introduce or cause or allow the introduction into any motor vehicle of diesel fuel which they know or should know contains a concentration of sulfur in excess of 0.05 percent (by weight). The proposed exemption would include exemption from this prohibition, but not include the prohibitions in section 211(g)(2) relating to the minimum cetane index or alternative aromatic levels.

[FRL-4031-4]

Open Meeting of the Policy Dialogue Committee on Mining Wastes

AGENCY: Environmental Protection Agency.

ACTION: FACA Committee Meeting—Policy Dialogue Committee on Mining Wastes.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of the date and location of the December meeting of the Policy Dialogue Committee on Mining Waste. The purpose of the meeting is to further discuss the key elements of a mine waste program. The meetings are open to the public without advance registration. An opportunity for public comment will be offered at the end of each day of meeting.

DATES: The December meeting will be held on December 9, 1991 from 9 a.m. to 5 p.m. and on December 10, 1991 from 9 a.m. to 4 p.m. The January meeting will be held January 23 and 24, 1992.

ADDRESSES: The December meeting will be held at the Sheraton City Center, 1143 New Hampshire Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on substantive aspects of the mining waste program should call Steve Hoffman, Office of Solid Waste, U.S. EPA, (703) 308-8413. Summaries of previous meetings will be made available upon written request to Patricia Whiting, Office of Solid Waste, (OS-323W), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Persons needing further information on administrative matters such as committee arrangements or procedures should contact Deborah Dalton, EPA Regulatory Negotiation Project, (202) 382-5495 or the Committee's facilitator, John Ehrman, The Keystone Center, (303) 468-5822.

Dated: November 12, 1991.

Deborah Dalton,

Designated Federal Official, Deputy Director, Consensus and Dispute Resolution Project, Office of Policy, Planning and Evaluation.

[FR Doc. 91-27664 Filed 11-15-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4031-5]

Withdrawal of Proposed Determination To Withdraw or Restrict the Specification of an Area for Use as a Disposal Site; Kuparuk River Unit, North Slope Borough, AK

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of proposed section 404(c) determination.

SUMMARY: Section 404(c) of the Clean Water Act (CWA) (33 U.S.C. 1251 *et seq.*) authorizes the administrator of the EPA to prohibit, deny, withdraw or restrict the specification or use of any defined area as a disposal site whenever he determines, after notice and opportunity for public hearing, that the discharge of dredged or fill materials into such an area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreation areas. EPA's procedures for implementing section 404(c) are set forth in 40 CFR part 231.

On May 14, 1991, the Environmental Protection Agency, Region 10 (Region 10) gave notice of its Proposed Determination to Withdraw or Restrict the Specification of an Area for Use as a Disposal Site; Kuparuk River Unit, North Slope Borough, AK (Proposed Determination). The Proposed Determination concerned a proposal by ARCO Alaska, Inc. (ARCO) to place approximately 112,000 cubic yards of gravel fill material on 21.5 acres of tundra wetlands to construct a production well pad (Drill Site 3–L) and an east-west access road from nearby Drill Site 3–K in the Kuparuk River Unit.

Region 10's public notice provided a thirty-day period for comments on the Proposed Determination. Region 10 received and analyzed numerous comments, some advising withdrawal of the Proposed Determination and others recommending preparation of a Recommended Determination. As a result of several meetings and discussions between Region 10 and ARCO, an alternative pad location and road alignment within the general project area was identified that was different from the two alternatives discussed in the Proposed Determination. ARCO applied for and on October 15, 1991, received a modification of their Corps permit to authorize the new configuration. For the reasons discussed in further detail below, Region 10, in accordance with 40 CFR 231.5(c), hereby withdraws its section 404(c) Proposed Determination on this project.

Basis for Withdrawal of Proposed Determination

Region 10 based initiation of 404(c) proceedings on its belief that the project could have unacceptable adverse impacts on wildlife and wildlife habitat. The revised project, however, represents a significant reduction in scope and is environmentally acceptable to EPA for the following reasons:

(1) The revised configuration would fill less wetland acreage (17.9 acres) than the originally permitted configuration (21.5 acres), because the access road would be shorter and the pad smaller;

(2) The revised pad location is on higher, drier, less diverse tundra that is consequently less valuable as waterfowl and shorebird habitat than the originally permitted location;

(3) The revised road route also traverses drier, less valuable tundra ridges than the originally permitted east-west road;

(4) The revised road route is from 800 to 3,300 feet further upslope in the drainage basin than the originally permitted road, and would therefore intercept less of the drainage flowing into the Arctophila lake to the north, posing less of a potential hazard to it;

(5) The revised road route is almost one-half mile further away from the tundra swan nesting site on the Arctophila lake to the north;

(6) The originally permitted access route extended approximately one-half mile further to the east from Drill Site 3–K than the new road would; the revised road would pose less of an impediment to brant and caribou movement because it would not extend as far to the east; and,

(7) The originally permitted pad location was less than 1,000 feet from a tundra swan nesting area on the Arctophila lake to the east of the pad; the revised location would be almost one mile from that site and would still be one mile from the nesting site on the lake to the north.

FOR FURTHER INFORMATION CONTACT: Robert S. Burd, Director, Water Division, U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Dana A. Rasmussen,

Regional Administrator.

[FR Doc. 91–27663 Filed 11–15–91; 8:45 am]

BILLING CODE 6560–50–M

EXPORT-IMPORT BANK OF THE UNITED STATES

Open Meeting of the Advisory Committee of the Export-Import Bank of the United States

SUMMARY: The Advisory Committee was established by Public Law 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

TIME AND PLACE: Tuesday, December 3, 1991, from 9:30 a.m. to 12 noon. The meeting will be held at Eximbank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: The meeting agenda will include a discussion of the following topics: OECD Status Report, Budget and Financial Report, Congressional Report, Subcommittee Reports: (Charter Renewal—Banking—Emerging Trade Finance—Small Business), Project Finance, and Summary and Conclusions of Subcommittee Reports.

PUBLIC PARTICIPATION: The meeting will be open to public participation; and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Jóan P. Harris, room 935, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566–8871, not later than December 2, 1991. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to November 29, 1991, the Office of the Secretary, room 935, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 566–8871 or TDD: (202) 535–3913.

FURTHER INFORMATION: For further information, contact Joan P. Harris, room 935, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566–8871.

Joan P. Harris,

Corporate Secretary.

[FR Doc. 91–27679 Filed 11–15–91; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL MARITIME COMMISSION

Lykes Bros. Steamship Co., Inc., et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 213–011357.

Title: Lykes/Waterman Sailing Agreement.

Parties:

Lykes Bros. Steamship Co., Inc.

Waterman Steamship Corporation.

Synopsis: The proposed agreement would permit the parties to rationalize their sailings in the trade between U.S. Atlantic and Gulf ports and ports in the Suez, Egypt/Indonesia range inclusive.

Dated: November 12, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–27578 Filed 11–15–91; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Performance Review Board; Membership

Notice is hereby given in accordance with 5 U.S.C. 4314 of the membership of the Performance Review Board of the Federal Mediation and Conciliation Service. The following persons were appointed to the Board.

John Truesdale, Executive Secretary, National Labor Relations Board—Chairman.

Donald S. Rodgers, Special Assistant to the Director for Special Programs, Federal Mediation and Conciliation Service—Member.

Brian L. Flores, Deputy Director, Federal Mediation and Conciliation Service—Member.

Dated: November 12, 1991.

Brian L. Flores,

Deputy Director.

[FR Doc. 91–27609 Filed 11–15–91; 8:45 am]

BILLING CODE 6732–01–M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board; Meeting

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that a meeting of the Federal Accounting Standards Advisory Board will be held on Tuesday, December 3, 1991, from 9 a.m. until 4 p.m. in room 7313 of the General Accounting Office, 441 G St. NW., Washington, DC.

The agenda for the meeting will consist of a review of the minutes of the November 18, meeting. A continuation of discussion on inventory accounting, credit reform accounting, and staff progress reports. We advise that other items may be added to the agenda; interested parties should contact the Staff Director for more specific information.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION CONTACT: Ronald S. Young, Staff Director, 401 F St. NW., room 302, Washington, DC 20001, or call (202) 504–3336.

DATES: December 3, 1991.

ADDRESSES: 441 G St., NW., room 7313, Washington, DC 20548.

Authority: Federal Advisory Committee Act. Pub. L. No. 92–463, section 10(a)(2), 86 Stat. 770, 774, (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: November 13, 1991.

Ronald S. Young,

Staff Director.

[FR Doc. 91–27681 Filed 11–15–91; 8:45 am]

BILLING CODE 1610–01–M

Government Auditing Standards Advisory Council Meeting

AGENCY: General Accounting Office.

ACTION: Notice.

SUMMARY: The United States General Accounting Office has scheduled a meeting of the Government Auditing Standards Advisory Council on November 25, 1991, from 8:30 a.m. until 3 p.m. in room 7313 of the General Accounting Office, 441 G St., NW., Washington, DC.

The agenda for the meeting will consist of a review of the minutes of the July meeting, and presentation of issues and discussion thereof.

Any interested person may attend the meeting as an observer.

FOR FURTHER INFORMATION CONTACT: William J. Anderson, Jr., Project Manager, U.S. General Accounting Office, 441 G St., NW., room 6025, Washington, DC 20548 or call (202) 275–9319.

DATES: November 25, 1991.

ADDRESSES: 441 G St., NW., room 7313, Washington, DC 20548.

Dated: November 13, 1991.

Donald H. Chapin,

Assistant Comptroller General.

[FR Doc. 91–27603 Filed 11–15–91; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

Office of Inspector General

Establishment of the Office of Inspector General Performance Review Board

ACTION: Notice of establishment of Office of Inspector General Performance Review Board.

SUMMARY: This notice announces establishment of the Office of Inspector General Performance Review Board (OIG PRB) of the General Services Administration in accordance with 5 U.S.C. 4314(c). The OIG PRB provides fair and objective review of the Office of Inspector General Senior Executive Service (SES) performance appraisals and recertification determinations. The PRB also makes recommendations regarding performance ratings and performance awards to the Inspector General.

The OIG PRB shall be comprised of three career SES employees selected by the Inspector General from the President's Council on Integrity and Efficiency's roster of PRB members as published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Joel S. Gallay, Counsel to the Inspector General, room 5326, 18th & F Streets, NW., Washington, DC 20405 (202) 501–1932.

Dated: November 6, 1991.

Edward F. Hefferon,

Deputy Inspector General.

[FR Doc. 91–27637 Filed 11–15–91; 8:45 am]

BILLING CODE 6830–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Federal Financial Participation in State Assistance Expenditures

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

In the matter of Federal Matching Shares for Aid to Families with Dependent Children, Foster Care and Adoption Assistance, Job Opportunities and Basic Skills Training, Medicaid, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 1992, Through September 30, 1993

SUMMARY: The Federal Percentages and Federal Medical Assistance Percentages for Fiscal Year 1993 have been calculated pursuant to the Social Security Act (the Act). These percentages will be effective from October 1, 1992, through September 30, 1993. This notice announces the calculated "Federal percentages" and "Federal medical assistance percentages" that we will use in determining the amount of Federal matching in State welfare and medical expenditures for programs under titles I, IV-A, IV-E, IV-F, X, XIV, XVI (AABD) and XIX. The table gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands. The percentages in this notice apply to State expenditures for assistance payments and medical services (except family planning which is subject to a higher matching rate). The statute provides separately for Federal matching of administrative costs.

Sections 1101(a)(8) and 1905(b) of the Act, as revised by section 9528 of Public Law 99-272, require the Secretary of Health and Human Services to publish these percentages each year. The Secretary is to figure the percentages, by formulas described in sections 1101(a)(8) and 1905(b) of the Act, using the Department of Commerce's statistics of average income per person in each State and in the Nation as a whole. The percentages are with upper and lower limits given in those two sections of the Act. The statute specifies the percentages to be applied to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

The "Federal medical assistance percentages" are for foster care and adoption assistance, Job Opportunities and Basic Skills Training and for Medicaid; the "Federal percentages" are for Aid to Families with Dependent Children (AFDC) and aid to needy aged, blind, or disabled persons. However, under section 1118 of the Act, States with approved Medicaid plans may claim Federal matching funds for expenditures under approved State plans for these other programs using either the Federal percentage or the Federal medical assistance percentage. These States may claim at the Federal medical assistance percentage without regard to any maximum on the dollar amounts per recipient which may be counted under paragraphs (1) and (2) of sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a) of the Act.

DATES: The percentages listed will be effective for each of the 4 quarter-year periods in the period beginning October 1, 1992, and ending September 30, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Emmett Dye, Office of Family Assistance, Administration for Children and Families, Aerospace Building, 370 L'Enfant Promenade, SW., Washington, DC 20447, Telephone (202) 401-5041.

(Catalog of Federal Domestic Assistance Program Nos. 93.020—Assistance Payments—Maintenance Assistance (State Aid); 93.021—Job Opportunities and Basic Skills Training (JOBS); 93.658—Foster Care—Title IV-E; 93.659—Adoption Assistance; 93.778—Medical Assistance Program)

Dated: November 12, 1991.

Louis W. Sullivan,

Secretary of Health and Human Services.

FEDERAL PERCENTAGES AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES

[Effective October 1, 1992-SEPTEMBER 30, 1993 (FISCAL YEAR 1993)]

State	Federal percentages	Federal medical assistance percentages
Alabama	65.00	71.45
Alaska	50.00	50.00
American Samoa	50.00	*50.00
Arizona	62.10	65.89
Arkansas	65.00	74.41
California	50.00	50.00
Colorado	50.00	54.42
Connecticut	50.00	50.00
Delaware	50.00	50.00
District of Columbia	50.00	50.00
Florida	50.03	55.03
Georgia	57.86	62.08
Guam	50.00	*50.00
Hawaii	50.00	50.00
Idaho	65.00	71.20
Illinois	50.00	50.00
Indiana	59.12	63.21
Iowa	58.60	62.74
Kansas	53.53	58.18
Kentucky	65.00	71.69
Louisiana	65.00	73.71
Maine	57.57	61.81
Maryland	50.00	50.00
Massachusetts	50.00	50.00
Michigan	50.93	55.84
Minnesota	50.00	54.93
Mississippi	65.00	79.01
Missouri	55.84	60.26
Montana	65.00	70.92
Nebraska	57.02	61.32
Nevada	50.00	52.28

FEDERAL PERCENTAGES AND FEDERAL MEDICAL ASSISTANCE PERCENTAGES—Continued

[Effective October 1, 1992–SEPTEMBER 30, 1993 (FISCAL YEAR 1993)]

State	Federal percentages	Federal medical assistance percentages
New Hampshire	50.00	50.00
New Jersey	50.00	50.00
New Mexico	65.00	73.85
New York	50.00	50.00
North Carolina	62.13	65.92
North Dakota	65.00	72.21
Northern Mariana Islands	50.00	*50.00
Ohio	55.83	60.25
Oklahoma	65.00	69.67
Oregon	58.22	62.39
Pennsylvania	50.53	55.48
Puerto Rico	50.00	*50.00
Rhode Island	50.00	53.64
South Carolina	65.00	71.28
South Dakota	65.00	70.27
Tennessee	63.97	67.57
Texas	60.49	64.44
Utah	65.00	75.29
Vermont	55.42	59.88
Virgin Islands	50.00	*50.00
Virginia	50.00	50.00
Washington	50.02	55.02
West Virginia	65.00	76.29
Wisconsin	56.02	60.42
Wyoming	63.46	67.11

*For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI and part A of title IV will be 75 per centum.

[FR Doc. 91–27653 Filed 11–15–91; 8:45 am]
BILLING CODE 4150–04–M

Food and Drug Administration

Preapproval Inspection Program; Notice of Commissioner's Industry Exchange Meetings

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is holding two Commissioner's industry exchange meetings on the preapproval inspection program for new drug applications (NDA's) and abbreviated new drug applications (ANDA's). These meetings are intended to provide an exchange of information between FDA and the drug industry regulated by FDA that will be helpful in formulating plans for future management of new drug reviews.

DATES: The meetings will be held Tuesday, November 26, 1991, 8:30 a.m. to 4:30 p.m., and Thursday, December 5, 1991, 8:30 a.m. to 4:30 p.m. Registration will be held before the meetings.

ADDRESSES: On November 26, 1991, the meeting will be held at the Wyndham Hamilton, 400 Park Blvd., Itasca, IL; and on December 5, 1991, the meeting will be held at the Caribe Hilton, Rosales St., San Juan, PR.

FOR FURTHER INFORMATION CONTACT: Jeanne White, Office of Small Business, Scientific , and Trade Affairs (HF–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6776.

SUPPLEMENTARY INFORMATION: Recently, the Commissioner of Food and Drugs announced that he had formed a team to develop a model program to strengthen and streamline the review of new drugs in the field and at headquarters. As part of this model program, FDA has organized these meetings to discuss the agency's preapproval inspection program for NDA's and ANDA's, and to provide feedback to the Commissioner on issues of concern to the industry on these enforcement initiatives. The meetings were organized by FDA's Office of Small Business, Scientific, and Trade Affairs, Center for Drug Evaluation and Research, and Office of Regulatory Affairs. This notice announces the November 26, 1991, and December 5, 1991 meetings.

At these meetings, FDA managers and technical officials will be present to answer questions and listen to concerns about preapproval inspections, scale-up, validation, and reviews of NDA's and ANDA's and their supplements, and to discuss the new initiatives for the review of applications. The agency believes that this exchange of information will be helpful to the drug industry regulated by FDA and to the agency in formulating plans for future management of new drug reviews at the drug manufacturing facility and at FDA

Dated: November 12, 1991.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 91–27611 Filed 11–15–91; 8:45 am]
BILLING CODE 4160–01–M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 54 FR 32014 on August 3, 1989) is amended to reflect the establishment of the Office of Over-the-Counter Drug Evaluation in the Center for Drug Evaluation and Research, Food and Drug Administration (FDA). This Office is being established to ensure that the regulation of over-the-counter medications is on the same operational level as the regulation of prescription drugs. Therefore, the over-the-counter (OTC) drugs functions are being transferred from the Office of Drug Standards to the Office of Over-The-Counter Drug Evaluation. FDA believes that this transfer will ensure priority for

OTC drug reviews and expedite the drug monograph system.

Section HF-B Organization and Functions is amended as follows:

1. Delete subparagraph (n-3) Office of Drug Standards (HFNE) in its entirety and insert a new subparagraph (n-3) Office of Drug Standards (HFNE) reading as follows:

(n-3) *Office of Drug Standards* (HFNE). Oversees the development and implementation of standards for the safety and effectiveness of drug advertising and labeling.

Monitors, evaluates, and develops policy for prescription drug promotion and labeling.

Initiates necessary actions to maintain industry compliance with prescription drug advertising and labeling regulations.

Participates in Agency sponsored consumer and professional educational programs on drug standards.

2. Insert a new subparagraph (n-9) Office of Over-The-Counter Drug Evaluation (HFNN) reading as follows:

(n-9) *Office of Over-The-Counter Drug Evaluation* (HFNN). Coordinates and/or reviews and decides on the appropriate action, including approval or disapproval, of all applications for over-the-counter (OTC) drug products, OTC drug monographs, prescription drug switches to OTC drug status, and other OTC related drug products with the exception of new molecular entities and generic drug applications.

Oversees the development and implementation of standards for the safety and effectiveness of over-the-counter (OTC) drugs.

Formulates, implements and publishes OTC drug monographs.

Develops policy and procedures for the development of OTC drug reviews.

Coordinates centerwide research activities on all OTC drug issues.

Serves as the primary Agency contact for OTC drug information, regulation and status.

Maintains a document control system for OTC drug submissions and a management information system for the Office.

Initiates actions based on recommendations made by OTC advisory panels, public comments and new data received.

Participates in Agency sponsored consumer and professional educational programs on OTC drugs.

Dated: July 17, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91-27655 Filed 11-15-91; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Centers for Disease Control; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HC (Centers for Disease Control) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772-67776, dated October 14, 1989, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 56 FR 32583-32584 dated July 17, 1991) is amended to reflect the establishment of the Office of the Director (HCRM1), Hospital Infections Program (HCRM1), National Center for Infectious Diseases (HCR).

Section HC-R, Organization and Functions, is hereby amended as follows:

After the functional statement for the Hospital Infections Programs (HCRM) insert the following functional statement for the Office of the Director (HCRM):

(1) Manages, directs, and coordinates the activities of the Hospital Infections Program (HIP); (2) provides leadership for the implementation of an integrated program to improve the laboratory identification and characterization of nosocomial pathogens and the surveillance, investigation, and control of nosocomial infections; (3) provides leadership and guidance on policy, program planning and development, program management, and operations; (4) provides HIP-wide administrative and program services, and coordinates or assures coordination with the appropriate NCID and CDC staff offices on administrative and program matters; (5) provides liaison with other Governmental agencies, international organizations, and other outside groups; (6) coordinates, in collaboration with the appropriate NCID and CDC components, international health activities relating to the prevention and control of nosocomial infections; (7) advises the Director, NCID, on policy matters concerning HIP activities.

Effective Date: November 5, 1991.

Walter R. Dowdle,

Deputy Director, Centers for Disease Control.

[FR Doc. 91-27607 Filed 11-15-91; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM-922-4141-12; NM]

Known Geothermal Resources Areas; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice announces an area defined by the Bureau of Land Management as a Known Geothermal Resources Area (KGRA) consisting of approximately 28,293.05 acres of public land.

FOR FURTHER INFORMATION CONTACT: William M. Dalness, BLM, New Mexico State Office, P.O. Box 27115, Santa Fe, New Mexico 87502-0115, 505-988-6117.

SUPPLEMENTARY INFORMATION: Pursuant to the authority vested in the Secretary of the Interior by Sec. 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in Departmental Manual 1203, and 43 CFR 3200.1, the following described land, is hereby defined as the Tortugas Mountain Known Geothermal Resources Area, effective September 12, 1991:

New Mexico Principal Meridian

Tortugas Mountain Known Geothermal Resources Area

T. 22 S., R. 2 E.,
- Secs. 13 to 16, inclusive;
- Secs. 21 to 28 inclusive, and secs. 33 to 36, inclusive.

T. 23 S., R. 2 E.,
- Sec. 1, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 2, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 3, lots 1 to 4, inclusive, S½N½, and S½;
- Sec. 4, lots 6 to 17, inclusive;
- Sec. 9, lots 7 and 8;
- Sec. 10, lots 1 to 12, inclusive, and 16 to 36, inclusive;
- Sec. 11 to 14, inclusive;
- Sec. 15, lots 15 to 169, inclusive;
- Sec. 22, lots 5 and 6;
- Sec. 23, lots 1, 2, and 5 to 20, inclusive;
- Sec. 24 and 25;
- Sec. 26, lots 4 to 7, inclusive, and E½;
- Sec. 35, lots 6 to 9, inclusive;
- Sec. 36.

T. 24 S., R. 2 E.,
- Sec. 1, lots 5 to 8, inclusive, E½, and NE¼NW¼;
- Sec. 2, lot 5;
- Sec. 11, lots 5 to 8, inclusive;
- Sec. 12;
- Sec. 13, lots 3 to 5, inclusive, E½, NW¼, and NE¼SW¼;
- Sec. 14, lots 3 to 5, inclusive.

T. 23 S., R. 3 E.,

Sec. 19, lots 1, 3, 4, 5, and 6, E½, and E½W½;
Sec. 29;
Sec. 30, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 31, lots 1 to 4, inclusive, E½, and E½W¼;
Sec. 32.
T. 24 S., R. 3 E.,
Sec. 5, lots 1 to 4, inclusive, S½N½, and S½;
Sec. 6, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 7, lots 1 to 4, inclusive, E½, and E½W½;
Sec. 8 and 17;
Sec. 18, lots 1 to 4, inclusive, E½, and E½W½.

The area described contains approximately 28,293.05 acres in Dona Ana County.

Dated: October 31, 1991.

Larry L. Woodard,

State Director.

[FR Doc. 91-27638 Filed 11-15-91; 8:45 am]

BILLING CODE 4310-FB-M

[WY-920-41-5700; WYW99463]

Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provision of Public Law 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease WYW99463 for lands in Carbon County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW99463 effective July 1, 1991, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis,

Supervisory Land Law Examiner.

[FR Doc. 91-27639 Filed 11-15-91; 8:45 am]

BILLING CODE 4310-22-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31694]

The Port of Palm Beach District—Exemption—49 U.S.C. Subtitle IV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission, pursuant to 49 U.S.C. 10505 and 49 CFR 1117.1, grants the Port of Palm Beach District's request for exemption from regulation under 49 U.S.C. subtitle IV.

DATES: This exemption is effective on December 18, 1991. Petitions for stay must be filed by November 29, 1991. Petitions for reconsideration must be filed by December 9, 1991.

ADDRESSES: Send pleadings referring to Finance Docket No. 31694 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423,

and

(2) Petitioner's representatives:
Robert B. Cook, 11981 U.S. Highway One, North Palm Beach, FL 33408,

and

Edward J. Sheppard, 2600 Virginia Avenue, NW., suite 1000, Washington, DC 20037-1905.

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 obtain 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) 275-4357/4359. [Assistance for the hearing impaired is available through TTD services (202) 275-1721.]

Decided: November 7, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-27612 Filed 11-15-91; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

National Advisory Commission on Work-Based Learning; Open Meeting

SUMMARY: The National Advisory Commission on Work-Based Learning was established in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) on December 14, 1990, 55 FR 53063 (December 26, 1990). The Commission has broad responsibility to advise the Secretary of Labor on ways to increase the skills levels of the American work force and expand access to work-based learning. The Commission will focus on three main areas: Developing and expanding private and public work-based learning systems; improving the quality of work-based learning by exploring the development of a voluntary, national system of industry-based skill certification for individuals and accrediting the quality of work-based learning programs; increasing opportunities for employees to make full use of their knowledge and skills in the workplace.

Time and Place: The meeting will be held on December 4, 1991 from 9 a.m. until 4 p.m. in the Great Hall of the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Agenda: The agenda for the meeting is as follows:

9—Welcome (Chairman Jack MacAllister)
9:05—Briefing: Department of Labor Agenda (Assistant Secretary Roberts T. Jones)
9:30—Subgroup Reports
(a) Technology and Training
(b) Skill Certification
(c) Human Resource Accounting
(d) Diversity
(e) Awards Criteria
(f) Labor-Management Cooperation
10:45—Break
11—Panel: Relationship between technology diffusion and human resource development
12:30—Lunch
1:30—Panel: Skills Certification
3—Break
3:15—Next Steps
3:30—Public Comments

The meeting will be open to the public; thirty minutes will be set aside for public comments. Seating will be available for the public on a first-come, first-served basis. Seating will be reserved for the media. Handicapped individuals wishing to attend should contact the Office of Work-Based Learning in advance, so that staff can make appropriate accommodations. Individuals or organizations wishing to submit written statements should send 20 copies to Peter Carlson, Managing Director, National Advisory Commission on Work-Based Learning, FPB N4649, 200 Constitution Ave.,

NW., Washington, DC 20210, by November 26, 1991.

FOR FURTHER INFORMATION CONTACT: Peter Carlson, Managing Director, National Advisory Commission on Work-Based Learning, FPB N4649, 200 Constitution Ave., NW., Washington, DC 20210; Tel. (202) 535–0540.

Signed at Washington, DC, this 12th day of November, 1991.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 91–27667 Filed 11–15–91; 8:45 am]

BILLING CODE 4510–30–M

Attestations Filed by Facilities Using Nonimmigrant Aliens as Registered Nurses

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

ADDRESSES: Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, room S3502, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT:

Regarding the Attestation Process

The Employment and Training Administration has established a voice-mail service for the H–1A nurse attestation process. Call Telephone Number: 202–535–0643 (this is not a toll-free number). At that number, a caller can:

(1) Listen to general information on the attestation process for H–1A nurses;

(2) Request a copy of the Department of Labor's regulations (20 CFR part 655, subparts D and E, and 29 CFR part 504, subparts D and E) for the attestation process for H–1A nurses, including a copy of the attestation form (form ETA 9029) and the instructions to the form;

(3) Listen to information on H–1A attestations filed within the preceding 30 days;

(4) Listen to information pertaining to public examination of H–1A attestation filed with the Department of Labor;

(5) Listen to information on filing a complaint with respect to a health care facility's H–1A attestation (however, see the telephone number regarding complaints, set forth below); and

(6) Request to speak to a Department of Labor employee regarding questions not answered by Nos. (1) through (4) above.

Regarding the Complaint Process

Questions regarding the complaint process for the H–1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202–523–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H–1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR part 655 and 29 CFR part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons wish to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquires. In addition, attestations and supporting short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 12th day of November 1991.

Robert J. Litman,

Acting Director, United States Employment Service.

Division of Foreign Labor Certifications Approved Attestations

[10/01/91 to 10/31/91]

CEO–name/ facility name/ address	State	Approval date
Mark Werber, Tucson General Hospital, 2828 N. Campbell, Tucson, 85719, 602–327–5431.	AZ	10/18/91
Mr. Richard H. Robinson, Doctors Hospital of Manteca, 1205 E. North Street, Manteca, CA 95336, 209–823–3111.	CA	10/03/91
Mr. Mark Burke, Satellite Dialysis Centers, I, 345 Convention Way, Suite, B, Redwood City, CA 94063, 415–367–9504.	CA	10/03/91
Mr. Michael Stringer, University of CA Med. Ctr., 225 Dickinson Street, San Diego, CA 92103, 619–543–6260.	CA	10/03/91
Ms. Connie S. Jimenez, Career Nurses Provider, Inc., 16815 Parthenia St. Sepulveda, Sepulveda, CA 91343, 818–895–9097.	CA	10/03/91
Mr. Hernando E. Guzman, Hacienda Convalescent Hospital, Hacienda Care Center, Inc., Porterville, CA 93257, 209–784–7375.	CA	10/08/91
Mr. Carl W. Fitch, Sr., Holy Cross Medical Center, 15031 Rinaldi Street, Mission Hills, CA 91345, 818–365–8051.	CA	10/08/91
Mr. Anthony G. Wagner, Public Health/City & County, Laguna Honda Hospital, San Francisco, CA 94116, 415–664–2136.	CA	10/31/91
Mr. Dennis Brimhall, University Hospital, 4200 E. 9th Ave., Denver, CO 80262, 303–270–5681.	CO	10/18/91

DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[10/01/91 to 10/31/91]

CEO-name/ facility name/ address	State	Approval date
Mr. Tom Sawicki, P/SL Healthcare System, 1834 Gilpin Street, Denver, CO 80218, 303-839-7300.	CO	10/25/91
Mr. E. Tim Cook, Larkin General Hospital, Doctors Hospital of South Miami, South Miami, FL 33143, 305-284-7700.	FL	10/08/91
Mr. A. Jason Geisinger, Cape Coral Nursing Pavilion, First Healthcare Corp., d.b.a., Cape Coral, FL 33904, 813-574-4434.	FL	10/25/91
Mr. Steven H. Moss, North Broward Nephrologist Assn. Inc., Fort Lauderdale, FL 33308, 305-771-9540.	FL	10/30/91
Mr. Henry Brown, Golden Glades Reg'l Med. Ctr., 17300 NW 7 Ave., Miami, FL 33169, 305-652-4200.	FL	10/30/91
Mr. Jerry Sutphin, Humana Hospital Biscayne, 20900 Biscayne Boulevard, Aventura 33180, 305-937-3905.	FL	10/31/91
Mr. Stephen Noble, Stewart Webster Hospital, 300 Alston St., Richland, GA 31825, 813-573-1755.	GA	10/08/91
Mr. Robert B. Johnson, Grady Memorial Hospital, 80 Butler Street, SE, Atlanta, GA 30335, 404-616-1900.	GA	10/18/91
Sister Gretchen Gilroy, St. Francis Medical Center, 91-2141 Fort Weaver, Ewa Beach, HI 96706, 808-678-7000.	HI	10/25/91
Sister Patricia Clare Sullivan, Mercy Hospital Medical Center, Sixth and University, Des Moines, IA 50314, 515-247-3121.	IA	10/03/91
Ms. Cheryl Wadzinski, Beacon Hill Retirement Community, 2400 South Finley Road, Lombard, IL 60148, 708-620-5850.	IL	10/03/91
Ethel L. Nunn, Illinois Masonic Medical Center, 836 W. Wellington Avenue, Chicago 60657, 312-975-1600.	IL	10/18/91
Mr. David A. Sands, Hospital Services, Inc., 970 Green Bay Road, Glencoe, IL 60022, 708-835-2435.	IL	10/25/91
Mr. Michael Kaplan, Forest Villa, Ltd., 6840 W. Touhy Avenue, Niles, IL 60648, 708/647-8994.	IL	10/25/91
Mr. Stehpen Erickson, Sherman West Court, 1950 Larkin Ave., Elgin, IL 60123, 708-742-7070.	IL	10/28/91
Mr. David J. Fine, Tulane University Med. Ctr. Hosp., 1415 Tulane Avenue, New Orleans, LA 70112, 504-588-5471.	LA	10/03/91
Rene Goux, St. Frances Cabrini Hospital, 3330 Masonic Drive, Alexandria 71301, 318-448-6760.	LA	10/18/91
Mr. Raymond C. McAfoose, New England Baptist Hosp., 125 Parker Hill Avenue, Boston, MA 02120, 617-738-5800.	MA	10/03/91
Mr. Bruce Prause, Minn. Lutheran Home, 605 Main Street, Starbuck 56381, 612-239-2217.	MN	10/25/91
Ms. Connie Blowers, New Mark Care Center, Inc., 11221 N. Oak Trfway, Kansas City, MO 64155, 816-734-4433.	MO	10/03/91
Mr. Richard F. Grosso, Jr., Lakeview Skilled Nursing & Re., 130 Terhune Drive, Wayne, NJ 07470, 201-839-4500.	NJ	10/03/91
Mr. Kevin G. Halpern, Cooper Hosp./University Med., One Cooper Plaza, Camden, NJ 08103, 609-342-2000.	NJ	10/03/91
Ms. Shirley D. Cabildo, Morris Hills Multicare Center, 77 Madison Avenue, Morristown, NJ 07960, 201-540-9800.	NJ	10/08/91
Mr. Patrick F. Roche, St. Francis Medical Center, 601 Hamilton Avenue, Trenton, NJ 08629, 609-599-5080.	NJ	10/09/91
Mr. Leo P. Brideau, Strong Memorial Hospital, 601 Elmwood Avenue, Rochester, NY 14642, 716-275-5833.	NY	10/18/91
Martin Friewirth, Kingsbrook Jewish Medical Cen., 585 Schenectady Avenue, Brooklyn 11203, 718-604-5426.	NY	10/25/91
Mr. Carey Leptwck, Chestnut Hill Hospital, 8835 Germantown Avenue, Philadelphia, PA 19118, 215-248-8200.	PA	10/25/91
Mr. James B. Edwards, Medical University of South CC, 171 Ashley Avenue, Charleston, SC 29425, 803-792-4592.	SC	10/30/91
Mr. Gregg Magers, D.H. Humble, LTD, 22999 U.S. Highway 59, Kingwood, TX 77325, 713-358-7500.	TX	10/03/91
Mr. Bill Haire, Presbyterian Hospital of Dallas, 8200 Walnut Hill Lane, Dallas, TX 75231, 214-696-7458.	TX	10/18/91
Mr. Walter Gary Deer, Memorial Med. Ctr. of East Texas, 1201 Frank Street, P.O. Box 1447, Lufkin, TX 75901, 409-639-7789.	TX	10/21/91
Mr. Robert Schweitzer, First Homecare—Houston, Inc., 3230 Mercer, Suite 100, Houston, TX 77027, 713-850-9099.	TX	10/25/91
Mr. Randy Jackson, Plaza Rehab. Hosp. at Kingwood, 22999 U.S. Hwy. 59, Kingwood, TX 77325, 713-359-1313.	TX	10/25/91
Martin A. White, Bio-Med. Applications of E. Dallas, Inc., Dallas, TX 75204, 214-827-7840.	TX	10/30/91
Robert A. Verville, Utah State Hospital, P.O. Box 270, Provo 84606, 801-373-4400.	UT	10/30/91
Mr. Carl R. Fischer, Medical College of Virginia Hosp., 1200 E. Broad Street, Richmond, VA 23298, 804-786-0918.	VA	10/03/91
Mr. James L. Daily, Porter Medical Center, Inc., South Street, Middlebury, VT 05753, 802-388-7901.	VT	10/25/91
Total Attestations: 46.		

[FR Doc. 91-27668 Filed 11-15-91; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal 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 by December 18, 1991.

ADDRESSES: Send comments to Mr. Dan Chenok, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503; (202-395-7316). In addition, copies of such comments may be sent to Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202-682-540[illegible]).

FOR FURTHER INFORMATION CONTACT: Ms. Judith E. O'Brien, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506; (202–682–5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests the review of a revision of a currently approved collection of information. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: FY 93 Challenge Grant Application Guidelines.
Frequency of Collection: One Time.
Respondents: State or local governments; Non-profit institutions.
Use: Guideline instructions and applications elicit relevant information from non-profit organizations and state, regional or local arts agencies that apply for funding under specific Challenge program forms of support. This information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.
Estimated Number of Respondents: 300.
Average Burden Hours per Response: 80.
Total Estimated Burden: 24,000.

Judith E. O'Brien,
Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 91–27610 Filed 11–15–91; 8:45 am]
BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Biotic Systems and Resources

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because 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 proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Biotic Systems and Resources.
Dates & Times: December 12–13, 1991—8:30 a.m.–5 p.m.
Location: National Science Foundation, 1800 G Street, NW., Washington, DC 20550, room 543.
Type of Meeting: Closed.
Agenda: Review and evaluate Doctoral Dissertation Improvement awards.
Contact Person: Dr. Penelope L. Firth, Program Manager, Special Projects, room 215, National Science Foundation, Washington, DC 20550, telephone (202) 357–9734.

Dated: November 12, 1991.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 91–27601 Filed 11–15–91; 8:45 am]
BILLING CODE 7555–01–M

Advisory Review Panel for Engineering Research Centers; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate the project and provide advice and recommendations. Because the project 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 proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Advisory Review Panel for Engineering Research Centers.
Dates: December 3–4, 1991.
Time: 8:30 a.m.-5 p.m. each day.
Place: Massachusetts Institute of Technology, Cambridge, Mass.
Type of Meeting: Closed.
Agenda: Review and evaluate Engineering Research Centers' Project.
Contact: Dr. Lynn Preston, Deputy Director, Engineering Centers Division, National Science Foundation, room 416, Washington, DC 20550 (202 357–9717).

Dated: November 12, 1991.

M. Rebecca Winkler,
Committee Management Officer.

[FR Doc. 91–27602 Filed 11–15–91; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on AC/DC Power Systems Reliability; Meeting

The ACRS Subcommittee on AC/DC Power Systems Reliability will hold a meeting on November 20, 1991, room P–422, 7920 Norfolk Avenue, Bethesda, MD. Notice of this meeting was published previously in the **Federal Register** on Friday, October 25, 1991 (56 FR 55354).

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 20, 1991—8:30 a.m. Until the Conclusion of Business

The Subcommittee will review the proposed Rule to address resolution of Generaic Safety Issue B–56, "Diesel Generator Reliability."

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted

therefor can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Paul Boehnert (telephone 301/492-8558) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: November 12, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-27657 Filed 11-15-91; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Joint Subcommittees on Computers in Nuclear Power Plant Operations and Advanced Pressurized Water Reactors; Meeting

The Subcommittees on Computers in Nuclear Power Plant Operations and Advanced Pressurized Water Reactors will hold a joint meeting on December 3-4, 1991, room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, and Wednesday, December 3-4, 1991—8:30 a.m. Until the Conclusion of Business Each Day

The Subcommittees will hear presentations by representatives of the Westinghouse and ABB Combustion Engineering on their digital computer experiences in nuclear power plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittees, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will hear presentations by and hold discussions with representatives of Westinghouse, ABB Combustion Engineering, NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Thomas S. Rotella (telephone 301/492-8972) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 12, 1991.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 91-27658 Filed 11-15-91; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Draft Regulatory Guide DG-8005, "Assessing External Radiation Doses from Airborne Radioactive Materials," is being developed to provide guidance on meeting the requirements in the NRC's regulations for assessing external doses from airborne radionuclides. This draft guide is intended for Division 8, "Occupational Health," of the Regulatory Guide Series.

This draft guide is being issued to involve the public in the early stages of the development of regulatory positions in this area. It has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by January 15, 1992.

Although a time limit is given for comments on this draft, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Distribution and Mail Services Section. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 5th day of November 1991.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 91-27656 Filed 11-15-91; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Meeting of the Panel on High Performance Computing and Communications of the President's Council of Advisors on Science and Technology

The Panel on High Performance Computing and Communications of the President's Council of Advisors on Science and Technology (PCAST) will meet on November 22, 1991. The meeting will begin at 9 a.m. in room 180 of the Old Executive Office Building, Washington, DC. The meeting will conclude at approximately 5 pm.

The purpose of the Panel is to advise the PCAST on issues related to high performance computing and communications that have a bearing on long-range national goals, government regulation, the transition of Federal programs to industry, and on foreign access.

Proposed Agenda

1. Briefing of the Panel by expert witnesses from industry on high

performance computing and communication issues.

2. Briefing of the Panel by agency personnel on ongoing Federal activities in high performance computing and communications.

The November 22 meeting will be closed to the public.

The briefing on some of the current Federal activities necessarily will involve discussion of materials that are formally classified in the interest of national defense or for foreign policy reasons. A portion of these briefings will also require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. Finally, the briefings will necessarily include discussion of potentially sensitive proprietary information. Therefore, the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1), (2), and (9)(B).

Dated: November 12, 1991.

Ms. Damar W. Hawkins,

Executive Assistant, Office of Science and Technology Policy.

[FR Doc. 91-27568 Filed 11-15-91; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29928; File No. SR-NASD-91-19]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Codification of the Corporate Financing Interpretation

November 12, 1991.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 26, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is herewith filing a proposed rule change to adopt a new Rule of Fair Practive (the "Corporate Financing Rule" or "Rule") to replace in its entirety the current Interpretation of the Board of Governors—Review of Corporate Financing, article III, section 1 of the Rules of Fair Practice (NASD Manual, ¶2151.02 at pages 2023-2036) (the "Corporate Financing Interpretation" or "Interpretation"). The NASD is also proposing to codify its practices related to procedures governing requests for review of Corporate Financing Department determinations in new Article XII to the NASD Code of Procedure ("Article XII").

The NASD also is proposing to make conforming changes to Schedule A to the NASD By-Laws to reflect the revised description of the calculation of the Corporate Financing filing fees that is set forth in subsection (b)(10) of the proposed Corporate Financing Rule.

Following is a summary discussion of the proposed rule change. Interested persons may obtain a copy of the complete rule filing and/or the text of the proposed Rule, proposed Article XII and the conforming amendments to Schedule A by request to the Office of General Counsel, National Association of Securities Dealers, Inc., 1735 K Street, NW., Washington, DC 20006.

Summary of Corporate Financing Rule

The proposed Rule is not denominated by a specific section number. A number will be assigned upon approval of the Rule. The proposed Rule is divided into four subsections: (a) Definitions, (b) Filing Requirements, (c) Underwriting Compensation and Arrangements, and (d) Power of the Board of Governors.

Subsection (a): Definitions

The Definitions section explains the meaning of terms used in the Rule. The meaning of words and/or phrases already defined in the NASD's Rules of Fair Practice or By-Laws are found therein. A specific reference to the definitions contained in Schedule E to the By-Laws ("Schedule E") has been incorporated into the proposed Rule since a number of terms used in the Rule, including "immediate family," "bona fide independent market," "qualified independent underwriter," and "public offering" are already defined in Schedule E. (NASD Manual, pp. 1611-1613-3).

Proposal: Subsection (a)(1) defines *gross dollar amount of the offering* as the public offering price of all securities offered to the public and securities included in any overallotment option, the registration price of securities to be paid to the underwriter and related persons, and the registration price of any securities underlying other securities. The term "gross dollar amount of the offering" is used only for purposes of calculating filing fees and currently appears only in Section 6 to Schedule A to the NASD By-Laws, which sets forth the filing fees for Corporation Financing filings.

Proposal: For purposes of the proposed Rule, Subsection (a)(2) defines the term *issuer* as any issuer of the securities offered to the public and any selling security holders offering securities to the public, including any affiliate of the issuer or selling security holder, and the officers or general partners, directors, employees and security holders thereof. The current Interpretation does not define this term. The proposed definition codifies the NASD staffs practice in interpreting provisions that rely on this term. Use of the term "issuer" obviates the need to utilize the term "issuer/selling security holder" throughout the Rule and obviates the need in a number of instances to reference all enumerated persons. The definition is also intended to clarify that the reach of the Rule is beyond the issuer's "affiliates" as that term is defined in Schedule E to include the officers, general partners, directors, employees and security holders of the affiliate. The Schedule E definition of "affiliates" only includes the issuer's officers and greater-than-10% voting shareholders.

Proposal: The term *net offering proceeds* is defined in Subsection (a)(3) as offering proceeds less all expenses of issuance and distribution. The term is only used in proposed Subsection (c)(8) that regulates offerings where more than 10 percent of the net offering proceeds are directed to members participating in the distribution of the offering. The NASD believes that this definition is clearer than the current definition of the term in the Proceeds Directed to a Member provision of the Interpretation which relied on the definition of "gross offerings proceeds" less all expenses of issuance and distribution.

Proposal: The term *offering proceeds* is defined in Subsection (a)(4) as the public offering price of all securities offered to the public, exclusive of securities subject to any overallotment option, securities to be received by the underwriter and related persons, or securities underlying other securities. The term "offering proceeds" is used in several provisions of the proposed Rule.

In particular, it is used in connection with the calculation of the amount of underwriting compensation to be received in connection with an offering by the underwriter and related persons. This term is not currently defined in the Interpretation.

Proposal: The term *participation or participating in a public offering* is defined in Subsection (a)(5) as participation in the preparation of the offering or other documents, participation in the distribution of the offering on an underwritten, non-underwritten, or any other basis, furnishing of customer and/or broker lists for solicitation, or participation in any advisory or consulting capacity to the issuer related to the offering. The definition is drawn in major part from Items 1 through 5, and particularly the last sentence of Item 5 on page 2026 of the NASD Manual, with language added to clarify that participation is not limited to "underwritten" offerings (*see*, Item 3 page 2026 of the NASD Manual) and to exclude activities which historically have not triggered the filing requirements of the Interpretation. The specific activities excluded are the rendering of an appraisal in a savings and loan conversion or a bank offering, the issuance of a fairness opinion pursuant to SEC Rule 13e–3, *i.e.*, going private transactions by certain issuers or their affiliates. Where a public offering is otherwise subject to the filing requirements, any compensation paid in connection with these excluded activities is not included in the calculation of underwriting compensation.

The concept of whether a member is participating in an offering is included in the proposed Rule to determine when a member's activities in connection with a public offering will trigger the filing requirements of the Rule and whether a particular member is responsible for filing. This term is not currently defined in the Interpretation.

Proposal: The term "underwriter and related persons" as currently defined in the Interpretation (NASD Manual, at 2025) has been used to determine whether the NASD has jurisdiction to consider as underwriting compensation any item of value received by a particular person. The definition in the Interpretation is proposed to be in subsection (a)(6) of the Rule. The proposed definition provides that the "underwriter and related persons" includes underwriters, underwriter's counsel, financial consultants and advisors, finders, members of the selling or distribution group, and any and all other persons associated with or related to and members of the immediate family of any of the aforementioned persons.

Subsection (a)(6) includes the language of the definition of "underwriter and related persons" as it appears in the Interpretation with two modifications. First, the NASD is concerned that the current definition of "underwriter and related persons" in the Interpretation does not sufficiently relate to the concept of "participating in a public offering." This situation arises where a member is acting as an agent for an issuer or providing advice to an issuer in a self-underwritten offering. Under the current definition of "underwriter and related persons" in the Interpretation, members may believe that the definition only references members that act as an underwriter or selling group member. Therefore, a new category of persons has been added that an "underwriter and related persons" includes "any member participating in the public offering." Thus, a member considered to be "participating in an offering" under subsection (a)(5) sufficient to trigger the filing requirements will also be considered an "underwriter and related person."

Second, NASD is proposing to include in the definition of "underwriter and related persons" a reference to the "immediate family" of persons within the definition in order to clarify that compensation paid to an underwriter and related persons, even though held in the name of or paid to a member of the immediate family of any person in the definition, may be considered underwriting compensation. The Corporate Financing Department has often been challenged by a person associated with the underwriter who claimed that the NASD did not have jurisdiction to consider the issuer's cheap stock as underwriting compensation, since the stock was purchased by the person's spouse or on behalf of a trust for the person's children. The term "immediate family" is defined in Schedule E.

Subsection (b): Filing Requirements

The Filing Requirements section sets out the requirements for filing public offerings with the Corporate Financing Department, provides for the confidential treatment of such filings, and lists the documents and information required to be filed with the Corporate Financing Department. This section also lists the types of offerings that are exempt from filing as well as those offerings that are exempt from both filing and compliance with the proposed Rule. The filing requirements subsection codifies without substantial change existing requirements in the Interpretation for the filing of public offerings. (NASD Manual, pp. 2026–2030). It should be noted that the filing requirements focuses on "public offerings," a term defined in Schedule E, rather than on SEC-registered offerings, on the basis that the NASD's obligations to review its members' participation in offerings of securities are paramount when the offering is made to the public, regardless of whether the offering is exempt from the filing requirements of the Securities Act of 1933 ("Securities Act").

Proposal: Subsection (b)(1) provides that no member or person associated with a member shall participate in any manner in any public offering of securities subject to the Rule, Schedule E, or appendix F to article III, section 34 of the Rules of Fair Practice ("Appendix F") unless documents and information as specified in subsection (b) have been filed with and reviewed by the NASD.

Proposal: In recognition of the fact that the NASD's multiple offices could create confusion as to where the filing should be made, Subsection (b)(2) specifies that offerings should be filed at the Corporate Financing Department at the NASD's Executive Offices. The language is drawn from the first paragraph of the filing requirements of the Interpretation (NASD Manual, 2026).

Proposal: Subsection (b)(3) codifies the requirement in the Interpretation that the NASD accord confidential treatment to all documents and information required to be filed under the proposed Rule. (NASD Manual, p. 2029, last sentence of last full paragraph.) The language has been expanded from that originally published for comment to clarify that the NASD's review relates to "applicable NASD rules and regulations" instead of limiting NASD review to the provisions of the Rule. The revised proposed language more accurately reflects that the NASD's review encompasses a number of NASD rules and regulations beyond the rule, *e.g.* Schedule E, appendix F and sections 24 and 25 to article III.

The term "* * * or for other regulatory purposes deemed appropriate by the NASD" reflects the NASD's obligation to review public offerings for a demonstration of compliance with applicable SEC rules and regulations, pursuant to the NASD's mandate under Section 15A of the Exchange Act to enforce the requirements of the Exchange Act, *e.g.* Rules 3a4–1, 15c2–4 and 10b–9.

Proposal: The first requirement of subsection (b)(4)(A) imposes the Rule's filing obligations on all members participating in an offering, unless the

documents were previously filed by the issuer, the managing underwriter or another member. This provision appropriately relates the requirement of filing to all members within the definition of "participating in a public offering" and would resolve the problems associated with the filing of offerings where no member serves in a capacity similar to that a manager of a "firm-commitment" underwritten offering.

The second requirement of subsection (b)(4)(A) establishes that documents and information specified in subsections (b)(5) and (6) must be filed no later than one business day after they have been filed with the appropriate state or federal regulatory authorities, or, if not filed with any regulatory authority, at least 15 business days prior to the anticipated offering date. This language is drawn from the current filing requirement provision in the first paragraph on page 2027 of the NASD Manual.

Proposal: Subsection (b)(4)(B) states that no offering of securities subject to this section shall commence unless the documents and information specified in subsections (b)(5) and (6) have been filed with and reviewed by the NASD, and the Corporate Financing Department has provided an opinion that it has no objections to the proposed underwriting and other terms and arrangements or an opinion that the proposed underwriting and other terms and arrangements are unfair and unreasonable.[1] If the Corporate Financing Department opines that the proposed terms and arrangements are unfair and unreasonable, the member may file modifications to the proposed underwriting arrangements for further review by the Corporate Financing Department.

Under the Interpretation, non-filing by a member is considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Article III, Section 1 of the Rules of Fair Practice. It is not currently a violation of the Interpretation, however, for a member to proceed with an offering once it has been filed even though the member has not received an opinion of the staff with respect to its view of the reasonableness of the underwriting terms and arrangements. The NASD has found that, in many of the cases where a member has filed an offering but proceeded to distribute the securities without waiting for an opinion from the staff, counsel has pointed out that the Interpretation does not clearly state that a member may not proceed with an offering without an opinion from the staff. It would not be sufficient for a member to receive a letter from the staff requesting additional information (a "defer opinion" letter), as such letter does not express an opinion as to the fairness and reasonableness of the arrangements.

The opinion of the staff of the Corporate Financing Department and, if this opinion is appealed, the opinion of a committee of the NASD Board of Governors ("Board") are advisory only. Therefore, a member that has been advised that the underwriting terms and arrangements are unreasonable may still go forward with the offering. It is a matter for a District Business Conduct Committee to determine whether the underwriting terms and arrangements were, in fact, unfair and unreasonable.

Proposal: Subsection (b)(4)(C) provides that a managing underwriter that has received an opinion from the Corporate Financing Department or a determination by a committee of the Board that the proposed underwriting terms and arrangements are unfair and unreasonable, but has not modified the proposed terms and arrangements to conform to the standards of fairness and reasonableness, must so inform other members proposing to participate in the offering prior to the offering's effective date or commencement of sales so that such members may determine whether or not to participate in the offering. This subsection gives members proposing to participate in an offering determined to have unfair and unreasonable arrangements an opportunity to comply with their obligation not to participate in the distribution. This subsection is drawn from language in the Interpretation (NASD Manual, pp. 2025–2026).

The provision specifies that notification must be provided prior to the "commencement of sales" to address those situations where the SEC or state has declared the offering effective prior to NASD clearance, but a subsequent change renders the arrangement unreasonable. In this case, other participating members must be notified of the opinion of the NASD prior to the "commencement of sales."

Proposal: Under subsection (b)(5), the following documents are required to be filed for review: (A) Five copies of the offering document; (B) three copies of any proposed underwriting agreements or other documents which may be material to the underwriting arrangements; (C) five copies of each pre- and post-effective amendment to the offering document, one copy marked to show changes and three copies of any other amended document previously filed; and (D) three copies of the final offering document plus one copy of the final underwriting and any other document previously submitted for review. This language tracks the current filing requirements in the Interpretation, as revised in 1986 (NASD Manual, pp. 2026–2028).

Proposal: Subsection (b)(6) tracks the "Supplementary Requirements" in the Interpretation (NASD Manual, pp. 2028–2029) and enumerates certain information necessary for review by the Corporate Financing Department and required to be filed with the documents. Subsections (b)(6) (A) and (B) require any person filing documents to provide an estimate of the maximum public offering price and an estimate of the maximum underwriting discount or commission and all other fees to be paid to the underwriter and related persons, except for reimbursement of "blue sky" fees. Subsection (b)(6)(C) requires a statement of the association or affiliation with any member of any officer, director, or security holder of the issuer in an initial public offering of equity securities, and with respect to any other offering, the association or affiliation with any member of any officer, director or security holder of five percent or more of any class of the issuer's securities. The NASD believes that adding these requirements will, in many cases, obviate the need to issue a "defer" opinion letter requesting additional information.

Proposal: Subsection (b)(6)(D) requires, where applicable, that a statement addressing the factors in Subsections (c)(4) (C) and (D) (discussed below) be provided. This is a new requirement not currently in the Interpretation which provides needed clarification that a member must provide information with respect to the criteria used by the NASD to determine whether an item of value should be considered compensation.

Proposal: Subsection (b)(6)(E) requires a detailed explanation of any other arrangement entered into during the 12-month period immediately preceding the filing of the offering which provides for the receipt of any item of value and/or the transfer of any securities from the issuer to the underwriter and related persons.

Proposal: Subsection (b)(6)(F) requires that the NASD be provided with written notice that an offering has been declared effective or approved by the

[1] Due to an error in the publication of this provision for vote in Notice to Members 90-10 (March 1990), the full language of this provision failed to be included.

appropriate regulatory authority no later than one business day following such approval. If the offer has been withdrawn or abandoned, the NASD must be notified within three business days of the withdrawal or decision to abandon the offering. The Interpretation (NASD Manual. p. 2029) currently requires only "prompt" notification by telephone or telegram.

Proposal: Subsection (b)(7) contains a list of offerings exempt from filing but still subject to compliance with the Rule. The language in Subsection (b)(7) is generally drawn from the current filing requirements in the Interpretation (NASD Manual. p. 2027), as revised in 1986.[2] Subsection (b)(7)(A) would exempt all offerings (except for initial public offerings), including equity offerings, of a company with outstanding four-year, unsecured non-convertible debt or non-convertible preferred securities rated investment grade.

Unlike the Interpretation, however, proposed subsection (b)(7)(A) limits the availability of the exemption to situations where the non-convertible debt or preferred securities are "unsecured." Subsection (b)(7)(A) is intended to be available to all offerings of securities by issuers that are considered "seasoned" because it has outstanding investment grade debt with a term of issue of at least four years, which period is considered a significant test of the issuer's ability to repay interest and principal.

When the provision proposed in (b)(7)(A) was adopted in the Interpretation, it replaced but was not intended to eliminate the exemption that had existed for any offering of investment grade non-convertible debt or investment grade non-convertible preferred security. Therefore, the NASD now proposes to reinstate the investment grade debt offering exemption in subsection (b)(7)(B) to exempt non-convertible debt and non-convertible preferred securities rated investment grade.

Subsection (b)(7) specifies in relevant places that an "investment grade rating" is considered a rating "by a nationally recognized statistical rating organization in one of its four (4) highest generic rating categories . . . ."

Proposal: Subsection (b)(7)(C) would exempt securities registered with the SEC on a Form S-3 or Form F-3 registration statement and offered pursuant to SEC rule 415. Subsection (b)(7)(D) would exempt securities offered pursuant to a redemption standby "firm commitment" underwriting arrangement registered with the Commission on Form S-3. Finally, subsection (b)(7)(E) would exempt financing instrument-backed securities which are rated by a nationally recognized statistical rating organization in one of its four highest generic rating categories. Subsection (b)(7)(E) incorporates the language adopted in Schedule E of "financing instrument-backed securities" in place of "direct participation program interests in a pool of financing instruments." These provisions reflect the current exemptions in the Interpretation (NASD Manual. p. 2027).

Proposal: Subsection (b)(8) lists offerings not subject to the Rule and exempt from filing. The language in this subsection tracks that of the filing requirements in the Interpretation, as revised in 1986. (NASD Manual, p. 2028). The following offerings would be exempted: (A) Securities exempt from registration with the SEC under sections 4(1), 4(2) and 4(6) of the Securities Act, and rules 504 (unless considered a public offering in the states where offered), 505, and 506 under the Securities Act; (B) securities which are defined as "exempt securities" in section 3(a)(12) of the Exchange Act; (C) securities of investment companies registered under the Investment Company Act of 1940, except securities of a management company defined as a "closed-end company" under section 5(a)(2) of that Act; (D) variable contracts as defined in article III, section 29(b)(1) of the Rules of Fair Practice; (E) offerings of municipal securities as defined in section 3(a)(29) of the Exchange Act; (F) tender offers made pursuant to Regulation 14D; and (G) securities issued pursuant to a competitively bid underwriting arrangement meeting the requirements of the Public Utility Holding Company Act of 1935, as amended.

Proposal: Subsection (b)(9) tracks the filing requirements in the Interpretation, as revised in 1986 (NASD Manual, p. 2028) and requires that the following offerings be filed for review by the Corporate Financing Department: (A) Direct participation programs as defined in article III, section 34(d)(2) of the Rules of Fair Practice; (B) mortgage and real estate investment trusts; (C) rights offerings; (D) offerings exempt from registration with the SEC under section 3(a)(11) of the Securities Act, which are considered a public offering in the state where offered; (E) Rule 504 offerings, which are considered a public offering in the state where offered; (F) securities offered by a bank, savings and loan association, church or other charitable institution, or common carrier, even though exempt from registration with the SEC; (G) Regulation A or Regulation B offerings; and (H) any offerings of a similar nature that are not exempt under subsections (b)(7) or (b)(8).

Proposal: Subsection (b)(10) codifies the proper calculation of the appropriate filing fee, which was increased on October 1, 1988. (See NASD Notice to Members 88-81). This information is also provided in section 6 of Schedule A to the NASD By-Laws ("Schedule A") (NASD Manual, pp. 1505-1506, which will be amended in conformance therewith. To avoid issues arising out of the handling of cash fee payments, particularly in light of the substantial cash payments possible, subsection (b)(10)(C) provides that filing fees shall be paid only in the form of check or money order, thereby prohibiting cash payments of filing fees. The filing fee is based on the "gross dollar amount" of the offering, as defined in subsection (a) of the proposed rule and shall not exceed $30,500. Subsection (b)(10)(D) provides that SEC rule 457 shall govern the computation of filing fees for all offerings filed pursuant to the proposed Rule. A rule change to section 6 of Schedule A is also proposed to conform to the requirements of this subsection.

Subsection (c): Underwriting Compensation and Arrangements

Subsection (c) addresses the amount of underwriting compensation that can be received by underwriters and related persons, the items of compensation that will be deemed to be underwriting compensation, the criteria for determining whether compensation is received in connection with a public offering, and the valuation of non-cash compensation received as underwriting compensation. Subsection (c) also describes presumptively unfair and unreasonable underwriting terms and arrangements, enumerates restrictions on securities received as underwriting compensation, and addresses conflicts of interest present when the proceeds of a public offering are directed to members participating in the offering.

Proposal: Subsection (c)(1) provides that no member or person associated with a member shall underwrite or

/2/ In Notice to Members 91-34 (June 1991), the NASD requested comment on amendments to the filing requirements of the Interpretation to recognize the new SEC Forms F-9 and F-10 for Canadian issuers that were subsequently approved in SEC Rel. No. 33-6902 (June 21, 1991). It is anticipated that Subsection (b)(7)(C) will be amended to reference Form F-10; Subsection (b)(7)(D) will be amended to reference Forms F-3 and F-10; and a new provision will be proposed to exempt all offerings on Form F-9.

participate in a public offering in which the underwriting compensation or other terms or arrangements in connection with the offering or relating to the distribution of the securities are unfair and unreasonable. This subsection tracks the language of the Interpretation (NASD Manual. p. 2025), which recognizes that the NASD may render an opinion as to the terms and arrangements of an offering based not only upon the proposed Rule, but upon other NASD rules and regulations as well as certain SEC rules which the NASD enforces in the context of a public offering. Where an underwriter does not agree with the Corporate Financing Department's determination that offering arrangements are not in compliance with an SEC rule, the Corporate Financing Department will continue its policy of referring the matter to Commission staff, and will not give an opinion of "no objections" on the offering until Commission staff resolves the problem with the underwriter. The inclusion of the language "terms and conditions" is intended to ensure sufficient elasticity in the reach of the Rule and is drawn from the current Interpretation (NASD Manual, p. 2024).

Proposal: Subsection (c)(2)(A) prohibits any member that participates in a public offering of securities from receiving an amount of underwriting compensation that is unfair and unreasonable and also prohibits any member from participating in a public offering of securities if the underwriting compensation in connection therewith is unfair or unreasonable. This prohibition tracks language in the Interpretation (NASD Manual, p. 2026, Item 1).

Proposal: Subsection (c)(2)(B) clarifies that all "items of value," as determined pursuant to subsections (c)(3) and (4), received or to be received from any source by the underwriter and related persons which are deemed to be in connection with or related to the distribution of the public offering are reviewed for the purpose of determining whether they constitute underwriting compensation.

Proposal: Under subsection (c)(2)(C), all underwriting compensation must be disclosed in that portion of the offering document dealing with underwriting or distribution arrangements. Where underwriting compensation includes items of compensation in addition to the commission or discount disclosed on the cover page of the offering document, a footnote to the offering proceeds table on the cover page of the offering document shall cross-reference the section on underwriting or distribution arrangements. This is a new provision where the NASD is clarifying the disclosure obligations of members in public offerings.

Proposal: Subsection (c)(2)(D) discusses the factors considered by the NASD to determine the currently effective guideline on the maximum amount of compensation considered fair and reasonable. Under the Interpretation (NASD Manual, p. 2024), it is stated the Corporate Financing Department determines "whether" the amount of underwriting compensation "is" fair and reasonable. This language has misled certain NASD members and their attorneys to believe that the Corporate Financing Department is subjective in its review of offerings and establishes a different compensation guideline for each offering. In fact, the Corporate Financing Committee has provided to the Corporate Financing Department an objective guideline of the maximum amount of underwriting compensation considered to which the NASD will not object for all offerings of a particular size and nature. This subsection modifies the Interpretation and clarifies that the determination of the fairness and reasonableness of underwriting compensation is determined pursuant to a "currently effective guideline" based upon the factors enumerated in the subsection, and is not a subjective process.

One commenter suggested that the NASD publish the ultimate limits of permissible percentages of compensation for corporate offerings. The rationale of the NASD's Board of Governors regarding non-publication of the Corporate Financing guideline is that the guideline merely represents the maximum compensation arrangement to which the NASD will not object, rather than a "rate approval." Also, it has long been accepted that publication of the permissible limits of underwriting compensation would be counterproductive and discourage competition, in that it would tend to encourage members to charge issuers the maximum compensation allowed. The NASD believes that the proposed subsection retains sufficient elasticity by including language that permits consideration of "any other relevant factors or circumstances" if the staff determination is appealed to the appropriate committee for review where the proposed underwriting compensation exceeds the currently effective guideline limitations.

Another commentator suggested that, from time to time, the NASD publish information regarding "typical" amounts of underwriting compensation that have been permitted. The NASD has previously published statistics on underwriting compensation of offerings filed with the NASD for review in Notice to Members 83–15 (April 8, 1983) and plans to publish such statistics more frequently in the future.

Proposal: The term "offering proceeds" is used in subsection (c)(2)(D)(i) to clarify that underwriting compensation is calculated only on the basis of the securities offered to the public, exclusive of the overallotment option, consideration of the value of underlying securities, or the value of underwriter's securities, all of which are included in the calculation of the filing fee.

Proposal: Under subsection (c)(2)(D)(ii), the amount of risk assumed by the underwriter, *i.e.*, whether the offering is a "firm commitment" or "best efforts" offering, has an impact on the amount of compensation considered fair and reasonable. The current guideline also measures the risk assumed by the underwriter by distinguishing between initial and secondary offerings.

Proposal: Subsection (c)(2)(D)(iii), requires that the NASD also consider the type of securities being offered. Thus, direct participation program securities are subject to the compensation guideline referenced in appendix F to article III, section 34 of the Rules of Fair Practice and corporate offerings are subject to the unpublished corporate guideline established by the Corporate Financing Committee.

Proposal: Subsection (c)(2)(E) clarifies that the compensation guideline is structured so that the amount of compensation which is considered fair and reasonable will generally vary directly with the amount of risk to be assumed by the underwriter and related persons and inversely with the dollar amount of the offering proceeds. This is a new provision that is not drawn from the Interpretation and is an effort to make as much information available as possible to members as to the structure of the corporate compensation guideline.

Proposal: Subsection (c)(3)(A) provides that certain enumerated items of value and all other items of value received or to be received by the underwriter and related persons in connection with or related to the distribution of the offering will be included in underwriting compensation.[3]

[3] It is the experience of the staff of the Corporate Financing Department that many members believe that a demand right of registration of warrants received by an underwriter as compensation has a separate compensation value. Reflecting the current policy of the Corporate Financing Department, a

Continued

The enumerated items are those that are commonly received by underwriters. This subsection generally tracks the Compensation Factors described in the Interpretation (NASD Manual, pp. 2033–2034). The Interpretation limits items of value to those "* * * given by or acquired by the issuer, seller or persons in control or in common control of the issuer, or related parties of the issuer or other persons." The NASD believes that the current language of the Interpretation is limiting because it places a burden of proof on the NASD to demonstrate the presence of what may be complex financial and business relationships between the issuer, finders, consultants, the member and persons associated or related to the member when the facts related to the relationships are in the control of the member and the issuer. Proposed subsection (c)(3)(A), therefore, does not specify the source of the item of value in coordination with subsection (c)(2)(B) which includes all items of value received by the underwriter and related persons in the calculation of underwriting compensation regardless of the source of the item.

Included for purposes of determining underwriting compensation in subsections (c)(3)(A) (i), (ii), (iii), (iv), (v), and (vi) are discounts or commissions, reimbursement of expenses to or on behalf of the underwriter and related persons, fees and expenses of underwriter's counsel (except for reimbursement of "blue sky" fees), finder's fees, wholesaler's fees, and financial consulting and advisory fees, whether in the form of cash, securities, or any other item of value.

Subsection (c)(3)(A)(vii) provides that stock, options, warrants, and other securities received in connection with a private placement of securities for the issuer, for providing or arranging financing for the issuer, as a finder's fee, for consulting services to the issuer, and securities purchased in a private placement made by the issuer may be considered underwriting compensation. This subsection is drawn from the Interpretation, but also reflects the current policies with respect to the circumstances under which the receipt of securities may be considered underwriting compensation in order to provide greater guidance to NASD members and their counsel (NASD Manual, pp. 2033–2034).

Subsection (c)(3)(A)(viii) provides that non-cash sales incentives in excess of $50 annually may be considered underwriting compensation. This provision reflects the prohibition on non-cash sales incentives in excess of $50 annually as provided in subsection (c)(6)(B)(xi) of this rule. Subsection (c)(3)(A)(ix) includes as underwriting compensation the value of any right of first refusal. This subsection reflects the current position of the Corporate Financing Committee that a right of first refusal has a compensation value of one percent of the offering proceeds, or that amount contractually agreed to by the issuer and underwriter for the underwriter to waive the right of first refusal.

Subsection (c)(3)(A)(x) includes as potential underwriting compensation monies received by a member's nominee appointed as advisor to the issuer's board of directors if it is in excess of that compensation received by other board members. This subsection is in agreement with the current policy of including in underwriting compensation fees received from an issuer by a member pursuant to a consulting arrangement. If the member's nominee actually serves on the board, and takes director liability, this provision would not apply. Pursuant to current review policy, certain arrangements for an advisor to the board would be determined not to be in connection with the offering, because the member's arrangement as advisor is for other services, such as in a leveraged buy-out or financial restructuring, where the public offering is a minor part of a larger transaction.

Under subsection (c)(3)(A)(xi), commissions, expense reimbursements, or other compensation received by the underwriter and related persons as a result of the exercise or conversion of warrants, options, convertible securities, or similar securities distributed as part of the offering, *i.e.*, warrant solicitation fees, within 12 months following the effective date of the offering will be considered compensation in connection with the offering. This reflects current NASD policy that compensation received for the exercise of warrants distributed by the underwriter generally constitutes compensation received in connection with the original offering. See Notice to Members 81–38.

Under subsections (c)(3)(A)(xii) and (xiii), the fees of a qualified independent underwriter and fees paid to a prior underwriter by an issuer for a public offering that was not completed within the six months prior to the initial or amended filing of an offering will be considered an item of underwriting compensation. These subsections clarify current Corporate Financing Department review policies. Subsection (xiii) would apply where the earlier attempted public offering was filed but failed to go effective or where the earlier offering did not reach the stage of being filed for review. Fees paid by the issuer to a prior underwriter in these cases would be included in the calculation of underwriting compensation paid to the replacement underwriter.

In order to limit the effect of this provision on a replacement underwriter in response to a number of comments, this provision uses a shorter six-month standard to include fees paid to the original underwriter rather than the one-year within which the NASD may consider whether an item of compensation has been received in connection with an offering as provided in subsection (c)(4) below. The NASD believes that a subsequent underwriter is able to rely on the services performed by the original underwriter and has, therefore, determined to retain this provision which reflects a long-standing policy of the NASD. This policy comports with the NASD's obligation to determine the percentage of the offering price paid by investors that is used to compensate members for the distribution of the offering so that investors can determine the net amount of the purchase price that will be used by the issuer for business purposes. Moreover, proposed subsection (c)(6)(B)(iv) would permit the prior underwriter to retain only its out-of-pocket expenses incurred in connection with an offering it does not complete.

Proposal: Under subsection (c)(3)(B), expenses normally borne by the issuer, such as printing costs, SEC, NASD, "blue sky" and other registration fees, and accountant's fees, shall be excluded from the computation of underwriter's compensation. This subsection represents an historical NASD policy reflected in the current Interpretation (NASD Manual, p. 2033).

Proposal: Subsection (c)(4) enumerates the criteria used by the Corporate Financing Department to determine whether any item of value, including compensation not in the form of securities, constitutes compensation received in connection with the distribution of a public offering. The current provision in the Interpretation (NASD Manual, p. 2033) establishes guidelines for determining whether securities acquired by underwriters and related persons constitutes

demand right of registration does not have a compensation value and, therefore, is not included in the list of enumerated items of value in Subsection (c)(3)(A). Rather, it is considered to be an arrangement which the Corporate Financing Committee has limited to one demand right at the issuer's expense as reflected in Subsection (c)(6)(B)(vi), discussed below.

compensation in connection with the offering. The NASD believes it appropriate to set forth its guidelines for determining whether any item of value is received in connection with an offering—not just items in the form of securities.

Subsection (c)(4)(A), therefore, reflects the current language of the Interpretation at the bottom of page 2030 and the top of page 2031 of the NASD Manual, but establishes that the Corporate Financing Department will examine *all* items of value (not just securities) received by an underwriter and related persons within 12 months immediately preceding the filing of the offering to determine whether such items of value are underwriting compensation received in connection with the offering. The NASD will presume that items received during the six-month period immediately preceding the filing of the offering document are compensation. The six-month presumption may, however, be rebutted on the basis of information presented to the NASD. The six and 12-month periods date from the earliest filing of the offering with any regulatory authority to ensure that no member uses a later filing date with the NASD to enlarge the presumptive periods.

Subsection (c)(4)(A) also codifies the NASD's long-standing policy that cash discounts or commissions received in connection with the successful distribution of the issuer's securities in a prior private or public distribution of securities are not considered underwriting compensation in connection with a subsequent public offering.

Proposal: Subsection (c)(4)(B) clarifies that items of value acquired by an underwriter and related person more than 12 months prior to the filing of the offering are presumed not to be compensation, but that the items may be included as underwriting compensation on the basis of information reviewed by the NASD. This provision is drawn from the last sentence of the first paragraph under "Arrangement Factors" of the Interpretation (NASD Manual, pp. 2030–2031), which relates only to securities. From time-to-time, the NASD has determined to include in its calculation of compensation an item of value over which there was a question as to whether the item was received prior to or within the 12-month period, where the circumstances of the item's receipt strongly indicated a connection with the public offering. Therefore, the NASD has determined to include this provision to be applicable to any item of value in order to provide flexibility in the NASD's review.

Proposal: Subsection (c)(4)(C) proposes an almost entirely new set of factors to be considered in determining whether an item of value was or will be received in connection with the offering. These factors, however, reflect the standard analysis applied by Corporate Financing Department staff in reviewing compensation issues. It is proposed that all relevant factors will be considered in determining whether any item of value received or to be received by the underwriter and related persons constitutes underwriting compensation. These include the length of time between the date of filing of the offering document and the date of receipt of the item of value, the date of any contractual agreement that is the basis of the payment, and the date the service commenced, with a shorter period of time tending to indicate that the item was received in connection with the offering. Moreover, the provision provides that the Corporate Financing Department will also consider the details of the services provided or to be provided in return for the item of value and the relationship between the services provided and the nature of the item of value, its compensation value, and the proposed public offering. The Corporate Financing Department will also examine the relationship between the issuer and the recipient of the item of value, to determine the presence or absence of arm's-length bargaining or any affiliate relationship. The absence of arm's length bargaining and the presence of an affiliate relationship would tend to indicate that the item of value was received as underwriting compensation.

Although the Corporate Financing Department examines the date on which the parties entered into an agreement to pay an item of compensation to determine whether an item of value is underwriting compensation, subsections (c)(4)(A), (B) and (C) indicate that the value of the item is to be determined as of the date of receipt by the underwriter and related persons. Focusing on the time of the contract could cause the NASD to exclude as underwriting compensation cash and securities received by a member at the time of the offering for activities in connection with the distribution of the offering on the basis that the contractual distribution agreement was entered into more than 12 months prior to the offering.

Proposal: Subsection (c)(4)(D) sets forth certain of the traditional factors found in the Interpretation (NASD Manual, pp. 2030–2031) that are examined to determine whether securities should be considered in connection with an offering, which factors are considered in addition to those in subsection (c)(4)(C) when reviewing the receipt of securities as compensation. Under subprovision (D), the Corporate Financing Department will consider: (i) Any disparity between the price paid and the offering price or the market price, with a greater disparity tending to indicate that the securities constitute compensation; (ii) the amount of risk assumed by the recipient of the securities by considering restrictions on exercise and resale, the nature of the securities, and the amount of securities, with a larger amount of readily marketable securities without restrictions on resale or a warrant tending to indicate that the securities constitute compensation; and (iii) the relationship of the receipt of the securities to purchases by unrelated purchasers on similar terms at approximately the same time, with an absence of similar purchases tending to indicate that the securities constitute compensation.

Proposal: Subsection (c)(4)(E) provides the basis on which financial consulting and advisory fees may be excluded from underwriting compensation. This subsection codifies the long-standing NASD policy that compensation received within the year prior to the offering as a result of a long-standing consulting agreement entered into more than a year prior to the offering will not be considered compensation in connection with the offering.

Proposal: Subsection (c)(5) provides the basis for valuing non-cash compensation. Under subsection (c)(5)(A), underwriters and related persons would be prohibited from receiving a security or a warrant for a security as underwriting compensation that is different than the security being offered to the public, unless the security received as compensation has a bona fide independent market. Nonetheless, under subsection (c)(5)(A)(i), in exceptional and unusual circumstances, upon good cause shown, the Corporate Financing Department or the appropriate standing committee of the Board may permit such an arrangement.

Under subsection (c)(5)(A)(ii), the underwriter and related persons may only receive a warrant for the unit offered to the public where the unit is the same as the public unit and the terms are no more favorable than the terms of the public unit. As originally proposed, compensation to an underwriter in a unit offering was

limited to receipt of a warrant for the common stock offered in the unit. The underwriter was not permitted to receive a warrant for the common stock underlying a warrant in the unit. In response to the comments received, the NASD determined to revise this provision to permit underwriters of unit offerings to receive a warrant for the unit offered to the public where the unit in the underwriter's warrant is the same as the public unit and the terms are no more favorable than the terms of the public unit.

Proposal: Subsection (c)(5)(B) provides that securities that are not options, warrants, or convertible securities shall be valued on the basis of the difference between the per security cost and either the market price per security on the date of acquisition (where a bona fide independent market exists for the security) or the proposed and actual public offering price per security, multiplied by the number of securities received or to be received as underwriting compensation, divided by the offering proceeds, and multiplied by 100. This provision reflects the historical methodology of valuation of securities included at p. 2033 of the NASD Manual, with additional clarification as to the mathematical model used to determine the percentage of value of the securities. This subsection also reflects the Corporate Financing Department's "final" review procedures, in which all proposed compensation values are subsequently verified against the final public offering price after the offering has been declared effective by the SEC or other regulator, to ensure that the terms of the final prospectus or offering document are in compliance with the Interpretation.

Proposal: Subsection (c)(5)(C) discloses the warrant formula used by the Corporate Financing Department to determine the value of options, warrants, or convertible securities received as underwriting compensation. The NASD believes that publishing the formula for valuing warrants will assist members and their counsel in more accurately determining the value that the Corporate Financing Department will apply to securities included in underwriting compensation.

Proposal: Subsection (c)(5)(D) codifies existing Corporate Financing Department policy; and specifies the actual discount applied to the compensation value of securities contractually restricted from resale beyond the mandatory one-year lock-up period set forth in Subsection (c)(7)(A)(i).

Proposal: Subsection (c)(6)(A) is a broad provision that clarifies that an offering is not merely reviewed in terms of the quantifiable underwriting compensation arrangements. Rather, any arrangement that is inconsistent with any NASD rule or regulation may be considered unfair and unreasonable by the Corporate Financing Department. The language of this subsection encompasses arrangements which may violate article III, section 1 of the rules, but which are not the usual underwriting arrangement which is addressed in the proposed Rule, and other rules and regulations of the NASD. Since only matters involving potential non-compliance with NASD rules are subject to review by a committee of the Board of Governors, and any difference of opinion arising over SEC rules are referred to the Commission for resolution, any reference to NASD enforcement of SEC rules has been omitted.

Proposal: Subsection (c)(6)(B) codifies the presumption that certain arrangements are unfair and unreasonable. The enumerated arrangements are those that have been determined to be unfair and unreasonable pursuant to the current Interpretation or long-standing policies of either the Corporate Financing Committee or the Corporate Financing Department. A member may, however, demonstrate to the Corporate Financing Department that a proposed arrangement is not covered by these provisions or appeal the staff's decision to the Corporate Financing Committee.

Proposal: Subsection (c)(6)(B)(i) specifies that any accountable expense allowance granted by the issuer to the underwriter and related persons may not include payment for general overhead, salaries, supplies, or similar expenses of the underwriter incurred in the normal conduct of its business. Disclosed fees paid to the underwriter and related persons for structuring or managing the offering will be considered a separate service, and not part of the accountable expense allowance. This subsection codifies existing Corporate Financing Department policy.

Proposal: Subsection (c)(6)(B)(ii) prohibits payment of any non-accountable expense allowance in excess of three percent of offering proceeds. This subsection makes mandatory the Corporate Financing Department policy of requiring that members justify a non-accountable expense in excess of three percent.

With respect to subsection (c)(6)(B)(ii), 15 commentators argued that the NASD should not limit underwriters' non-accountable expense allowance to three percent of the offering proceeds or prohibit the receipt of an expense allowance on the proceeds received upon the sale of the securities underlying the over-allotment option. These commentators argued that there is no basis in fact for specifically restricting the receipt of an accountable expense allowance, and that a three percent allowance is not adequate to cover costs incurred in smaller offerings.

This provision will not, as suggested, prohibit a member from receiving full compensation for its actual out-of-pocket expenses, as limited by the compensation guidelines. The provision permits members to receive reimbursement of its expenses on a non-accountable basis up to a maximum of 3% of offering proceeds. Where the member proposes an underwriting arrangement that includes an expense reimbursement item that aggregates in excess of 3% of offering proceeds, the provision requires that the reimbursement of all expenses be on an accountable basis only. The Corporate Financing Department has found that a non-accountable expense allowance of up to three percent is generally justified by the member on the basis of actual out-of-pocket expenses. The NASD does not believe that fashioning additional cash compensation for the managing underwriter in the form of reimbursement for non-accountable expenses that do not, in fact, exist is an acceptable policy under the standards of article III, section 1 of the Rules of Fair Practice.

Proposal: Subsection (c)(6)(B)(iii) prohibits prepayment of commissions or reimbursement of expenses to the underwriter and related persons prior to the commencement of the public sale of the securities being offered, with the exception of a reasonable advance against out-of-pocket accountable expenses actually incurred by the underwriter and related persons. In response to comments, this subsection was revised to permit underwriters to receive reasonable advances against accountable expenses actually anticipated to be incurred. Such advances are, however, required to be reimbursed to the issuer to the extent expenses are not actually incurred by the underwriter.

Proposal: Subsection (c)(6)(B)(iv) codifies existing Corporate Financing Department policy and clarifies that the payment of any compensation in excess of out-of-pocket accountable expenses to an underwriter in connection with an uncompleted offering will be presumed to be an unfair and unreasonable arrangement.

Commentators generally favored permitting the underwriter and the

issuer to negotiate for liquidated damages to be paid by the issuer to the underwriter if the underwriter had not caused the aborted underwriting. The liquidated damages include the underwriter's out-of-pocket expenses, plus the fair and reasonable value of the underwriter's services rendered in selecting and investigating an issuer, negotiating the terms of an offering, preparing a registration statement, and marketing the issuers's securities, and the underwriter's lost profits and lost opportunity. It was also pointed out that an issuer may be viewed as potential merger or acquisition candidate, primarily as result of underwriter's activities in marketing the offering.

The NASD has a long-standing policy that members should not be reimbursed for lost profits of offerings that are not completed in accordance with the agreement between the issuer and the underwriter in order to discourage members from entering into underwriting agreements to obtain payment of what are, in essence, consulting fees without a bona fide intent to distribute the issuer's securities. At the same time, the NASD has also applied its long-standing policy to not object to a "merger or acquisition" clause in the letter of intent which would permit the member to receive a specific fee pursuant to a formula if, as a result of the member's efforts in connection with the proposed public offering, the issuer entered into a merger with or was acquired by another company. The NASD has, therefore, in response to these comments, amended subsection (c)(6)(B)(iv) to exclude from the prohibition any payment that is "negotiated and paid in connection with a transaction that occurs in lieu of the proposed offering as a result of the efforts of the underwriter and related persons * * *."

Proposal: Under subsection (c)(6)(B)(v), a right of first refusal lasting more than five years from the effective date of the offering is considered an unfair and unreasonable arrangement. This subsection codifies existing Corporate Financing Department policy.

Proposal: Subsection (c)(6)(B)(vi) sets forth unreasonable arrangements applicable to options, warrants, or convertible securities received by the underwriter and related persons as underwriting compensation, and tracks the current language in the Interpretation (NASD Manual, p. 2034). This subsection provides that the following terms and conditions, with respect to warrants, options, or convertible securities received as underwriting compensation, are unfair and unreasonable if the security: (1) Has a duration of more than five years; (2) is exercisable or convertible below the public offering price or the market price at the time of receipt; (3) is not in compliance with subsection (c)(5)(A), *i.e.*, different than the security offered to the public or without a bona fide independent market; (4) has more than one demand registration right at the issuer's expense; (5) has a demand registration right lasting more than five years from the effective date of the offering; (6) has a piggyback registration right lasting more than seven years from the effective date of the offering; or (7) is convertible or exercisable, or otherwise is on terms more favorable than the terms of the securities being offered to the public.

A commentator suggested that the anti-dilution provisions of an underwriter's warrant not be considered an unreasonable term, in that it would be considered by the NASD to be more favorable to underwriters. The NASD does not wish to change this provision in response to this comment because, although the NASD has generally not considered anti-dilution provisions to be a more favorable term, the Corporate Financing Department has recently reviewed many anti-dilution provisions which have been structured so as to give underwriters the ability to accumulate large stock positions in the issuer. The NASD is of the view that certain underwriters may be using anti-dilution provisions in underwriting agreements in an unfair and unreasonable manner and that the NASD should have the opportunity to review these provisions on a case-by-case basis to develop a policy in connection with their receipt, if necessary.

Proposal: Subsection (c)(6)(B)(vii) prohibits the receipt of any item of compensation for which a value cannot be determined at the time of the offering. This provision is proposed to address novel forms of compensation by establishing the general requirement that all items of value deemed to be underwriting compensation must have a determinable value at the time of the offering in order for the Corporate Financing Department to calculate the aggregate underwriting compensation in connection with an offering.

Proposal: Subsection (c)(6)(B)(viii) provides that, when proposed in connection with the distribution of a public offering of securities on a "firm commitment" basis, an overallotment option greater than 15 percent of the amount of securities being offered is an unfair and unreasonable arrangement. This language is that of the Interpretation at p. 2033 of the NASD Manual.

Proposal: Subsection (c)(6)(B)(ix) codifies the 10 percent stock numerical limitation in the Interpretation (NASD Manual, p. 2032). This subsection prohibits the receipt of securities as underwriting compensation in an amount in excess of 10 percent of the securities sold to the public. Securities deemed to constitute underwriting compensation, securities issued or to be issued pursuant to an overallotment option, securities not actually sold in a "best efforts" offering, and securities underlying warrants, options, or convertible securities which are part of the proposed offering (except where acquired as part of a unit) are excluded from the calculation of the number or dollar amount of securities being offered to the public. Therefore, in the context of a best efforts underwriting, the 10 percent limitation is applied only against the securities actually sold; in a firm commitment underwriting, the 10 percent limitation is applied only against the underwritten shares, not including the overallotment option. Thus, in an offering underwritten on a firm commitment basis, the underwriter does not receive more securities as compensation when it takes down the overallotment option, on the basis that such additional securities should not act as an incentive to the member to exercise the overallotment.

Proposal: Subsection (c)(6)(B)(x) codifies the Corporate Financing Committee policy regarding when the receipt of a warrant solicitation fee by a member shall be deemed to be an unfair and unreasonable arrangement, specifically: (1) When the market price of the security into which the warrant, option, or convertible security is exercisable or convertible is lower than the exercise or conversion price; (2) when the warrant, option, or convertible security is held in a discretionary account at the time of exercise or conversion, except where prior specific written approval for exercise or conversion is received from the customer; (3) when the compensation arrangements are not disclosed in the offering documents, both at the time of the public offering (if such an arrangement is contemplated at that time) and at the time of the exercise or conversion; and (4) when the exercise or conversion is not solicited by the underwriter or related person. The Corporate Financing Department will presume that any request for exercise or conversion is unsolicited unless the customer states in writing that the transaction was solicited and designates

in writing that the broker-dealer is to receive compensation for the conversion.

In response to comments, subprovision (2) was revised to provide that the warrant, option, or convertible security may be held in a discretionary account as long as the member obtains the specific written approval of the customer prior to the exercise of such security.

Proposal: The general prohibition on the receipt by a member or persons associated with a member of non-cash sales incentive items that appears in appendix F has been included in subsection (c)(6)(B)(xi) of the proposed rule.

Proposal: Under subsection (c)(6)(B)(xii), it will be considered an unfair and unreasonable arrangement for a member firm to participate with an issuer in a public distribution of a non-underwritten issue of securities if the issuer hires persons primarily for distributing or assisting in the distribution of the issue, or for the purpose of assisting in any way in connection with the underwriting, except to the extent that the issuer or those persons associated with the issuer are in compliance with applicable state law and the federal exemption from registration as a broker-dealer. This provision is drawn from the Interpretation (NASD Manual, p. 2024) and addresses the situation in which the member is acting as agent for the issuer in selling its securities at the same time that the issuer has employed unregistered "finders" to also sell its securities. This provision may be more important today in light of issuers' efforts in limited partnership offerings to have unregistered persons, such as real estate agents, participate in a distributing capacity. There also remains the misconception that an issuer can hire "finders" to sell to investors. The addition of an exception for arrangements that comply with SEC rule 3A4–1 and state securities laws, would permit members to participate in an offering where the issuer is selling through unregistered persons who are not required to register as a broker-dealer by the SEC and the applicable states.

One commentator argued that this subsection improperly gave the NASD authority to determine whether persons involved in the distribution of a non-underwritten offering are unregistered broker dealers. This power, the commentator suggests, should rest solely with the Commission and state regulatory authorities. The NASD believes that it would not comport with article III, section 1 for a member to participate in an offering that is being distributed by persons who are not appropriately registered under federal or state securities laws.

Proposal: Subsection (c)(6)(C) provides that, in the event the underwriter and related persons receive securities deemed to be underwriting compensation in an amount constituting unfair and unreasonable compensation with respect to the Stock Numerical Limitation in subsection (c)(6)(B)(ix), the recipient is required to return any excess securities to the issuer or the source from which received at cost and without recourse. In exceptional and unusual circumstances, upon good cause shown, a different arrangement may be permitted by the Corporate Financing Department or the appropriate standing committee of the Board of Governors. This subsection follows the language of the Interpretation in (NASD Manual, p. 2032).

Proposal: Subsection (c)(7) incorporates and clarifies the restrictions applicable to securities deemed to be underwriting compensation that are currently in the Interpretation (NASD Manual, pp. 2030–03, 2032, 2034–2035). Subsection (c)(7)(A)(i) sets forth the one-year lock-up restriction on securities received as underwriting compensation and the requirement that the transfer of the securities during the one year lock-up is limited to other members that participated in the offering, as well as to the officers or partners thereof. The language incorporates the provisions at pp. 2031–2032 of the NASD Manual.

Subsection (c)(7)(A)(i) also changes the current lock-up policy by permitting convertible or exerciseable securities to be converted or exercised during the one-year restricted period, so long as the securities received as a result thereof remain subject to the required one-year restriction. The NASD believes that the inclusion of this provision addresses those situations where the convertible or exerciseable security that is sold in the offering is only convertible or exerciseable during the one-year subsequent to the effective date of the offering. In this case, the underwriters and related persons who acquire warrants for the same securities as those offered to the public should be permitted to convert or exercise their securities during the applicable period so long as the securities received as a result thereof remain restricted until the end of the one-year period. Thus, the purpose of the one-year restriction that the underwriter and related persons not receive any economic benefit from the receipt of such securities for one year following the effective date of the offering would not be undermined by the conversion or exercise of the securities during the one-year period.

Subsection (c)(7)(A)(i) also includes a clarification which provides an exception to the one-year restriction under subsection (c)(7)(B) for the transfer of any security received as compensation that is transferred by operation of law or by reason of reorganization of the issuer.

Proposal: Subsection (c)(7)(A)(ii) provides that securities deemed to be underwriting compensation must be properly legended to describe the restriction and the time period the restriction is applicable. This is a new requirement that the NASD believes to be appropriate to enforce the one-year restriction requirement.

Proposal: Subsection (c)(7)(A)(iii) clarifies that members may not direct the issuer to initially issue securities to be received by the member, that are deemed to be underwriting compensation and subject to the one-year lock-up, in the name of shareholders, non-officer employees or other persons, in an effort to circumvent the restriction in subprovision (i) that securities may only be transferred to members, or their officers or partners. The NASD believes that members receive economic benefit by paying the securities received as underwriting compensation to the member's non-officer employees and shareholders. Subsection (i) is based on the assumption that members receiving securities as underwriting compensation will receive the securities in the name of the member. Subsection (iii) makes this assumption a requirement. Notwithstanding these restrictions, the transfer of any security by operation of law or by reason of reorganization of the issuer is not prohibited pursuant to subsection (c)(7)(B).

Proposal: Subsection (c)(7)(C) incorporates the venture capital restrictions of the Interpretation (NASD Manual, pp. 2034–2035) and governs a member firm that is underwriting an initial public offering. This subsection provides that a member firm that is participating in the initial public offering of an issuer (or any officer, director, general partner, controlling shareholder, or subsidiary of the member) may not sell, transfer, assign or hypothecate any securities of the issuer that are beneficially owned at the time of filing of the offering, either during the offering or for 90 days following the effective date of the offering unless the price at which the issue is to be distributed to the public is established at a price no higher than that recommended by a

qualified independent underwriter who has participated in the preparation of the offering documents and has exercised due diligence with respect to these documents. The qualified independent underwriter may not beneficially own five percent or more of the outstanding voting securities of the issuer. In the alternative, these restricted persons and entities may transfer their securities if the aggregate amount of such securities held does not exceed one percent of the securities being offered. This subsection clarifies the venture capital restriction in the Interpretation to provide, as originally intended, that the one percent ownership exception applies to the aggregate amount of securities owned by the member and its specified related persons, and not to the amount of securities proposed to be sold by such persons in the offering.

Proposal: Subsection (c)(8) concerns conflicts of interest and prohibits members from participating in a public offering of securities where more than 10 percent of the net offering proceeds, not including underwriting compensation, are intended to be paid to members participating in the distribution of the offering, or persons affiliated or associated with such members, unless the issue is priced by a qualified independent underwriter pursuant to subsection 3(c) of Schedule E to the By-Laws. The language of the subsection is incorporated from the current prohibition in the Interpretation at p. 2035 of the NASD Manual.

Under subprovision (c)(8)(A), the NASD is proposing a new requirement that all offerings subject to subsection (c)(8) must disclose in the offering document that the offering is being made pursuant to the restrictions of the rule applicable to offerings where proceeds of the offering are being directed to distribution participants, the name of any qualified independent underwriter and the obligations of such underwriters. This language is drawn from that in section 4 to Schedule E of the By-Laws that was adopted subsequent to the adoption of the provision of the Interpretation related to Proceeds Directed to a Member.

Pursuant to subsection (c)(8)(B), the limitations of subsection (c)(8) will not apply to (i) an offering otherwise subject to the provisions of Schedule E; (ii) an offering of securities exempt from registration with the Commission under section 3(a)(4) of the Securities Act; (iii) an offering of a real estate investment trust as defined in section 856 of the Internal Revenue Code; or (iv) an offering of securities subject to appendix F, unless the net offering proceeds are intended to be paid to members and affiliated persons for the purpose of repaying loans, advances or other types of financing utilized to acquire an interest in a pre-existing company. This language is based on that in the Interpretation (NASD Manual, p. 2035). The first proposed exemption which covers any offering which is being made in compliance with Schedule E covers the current exemptions (1) through (3) currently in the Proceeds Directed to a Member provisions of the Interpretation. The NASD believes that current exemptions (1) and (2) are redundant, as they set forth the alternative means of compliance in sections 3(c) (2) and (3) of Schedule E to reliance on an qualified independent underwriter as required by section 3(c)(1) of Schedule E.

Subsection (d): Power of the Board of Governors Matters

Subsection (d) provides authority to the Board of Governors to amend subsection (b) relating to filing requirements without recourse to the membership for approval. The NASD believes it important that it be able to expeditiously amend the Corporate Financing filing requirements in order to respond to changes in the federal securities laws or in the types of offerings made in the fees applicable to Corporate Financing filings.

Article XII of the Code of Procedure

The proposed Corporate Financing and Direct Participation Program Code of Procedure to be included as new Article XII of the NASD's Code of Procedure codifies the present informal procedures for requesting review of Corporate Financing Department determinations in connection with the review of public offerings. Under section (2), only a "member" aggrieved by a determination of the Corporate Financing Department in connection with the underwriting terms or arrangements may submit an application for review of the Corporate Financing Department's determination to a hearing committee of a national standing committee of the Board of Governors. This subsection is consistent with the NASD's position that it is the responsibility of members participating in an offering to ensure that the underwriting terms and arrangements have received an opinion of "no objections" from the NASD.

Under section (3), any application for review must be made writing and must specify in reasonable detail the source and nature of the aggrievement, the relief requested, and whether a hearing is requested. Section (4) gives each applicant the right to a hearing, if requested, which shall be scheduled as soon as practicable, at a location determined by the hearing committee. A written notice to the applicant of the date, time and location of the hearing shall be sent. Section (5) also gives the member the right to waive a hearing, in which case the hearing committee shall review the matter on the record before it. Section (4) also permits a hearing committee, comprised as set forth in Section (5), to request a hearing on its own motion.

Under section (5), a hearing may be held before current or past members of the appropriate standing committee of the Board of Governors. Both the applicant and representatives of the NASD shall be entitled to appear at and participate in the hearing, to be represented by counsel, and to submit testimony and evidence. In order to address the request of an applicant for an expedited procedure, a hearing may be conducted by telephone conference call or any other linkage which permits all parties to participate simultaneously, so long as all parties agree to the arrangement.

Section (6) requires that the hearing committee render its determination in writing as soon as practicable following conclusion of the hearing or the completion of the hearing committee's review of the record. Section (7) provides that the hearing committee's determination may be appealed to an appropriate standing committee of the Board of governors within 15 business days following issuance of the hearing committee's written determination. Offerings other than equity offerings of direct participation programs shall be reviewed by the Corporate Financing Committee; equity offerings of direct participation programs shall be reviewed by the Direct Participation Programs Committee. The determination of the hearing committee shall be issued by the Director of the Corporate Financing Department. Subsection (8) clarifies that determinations of hearing committees or standing committees are advisory in nature only and that a finding of a violation of any rule, interpretation or policy shall be made only by a District Business Conduct Committee pursuant to the Code of Procedure for Handling Trade Practice Compliants.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning

the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Article III, section 1 of the NASD Rules of Fair Practice obligate members, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade. In the early 1960's, the NASD began reviewing underwriting terms and arrangements of securities offerings in which members were participating to determine whether those terms and arrangements were in compliance with the broad standard of fairness in Article III, section 1. By 1970, the criteria for determining fairness and reasonableness had become more defined and were incorporated into the Interpretation of the Board of Governors—Review of Corporate Financing, Article III, section 1 of the Rules of Fair Practice, which made it a violation of NASD rules to participate in any public offering where the underwriting terms and arrangements are unfair and unreasonable.

Although the language of the Interpretation has been amended from time-to-time, it no longer accurately reflects all current industry practices or the guidelines used by the NASD to determine the fairness and reasonableness of underwriting terms and arrangements. In the early 1980's, the Corporate Financing Committee, a committee of the Board of Governors, and a Subcommittee thereof, developed the initial version of the Corporate Financing Rule to replace the Interpretation in its entirety. The proposed Rule was intended to codify and clarify existing NASD policies and procedures and, in limited cases, to implement new standards of fairness.

On April 15, 1981, the NASD published Notice to Members 81-61, which requested comments on the proposed Rule. Fourteen letters of comment were received and analyzed by the Corporate Financing Committee, and modifications were made to the proposed Rule reflecting those comments. The Rule was approved by the Board of Governors on March 19, 1982, with subsequent changes approved by the Board on March 8 and March 18, 1983. The proposed Rule was approved by the membership in May 1983, and was filed with the Commission on December 27, 1983 in SR-NASD-83-27.

On May 31, 1984, staff of the Commission's Division of Market Regulation issued a letter to the NASD providing comments on the proposed Rule, to which the NASD responded in writing. Commission comments, as well as changes that continued to occur in the corporate financing area, prompted a re-review of the entire Rule. In the course of the re-review, it was determined that the proposed Rule should not only be revised to respond to the comments of the Commission staff, but also revised to reflect amendments that had been made to the Interpretation since the original draft and to codify existing NASD policies relating to corporate financing matters. The NASD believed that a revised Rule should reflect the experience gained by the review of many thousands of public offerings since 1983—a period of an historically high number of filings reflecting numerous variations of underwriting structures.

Subsequently, the revised Corporate Financing Rule, including provisions for a Code of Procedure, was published for comment in Notice to Members 88-92 (November 1988). Twenty-two comment letters were received.

Consequently, the proposed rule change filed with the SEC reflects (1) changes to the Interpretation adopted since the original Rule was filed with the Commission in SR-NASD-83-27; (2) Corporate Financing Committee interpretations; (3) a number of clarifying modifications designed to provide NASD staff with sufficient flexibility to address all issues relevant to their review of the underwriting terms and arrangements of public offerings; (4) responses to comments made by Commission staff in its May 31, 1984 letter; (5) responses to comments received by the NASD in response to Notice to Members 88-92 (November 1988); and (6) a small number of substantive policy changes designed to address problem areas identified by NASD staff in the course of reviewing public offerings. Simultaneously with the filing of the proposed rule change the NASD is withdrawing SR-NASD-83-27.

(b) The NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Exchange Act, in that the Rule will codify and establish rules related to public offerings of securities that promote just and equitable principles of trade and in general protect investors and the public interest. The NASD also believes that the proposed rule change is consistent with section 15A(b)(2) of the Exchange Act in that the clarification of the current provisions in the Interpretation and codification of many policies and determinations of the Corporate Financing Committee and NASD staff will assist in enforcing compliance by members and persons associated with member with the rules and regulations of the NASD.

B. Self-Regulatory Organization's Statement on Burden on Competition

A number of comments were received in response to the publication of the proposed rule change in Notice to Members 88-92 (November 1988) that raised issues of discriminatory impact. Significant comments directed to specific proposed provisions of the proposed rule change and the NASD's response thereto are included above in Item I in connection with the specific provisions that the comments were directed to.

Many of the comments raising competitive issues were directed to the inclusion in underwriting compensation of compensation previously paid to a prior underwriter under subsection (c)(3)(A)(xiii); the originally proposed and subsequently amended provision that would have limited underwriter's warrants to only common stock in a unit offering in subsection (c)(5)(A)(ii); the 3% limitation on non-accountable expenses in proposed subsection (c)(6)(B)(ii); and the limitation of compensation to a prior underwriter to out-of-pocket expenses in subsection (c)(6)(B)(iv). In addition, a number of commentators requested exemptions from the filing requirements in subsection (b) of the proposed rule. In those cases where anticompetitive arguments were raised without reference to a specific provisions, the content of the comments appeared none-the-less directed to these provisions. In other cases, although the comments were directed at specific provisions, the comments had a broader applicability. Following are some of these comments.

Several commentators, in looking at a number of the referenced controversial provisions, cited that current market conditions have resulted in a substantial decrease in initial public offerings. These commentators questioned what they believed was the NASD's desire to reduce the permissible level of underwriting compensation when it has become most difficult to complete underwritings for smaller companies. It was stated that these provisions would impede capital formation by causing underwriters to reevaluate their

commitment to small and middle level issuers. One commentator stated the NASD's proposed rule change was "squeezing the small member" while ignoring the large fees for leveraged buy-outs received by "major" firms.

The NASD has not amended its guidelines limiting the maximum amount of permissible underwriting compensation. As specifically described in subsection (c)(2)(E) of the proposed rule change, the NASD has historically recognized the economic realities in underwriting small offerings by using a compensation guideline that varies inversely with the dollar amount of offering proceeds. The larger percentage of compensation permitted for smaller offerings takes into account that certain fixed costs do not vary with the size of the offering. The provision that these commentators particularly objected to that gave rise to their anticompetitive arguments was that related to the treatment of underwriter's warrants in the case of a unit offering. This provision was amended in response to the comments made in a manner that addresses the concerns of the commentators, as set forth in Item I. Other provisions not so amended are codifications of the policies of the Corporate Financing Department and have been applied to public offerings for some time. These include the non-accountable expense allowance and treatment of aborted offerings. The NASD believes these policies do not result in any burden on competition not necessary and appropriate in furtherance of the purposes of the Exchange Act to protect investors and establish just and equitable principles of trade in connection with public offerings of securities.

For the reasons set forth in Item I and this Item II.B., the NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in NASD Notice to Members 88-92 (November 1988) (the "Notice"). As a result of this Notice, the NASD received 22 comment letters. The most significant comments which resulted in an amendment to the original version of the proposed rule change are included in Item I along with the NASD's response thereto. The complete rule filing contains a discussion of all comments in connection with each proposed provision of the rule change and a copy of the comment letters. In one case, the NASD proposed a provision that was not subsequently included in the proposed rule change filed herein. In the Notice, the NASD proposed a definition of the term "institutional investor" in conjunction with a proposal to amend the Proceeds Directed to a Member provision proposed in subsection (c)(8) of the Rule and Section 3(c) to Schedule E to the By-Laws. The proposed amendment sets forth conditions under which the pricing recommendation of a qualified independent underwriter would not be required. Subsequently, the NASD determined that it was unnecessary to include the amendment in both places and filed a proposed rule change that is pending at the SEC in SR-NASD-89-35 to amend only Schedule E. Any comments received with respect to Schedule E in response to the Notice is included in SR-NASD-89-35.

Another commentator supported the proposed rule change to the extent that it codifies Corporate Financing Department practices, but suggested that final adoption of the Rule be deferred until its provisions can be considered in light of objective, economic data. Another commentator argued that the proposed rule change departs from the free market model.

The NASD is a self-regulatory organization mandated under the Exchange Act to establish just and equitable principles of trade with respect to the transactions in the over-the-counter market and the operation of the securities business by members in the interest of protecting the investing public. The principles upon which the Rule are based are those deemed important by persons experienced in the securities business and, specifically, the business of underwriting securities. The NASD is not obligated to obtain economic data supporting the proposed rule change nor is it obligated to adhere to free market theories of economics in formulating its rules. To the contrary, a free market construct would eliminate the imposition of any restrictions on the amount, form and content of underwriting compensation received by members.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by December 9, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-27659 Filed 11-15-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 12-D (Revision 2)]

Redelegation of Authority for Disaster Assistance; Correction

On August 2, 1991, the Small Business Administration (SBA) published a notice in the **Federal Register** (56 FR 37118) setting forth the authority delegated by the Administrator to the Assistant Administrator for Disaster Assistance for the purpose of administering SBA's Disaster Assistance program. The delegation reflected organizational changes made by a reorganization of the Finance and Investment Activities of the SBA. This document amends such delegation as follows:

In SBA's notice of August 2, 1991 (56 FR 37118), on page 37119, in the second

column, in paragraph II.C., which delegates authority to the position "Disaster Branch Manager", redesignate paragraphs 2 through 6 as 3 through 7 and add a new paragraph 2 to read as follows:

2. To authorize the acceptance of disaster loan applications after expiration of the original disaster period or extension thereof.

On page 37119, in the second column, in paragraph II.D., which delegates authority to the position "Supervisory Loan Officer (Disaster)", redesignate paragraphs 5 and 6 and 6 and 7 and add a new paragraph 5 to read as follows:

5. To extend disbursement periods for partially disbursed disaster loans for up to 6 months per extension, without cumulative limitation.

On page 37119, in the second column, in paragraph II.E., which delegates authority to the position "Area Counsel (Disaster)", add the following sentence at the end of paragraph 1:

This authority may not be redelegated.

On page 37119, in the third column, also in paragraph II.E., remove paragraph 2 and insert a new paragraph 2 to read as follows:

2. To extend initial disbursement period for up to 90 days for disaster loans when there is no impact on credit, financial or repayment considerations. This authority may be redelegated to the Attorney, Area Office (Disaster).

Dated: October 24, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91-27188 Filed 11-15-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular: Certification of Oxygenates and Oxygenated Gasoline Fuels in Part 23 Airplanes With Reciprocating Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular (AC) and request for comments.

SUMMARY: This notice announces the availability of and request for comments on a proposed AC which provides information and guidance concerning certification of oxygenates and oxygenated gasoline fuels in part 23 airplanes with reciprocating engines.

DATES: Comments must be received on or before January 17, 1992.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Roland H. West, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 426-6941 or FTS 867-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

COMMENTS INVITED: Interested parties are invited to submit comments on the proposed AC. Commenters must identify AC 23.1521-X, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC. The proposed AC and comments received may be inspected at the Standards Office (ACE-110), room 1544, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

BACKGROUND: Oxygenates and oxygenated gasoline are being proposed as alternate fuels for use in reciprocating engine part 23 airplanes. This proposed AC provides guidance for certification of these alternate fuels.

Issued in Kansas City, Missouri, November 4, 1991.

Lawrence H. Herron,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-27649 Filed 11-15-91; 8:45 am]

BILLING CODE 4910-13-M

Air Carrier Operations Subcommittee of the Aviation Rulemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Air Carrier Operations Subcommittee of the Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held on December 5, 1991, at 9 a.m.

ADDRESSES: The meeting will be held at FAA Headquarters, rooms 9ABC, 9th floor, 800 Independence Avenue SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mrs. Etta Schelm, Flight Standards Service, Air Transportation Division (AFS-200), 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-8166.

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 a meeting of the Air Carrier Operations Subcommittee to be held on December 5, 1991, at FAA Headquarters, rooms 9ABC, 9th floor, 800 Independence Avenue, SW., Washington, DC. The agenda for this meeting will include progress reports from the Airports Noise Assessment Working Group, Fuel Requirements Working Group, Wet Leasing Working Group, Autopilot Engagement Requirements Working Group, and Controlled Rest in the Cockpit Working Group. Each Working Group Chair will report on the progress of the working groups.

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present written statements to the committee at any time. Arrangements may be made by contacting the person listed under the heading **"FOR FURTHER INFORMATION CONTACT."**

Issued in Washington, DC, on November 12, 1991.

David S. Potter,

Executive Director, Air Carrier Operations Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 91-27650 Filed 11-15-91; 8:45 am]

BILLING CODE 4910-13-M

Urban Mass Transportation Administration

UMTA Fiscal Year 1992 Formula Grant Apportionments

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: Publication of the apportionment of Fiscal Year 1992 formula funds temporarily is being delayed due to the pending reauthorization of progams under the

Urban Mass Transportation Act of 1964 (the UMTA Act).

FOR FURTHER INFORMATION CONTACT: Lynn Sahaj, Chief, Resource Management Division, Department of Transportation, Urban Mass Transportation Administration, Office of Capital and Formula Assistance, 400 Seventh Street SW., room 9301, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Department of Transportation (DOT) and Related Agencies Appropriations Act, 1992, was signed into law by President Bush on October 28, 1991. Thus, the agency is operating under an Appropriations Act (Pub. L. 102–143; 105 Stat. 917) but without an authorization act. The previous authorizations, under the 1987 STURA Act, were effective through September 30, 1991. Congress is now considering a bill that would reauhorize both the transit and highway programs; indeed, bills have passed the Senate and the House and the differences in the two bills will be addressed by a Conference Committee.

The 1992 Appropriations Act provides General Funds for the formula grant programs under sections 9 and 18 of the UMT Act. While the Appropriations Act includes an obligation limitation applicable to the Trust-funded programs (sections 3, 8, 9B, and 16(b)(2)), UMTA will not have authority to obligate funds for any such Trust Fund programs until Congress passes an authorization bill which includes the necessary contract authority for these programs.

UMTA normally would publish formula apportionments for the sections 9, 9B, and 18 programs as well as allocations for the 16(b)(2) program within ten days of enactment of an Appropriations bill, as required by section 9 of the UMT Act. In this case, however, because the section 9B formula program is derived from the Trust Fund, UMTA is unable to apportion funds for that program until a new reauthorization bill have been enacted. Moreoever, the reauthorization bill likely will affect the distribution of funds within the formula programs, for example, as between the rural, small urbanized and large urbanized areas, requiring revision of any apportionment published before enactment of a reauthorization bill. In this connection, a General Provision of the Appropriations Act anticipates the fact that a subsequent reauthorization act may affect UMTA programs. (See, section 351 of Pub. L. 102–143.) Accordingly, publication of the apportionments is being delayed temporarily due to the pending reauthorization action in Congress in the expectation that UMTA will be able to publish the apportionments in their entirety at one time, taking the provisions of both laws into consideration.

If it appears that Congress will not act reasonably soon on the reauthorization measure, UMTA will then issue the apportionments in accordance with the current Appropriations Act and subsequently publish amended apportionments, as required.

Issued On: November 12, 1991.

Brian W. Clymer,

Administrator.

[FR Doc. 91–27633 Filed 11–15–91; 8:45 am]

BILLING CODE 4910–57–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

November 12, 1991.

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.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0478.

Form Number: ATF REC 5130/3 and ATF REC 5230/4.

Type of Review: Extension.

Title: Marks on Equipment and Structures (5130/3); Marks and Labels on Containers of Beer (5130/4).

Description: Marks, signs and calibrations are necessary on equipment and structures for identifying major equipment, for accurate determination of tank contents, and segregation of taxpaid and nontaxpaid beer. Marks and labels on containers of beer are necessary to inform consumers of container contents, and to identify the brewer, place of production, and address.

Respondents: Businesses or other for-profit, small businesses or organizations.

Estimated Number of Recordkeepers: 250.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Recordkeeping Burden: 1 hour.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

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. 91–27574 Filed 11–15–91; 8:45 am]

BILLING CODE 4810–31–M

Office of Thrift Supervision

Great American Federal Savings Association; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Great American Federal Savings Association, San Diego, California, on October 25, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–27613 Filed 11–15–91; 8:45 am]

BILLING CODE 6720–01–M

Marine View Federal Savings Bank, Middletown, NJ; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) (B) and (H) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Conservator for Marine View Federal Savings Bank, Middletown, New Jersey, on November 1, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–27614 Filed 11–15–91; 8:45 am]

BILLING CODE 6720–01–M

Action Federal Savings Bank; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision

(F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Action Federal Savings Bank, Somers Point, New Jersey ("Savings Bank"), with the Resolution Trust Corporation as sole Receiver for the Savings Bank on October 25, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27615 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

American Savings Bank, a Federal Savings Bank; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for American Savings Bank, a Federal Savings Bank, Tulsa, Oklahoma ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on November 1, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27616 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Bayshore Federal Savings Association, La Porte, Texas ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on September 20, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27617 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Columbia Federal Savings Association, Nassau Bay, Texas ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on September 13, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27618 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings & Loan Association of Creston, F.A.; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings and Loan Association of Creston, F.A., Creston, Iowa ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on November 1, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27621 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for El Paso Federal Savings Association, El Paso, Texas ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on September 20, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27620 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Bank of Zion; Notice of Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings Bank of Zion, Zion, Illinois ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on November 1, 1991

Dated: November 12, 1991.

By the Office of Thrift Supervision,

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27624 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Notice of Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Savings Association, F.A., Paragould, Arkansas ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on September 13, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27625 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Great American Bank, a Federal Savings Bank Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Great American Bank, a Federal Savings Bank, San Diego, California, OTS No. 0789, on October 25, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27626 Filed 11-15-91, 8:45 am]

BILLING CODE 6720-01-M

Columbia Federal Savings Association of Hamilton; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Columbia Federal Savings Association of Hamilton, Hamilton, Ohio ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on November 1, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27619 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Association of Newton, Newton, KS; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings Association of Newton, Newton, Kansas ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on October 28, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27623 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Louisiana Savings Bank, F.S.B., Metairie, Louisiana ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on September 13, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27628 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Marine View Savings Bank, S.L.A.; Middletown, NJ; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Marine View Savings Bank, S.L.A., Middletown, New Jersey, OTS No. 7748, on November 1, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27629 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings & Loan Association of Pittsburg; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for First Federal Savings and Loan Association of Pittsburg, Pittsburg, Kansas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on November 1, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27622 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Office of the Thrift Supervision

First Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Savers Savings Association, A Federal Savings and Loan Association, Little Rock, Arkansas for the Association on September 20 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27630 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Office of Thrift Supervision

Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Southern Federal Savings Bank, New Orleans, Louisiana ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on September 26, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27631 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Victoria Savings Association, F.S.A.; Replacement of Conservator With a Receiver

Notice is hereby given that, pursuant to the authority contained in subdivision (F) of section 5(d)(2) of the Home Owner's Loan Act, the Office of Thrift Supervision duly replaced the Resolution Trust Corporation as Conservator for Victoria Savings Association, F.S.A., San Antonio, Texas ("Association") with the Resolution Trust Corporation as sole Receiver for the Association on September 25, 1991.

Dated: November 12, 1991.

By the Office of Thrift Supervision

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-27632 Filed 11-15-91; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 222
Monday, November 18, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

U.S. CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, November 21, 1991.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report.

The staff will brief the Commission on various compliance matters.

For a Recorded Message Containing the Latest Agenda Information, call (301) 492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 (301) 492-6800.

Dated: November 14, 1991.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 91-27799 Filed 11-14-91; 1:29 p.m]

BILLING CODE 6355-01-M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Special Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 20, 1991, from 9:00 a.m. until such time as the Board may conclude its business.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD 703 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. The matters to be considered at the meeting are:

Open Session

A. New Business

1. Policy Statement on Communications with the Public during Rulemaking.

*Closed Session**

A. New Business

1. Farm Credit Administration Budget Formulation Issues for Fiscal Year 1993.

Dated: November 14, 1991.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 91-27788 Filed 11-14-91; 1:19 PM]

BILLING CODE 6705-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Correction: 11:00 a.m., Monday, November 18, 1991, instead of 11:00 a.m., Wednesday, November 13, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 14, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-27832 Filed 11-14-91; 3:21 pm]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Thursday, November 21, 1991.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

*Session closed to the public—exempt pursuant to 5 U.S.C. § 552b(c)(9).

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda:

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed amendment to Regulation D (Reserve Requirements of Depository Institutions) to index the low reserve tranche, reserve requirement exemption amount, and deposits reporting cutoff level for 1992.

Discussion Agenda

2. Proposed 1992 Federal Reserve Board budget.

3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 14, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-27741 Filed 11-14-91; 8:45 am]

BILLING CODE 6210-01-M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Thursday, November 21, 1991, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 14, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-27742 Filed 11-14-91; 10:32 pm]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Monday, December 2, 1991.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Coca Cola Bottling Southwest, Docket 9215

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in Coca Cola Bottling Southwest, Docket 9215

CONTACT PERSON FOR MORE INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326-2161, Recorded Message: (202) 326-2711.

Donald S. Clark,

Secretary.

[FR Doc. 91-27791 Filed 11-14-91; 1:20 pm]

BILLING CODE 6750-01-M

FEDERAL TRADE COMMISSION

TIME AND DATE: 2:00 p.m., Thursday, January 30, 1992.

PLACE: Federal Trade Commission Building, Room 532, 6th Street and Pennsylvania Avenue, N.W. Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to Public:

(1) Oral Argument in College Football Association, Docket 9242

Portions Closed to the Public:

(2) Executive Session to follow Oral Argument in College Football Association, Docket 9242

CONTACT PERSON FOR MORE INFORMATION: Bonnie Jansen, Office of Public Affairs: (202) 326-2161, Recorded Message: (202) 326-2711.

Donald S. Clark,

Secretary.

[FR Doc. 91-27792 Filed 11-14-91; 1:20 pm]

BILLING CODE 6750-01-M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1444]

TIME AND DATE: 10 a.m. (CST), November 20, 1991.

PLACE: Allen Power Plant Auditorium, Memphis, Tennessee.

STATUS: Open.

AGENDA:

Approval of minutes of meeting held on October 16, 1991.

ACTION ITEMS:

New Business

A—Budget and Financing

A1. Payments to the U.S. Treasury from Net Power Proceeds and Nonpower Proceeds.

A2. Adoption of Fiscal Year 1991 Financial Statements.

B—Purchase Awards

B1. Contract with Westinghouse Electric Corporation for Modernization of Allen Power Plant Unit 2 Generator (Request for Proposal BS-89662B).

C—Power

C1. Interruptible Standby Power.

E—Real Property Transactions

E1. Abandonment of Portion of Transmission Line Easement Affecting Approximately 0.6 Acre in Blount County, Tennessee.

E2. Sale by U.S. Department of Agriculture, Forest Service, Approximately 0.57 Acre located Near Wilbur Reservoir in Carter County, Tennessee.

E3. Surplus and Sale of Approximately 1.52 Acres of Melton Hill Reservoir Land in Anderson County, Tennessee.

E4. Sale of Permanent Nonexclusive Easement Affecting Approximately 0.047 Acre of Guntersville Reservoir Land in Marion County, Tennessee.

E5. Surplus and Sale of Railroad Spurline Property Affecting Approximately 0.86 Acre in Williamson County, Tennessee.

F—Unclassified

F1. Contract with Asea Brown Boveri Environmental System for Addition of Scrubbers at Cumberland Power Plant Units 1 and 2.

F2. Delegation of Authority to Award Two Fossil and Hydro Modification and Supplemental Maintenance Support Contracts.

F3. Execution of Contract Option with United Engineers and Constructors for Work Associated with Addition of Scrubbers at Cumberland Power Plant Units 1 and 2.

F4. Supplement to Personal Services Contract No. TV-83423V with Digital Engineering, Inc.

F5. Supplement to Browns Ferry Nuclear Plant Engineering Services Contract No. TV-83425V With Bechtel Corporation.

F6. Supplement to Browns Ferry Nuclear Plant Engineering Services Contract No. TV-73035A with Stone & Webster Engineering Corporation.

F7. Contract with United Energy Services Corporation.

F8. Contract with Bechtel Corporation for Performance of Modifications and Major Maintenance Services at Sequoyah Nuclear Plant.

F9. Contract with General Electric Company for Speciality Materials and Services for Browns Ferry Nuclear Plant Unit 3 Restart.

F10. License Agreement with Leeco, Inc., for Underground Mining.

F11. Amendment of Coal Leases Held by Leeco, Inc.

F12. TVA Metric Transition Plan and Board Appointment of Senior-level Official, John W. Sanders, Jr.

F13. Filing of Condemnation Cases.

F14. Designation of Charlene L. Evans as an Assistant Secretary of TVA.

F15. Delegation of Authority to Execute Supplements to Personal Services Contract No. TV-63260V with ENSR Consulting and Engineering.

F16. Cost-sharing Arrangements Between TVA and Its Power Distributors for Management of Polychlorinated Biphenyls at Substations Leased or Purchased by the Distributors from TVA.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Manager, Media Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479-4412.

Dated: November 13, 1991.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 91-27738 Filed 11-14-91; 10:31 am]

BILLING CODE 8120-08-M

federal register

Monday
November 18, 1991

Part II

Department of Education

Office of Postsecondary Education

Availability of the 1991-92 National Defense and Perkins (National Direct) Student Loan Program Directory of Designated Low-Income Schools; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Availability of the 1991-92 National Defense and Perkins (National Direct) Student Loan Program Directory of Designated Low-Income Schools

AGENCY: Department of Education.

ACTION: Notice of availability of the 1991-92 National Defense and Perkins (National Direct) Student Loan Program Directory of Designated Low-Income Schools.

SUMMARY: The Secretary announces that the 1991-92 National Defense and Perkins (National Direct) Student Loan Program Directory of Designated Low-Income Schools (Directory) is now available at institutions of higher education participating in the Perkins Loan Program, at State and Territory Departments of Education and at the United States Department of Education. Under the National Defense, National Direct and Perkins Loan programs, a borrower may have a portion of his or her loan cancelled if the borrower teaches full-time for a complete academic year in a selected elementary or secondary school having a high concentration of students from low-income families. In the 1991-92 Directory, the Secretary lists, on a State-by-State and Territory-by-Territory basis, the schools in which a borrower may teach during the 1991-92 school year to qualify for cancellation benefits.

DATES: The Directory is available.

ADDRESSES: Information concerning specific schools listed in the Directory may be obtained from Ronald W. Allen, Campus-Based Programs Branch, Division of Program Operations and Systems, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., (room 4651, ROB-3), Washington, DC 20202-5453, Telephone (202) 708-6730. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

FOR FURTHER INFORMATION CONTACT: Directories are available at (1) each institution of higher education participating in the Perkins Loan Program; (2) each of the fifty-seven (57) State and Territory Departments of Education; and (3) the U.S. Department of Education.

SUPPLEMENTARY INFORMATION: The Secretary selects the schools that qualify the borrower for cancellation under the procedures set forth in 34 CFR 674.53 and 674.54 of the Perkins Loan Program regulations.

The Secretary has determined that for the 1991-92 academic year, full-time teaching in the schools set forth in the 1991-92 Directory qualifies a borrower for cancellation.

The Secretary is providing the Directory to each institution participating in the Perkins Loan Program. Borrowers and other interested parties may check with their lending institution, the appropriate State Department of Education, or the Office of Postsecondary Education of the Department of Education concerning the identity of qualifying schools for the 1991-92 academic year.

The Office of Postsecondary Education retains, on a permanent basis, copies of all past and current Directories.

(Catalog of Federal Domestic Assistance Number 84.037; National Defense, National Direct and Perkins Loan Cancellations)

Dated: November 8, 1991.

Michael J. Farrell,

Acting Assistant Secretary, for Postsecondary Education.

[FR Doc. 91-27677 Filed 11-15-91; 8:45 am]

BILLING CODE 4000-01-M

Monday
November 18, 1991

Part III

Department of Education

Proposed Funding Priorities for the National Institute on Disability and Rehabilitation Research for Fiscal Years 1992-93; Notice

DEPARTMENT OF EDUCATION

Proposed Funding Priorities for the National Institute on Disability and Rehabilitation Research for Fiscal Years 1992-93

AGENCY: Department of Education.

SUMMARY: The Secretary of Education proposes funding priorities for several programs under the National Institute on Disability and Rehabilitation Research (NIDRR) for Fiscal Years 1992-93. NIDRR intends to proposed additional priorities for Fiscal Year 1993 at a later date.

DATES: Interested persons are invited to submit comments or suggestions regarding the proposed priorities on or before December 18, 1991.

ADDRESSES: All comments and suggestions should be sent to Betty Jo Berland, National Institute on Disability and Rehabilitation Research, Department of Education, 400 Maryland Avenue SW., Switzer Building, room 3422, Washington, DC 20202-2601.

FOR FURTHER INFORMATION CONTACT: Betty Jo Berland, National Institute on Disability and Rehabilitation Research (Telephone: (202) 732-1139). Deaf and hearing-impaired individuals may call (202) 732-5316 for TDD services.

SUPPLEMENTARY INFORMATION: Authority for the research programs of NIDRR is contained in section 204 of the Rehabilitation Act of 1973, as amended. Under these programs, awards are made to public and private nonprofit and for-profit agencies and organizations, including institutions of higher education, Indian tribes, and tribal organizations. NIDRR may make awards for up to 60 months, through grants or cooperative agreements. The purpose of the awards is for planning and conducting research, demonstrations, and related activities that lead to the development of methods, procedures, and devices that will benefit individuals with disabilities, especially those with the most severe disabilities.

NIDRR regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 351.32). NIDRR invites public comment on the priorities individually and collectively, including suggested modifications to the proposed priorities. Interested respondents also are invited to suggest the types of expertise that would be needed for independent experts to review and evaluate applications under these proposed priorities.

NIDRR will review the comments received on these proposed priorities and will then announce final funding priorities that will be based on the responses to this notice, available funds, and other Departmental considerations. The publication of these proposed funding priorities does not bind the Department of Education to fund projects under any or all of these priorities, except as otherwise provided by statute. Funding of particular projects depends on both the final priorities and the quality of the applications received.

The following proposed priorities represent areas in which NIDRR proposes to support research and related activities through grants or cooperative agreements in four programs:

Research and Demonstration projects (R&D);
Rehabilitation Research and Training Centers (RRTCs);
Knowledge Dissemination and Utilization projects (D&U);
Rehabilitation Engineering Centers (RECs).

Research and Demonstration Projects

Research and Demonstration projects support research and/or demonstrations in single project areas on problems encountered by individuals with disabilities in their daily activities. These projects may conduct research on rehabilitation techniques and services, including analysis of medical, industrial, vocational, social, emotional, recreational, economic, and other factors affecting the rehabilitation of individuals with disabilities.

Proposed Priorities for Research and Demonstration Projects Parenting With a Disability

The President and the nation's Governors set forth a number of education goals for America, one of which was that every child be ready for entry into school. In support of this goal, NIDRR is proposing research aimed at enhancing the capacities of parents who have disabilities to prepare their non-disabled or disabled children, aged birth through age five, for school.

As society progresses to complete inclusion and integration for individuals with disabilities, more persons with disabilities are becoming parents. [Kirshbaum, M. "Parents with Physical Disabilities and Their Babies," Zero to Three, Vol. VIII, No. 5, 1988]. However, parents with various types of disabilities, including learning disabilities, sensory impairments, physical disabilities, and cognitive disabilities, may need to develop or maintain skills and social structures that support their parenting efforts. Research involving parents with disabilities has focused primarily on the effects of a parent's disability on a child's development [Thurman, S.K. (ed.) Children of Handicapped Parents: Research and Clinical Perspectives, 1985]. Lack of information regarding the needs of parents with disabilities can hinder the public and private sectors and individual parents with disabilities in planning optimum parenting activities for preparing their children for entry into school.

Parents with disabilities must deal with the inexperience, lack of training, and frequent skepticism of educators and health and child care professionals; must overcome self-doubts; and must adapt conventional parenting knowledge and resources to meet their individual circumstances. Because of the stimulation that infants and toddlers receive during daily child care routines, enhancing the child care skills of parents with disabilities will contribute to the physical, intellectual and social development of their children. Parents with disabilities who have children with disabilities or whose children are about to enter the educational system may need help with organizational or communication skills, as well as with learning techniques or new assistive technologies, to help their children to be ready for school. These parents also may need new skills to allow them to serve as advocates for their children or to assist school personnel to deal appropriately and supportively with them in their roles as parents.

Any project to be funded in response to this priority must involve parents with disabilities, as appropriate, and other family members in all phases of the planning, implementation, and evaluation of the project and dissemination of results.

An absolute priority is proposed for a project to:

- Estimate the number of parents with disabilities who have children aged birth through five years both with and without disabilities and project the growth rate of this population;
- Assess the unmet needs of parents with disabilities in their efforts to prepare for their preschool children with readiness experiences for their entry into the educational system;
- Identify effective practices and model programs (including practices that could be adapted to parents with disabilities), as well as effective practices in providing technology and other support skills enhancement, for parents with disabilities to enhance the readiness of their preschool children for school; and
- Disseminate information and materials regarding effective practices for preparing children for school to parents with disabilities, health and

child care professionals (e.g., pediatricians, social workers) and other interested groups or individuals.

Braille Literacy

A second education goal of the President is to reduce and eventually eliminate illiteracy in the nation. One group of persons that could be considered illiterate for many purposes are those blind individuals who have not learned to read in Braille. The combination of mainstreaming and technological development has resulted in fewer blind children learning to read and write in Braille. According to the Council of Executives of American Residential Schools for the Visually Handicapped, there is a national concern that students who are visually impaired are not becoming proficient in the basic skills of reading, writing, and computing. In 1965 nearly half—48 percent—of all blind and visually impaired students read Braille. By 1989, this had dropped to 12 percent, according to the American Printing House for the Blind. The number of blind adults without the ability to read a sentence that they have written themselves is increasing. Blind professionals are struggling as adults to learn Braille for note-taking. Newly blind older persons are often convinced that learning Braille is too arduous and lengthy a process.

While new auditory and computer technologies have enabled blind persons to communicate without Braille, there are many applications for which Braille is the preferred medium. These include note-taking and reading in meetings, lectures, and public settings in which auditory media are not acceptable. Braille is commonly used in signage, safety and alarm systems, and other public guidance systems, as well as much published material. Braille is likely to remain an important communications medium for persons who are blind.

The issue was discussed extensively by Dr. Michael J. Bina in an article in the Journal of Visual Impairment and Blindness (JVIB) (January, 1991) as one of the "Current Concerns and Issues." A paper on the topic, "Literacy: Issues for Consumers and Providers" was presented by Susan Spungin at the 1989 National Convention of the National Federation of the Blind. "Issues Related to Literacy of the Legally Blind Learner" (E. Rex) appeared in V. 83 of the JVIB in 1989.

Any project to be funded in response to this priority must involve individuals who are blind, including those who are literate in Braille and those who are likely candidates for learning Braille, in all phases of the planning, implementation, and evaluation of the project and dissemination of project results.

An absolute priority is proposed for a project to:

- Develop an articulated Braille literacy program for adults who are blind that reflects the findings of current research on the tactile nervous system and uses instructional materials of the highest quality and effectiveness;
- Develop new educational models that enable blind adults to become literate in Braille in less time than is now required;
- Provide inservice education for teachers and administrators in adult educational institutions and rehabilitation facilities in order to ensure the effective implementation of the new educational models;
- Assess the usefulness of hand-held Braille computer screen interface/reader devices and other aids as techniques to enhance literacy in Braille; and
- Disseminate new program models and technologies to appropriate target populations.

Rehabilitation of Visually Impaired Older Persons

In 1980 the National Society to Prevent Blindness estimated that there were approximately 11.4 million people with some level of vision impairment in the United States. Of these, approximately 500,000 were legally blind (best corrected central visual acuity equal to or less than 20/200 in the better eye, or a field of vision no greater than 20 degrees in its widest diameter). Figures from the Model Reporting Area for Blindness Statistics indicate that approximately 67 percent of the legally blind persons in the United States are over the age of 50 years, 52 percent over 60, 37 percent over 70, and 20 percent over 80.

Data from the National Health Interview Survey, 1983–1985, indicate that nearly one-third of those surveyed believed their inability to see well prevented them from performing activities such as household chores and engaging in recreation.

Approximately 40 percent reported problems with mobility, while 35 percent had difficulty reading the newspaper. Visually impaired older persons—those aged 55 or more—are more dependent on home help than the elderly population in general. Poor sight is a key factor contributing to institutionalization. Eleven percent of visually impaired older persons were living in institutions.

Any project to be funded in response to this priority must involve persons who are blind or visually impaired, including elderly individuals who are visually impaired, in the conduct and evaluation of the project and in the dissemination of its results.

An absolute priority is announced for a project to:

- Identify and evaluate interdisciplinary models for rehabilitation of older visually impaired persons that will provide for early identification and intervention strategies; approaches to the use of optical aids to maximize residual vision and preventing visual handicaps; training of visually impaired and older persons and their families for independent living and independent mobility; and vocational support strategies to maintain or regain remunerative employment.
- Develop and test programs to train service providers from various disciplines on the nature of low vision disorders and the use of remaining visual abilities, appropriate intervention techniques, followup procedures, and other strategies to maximize independence for this group.
- Identify effective practices in the Older Blind Independent Living Program; and
- Disseminate model program materials in accessible formats to generic service providers, rehabilitation service providers, elderly and visually impaired persons and their families, and other researchers.

Supported Employment for Persons With Severe Physical Disabilities

Supported employment for people with severe disabilities has expanded markedly since its beginnings in 1984. The initiative began with grassroots concern over the lack of integrated employment opportunities for people with severe and profound mental retardation. Recently, supported employment programs have been expanded to include people with other disabilities. All people who require long-term support to maintain success in employment, including, for example, persons with long-term mental illness, traumatic brain injuries, or severe physical disabilities are potential candidates for supported employment. While people with severe disabilities other than developmental disabilities are potential candidates for supported employment, the vast majority of people with access to supported employment are those identified as mentally retarded. As might be expected, the support strategies most in use are those designed for people with mental retardation. However, as part of an

ongoing effort to extend supported employment to persons with other types of disabilities, NIDRR has supported R&D projects on supported employment for individuals with traumatic brain injury and for those with long-term mental illness. To continue that process, NIDRR now proposes research and demonstration activities that would adapt support employment models to meet the needs of persons with severe physical disabilities. There are a number of recurring issues that should be considered in supporting people with severe physical disabilities in community employment.

Any project to be funded in response to this priority must involve individuals with severe physical disabilities, including those who are participants in, or potential candidates for, supported employment, in all phases of the planning, implementation, and evaluation of the project and in the dissemination of project results.

An absolute priority is proposed for a project to:

- Review the current state-of-the-art in providing supported employment services to individuals with severe physical disabilities, and identify those agencies that are providing funding for long-term ongoing support services;
- Examine the organizational configuration, staff training and characteristics, caseload size and mix, service mix, and funding strategies most suited for providing supported employment services to this population;
- Identify effective program features, including types of employment and long-term supports, as well as expected client outcomes;
- Demonstrate innovative models to coordinate supported employment services for individuals with severe physical disabilities with other local service providers, including making effective use of provisions of the Social Security Disability Amendments of 1980 that removed certain disincentives to work;
- Develop models to demonstrate hands-on approaches that staff, such as job coaches, may use in providing supported employment services—such as transportation, job engineering and assistive technology services—for individuals with severe physical disabilities;
- Develop materials, based on research findings, and provide technical assistance to enhance the capacity of a national cross-section of vocational agencies to facilitate the provision of supported employment services to individuals with severe physical disabilities;
- Disseminate research findings to vocational and independent living rehabilitation service delivery personnel, researchers, rehabilitation educators, and persons with disabilities; and
- Coordinate, as appropriate, with projects funded under the Rehabilitation Services Administration's (RSA) Special Projects and Demonstrations for Providing Supported Employment Services.

Improving the Functional Utility of Robotics Through Enhanced Sensory Feedback

Researchers in the field of robotics have long been aware of the potential for a robotic arm to provide upper extremity function for a paralyzed person. While the field of robotics is relatively new, the principles of such devices have been applied successfully in externally-powered prostheses for arm amputees and with some success in externally-powered orthoses around the arms of paralyzed individuals. In the last two decades a number of projects, some with substantial resources, have sought to develop a commercially feasible robotic arm device. Many paralyzed persons have been involved in the research and demonstration phases of these projects, mostly in the laboratory or clinical environments. However, there is no reasonably priced robotic device available for use by high-level quadriplegic persons in their homes.

One explanation for this is that, while the mechanical design and computer control systems associated with robotics have been highly developed, there remains a major deficiency in the communication link between man and machine. It is interesting to note that the most successful robotic arms (powered orthoses) were developed more than twenty years ago for use by persons whose arms were paralyzed as a result of poliomyelitis. The control systems of these arms were primitive by present day standards, yet many paralyzed persons used them for years in their homes. The important point is that these persons retained sensation and resulting proprioceptive feedback that allowed them to know where their arms were without relying on their eyes. Proprioceptive feedback plays an important role in arm prostheses as well. Most bilateral amputees prefer cable-operated terminal devices over modern myoelectric hands because, through their shoulder position and the force that controls the cables, they are aware of the amount of opening and pressure of the terminal device. To be fully functional, robotic systems must provide something like the same level of proprioceptive feedback to the user in a format that requires only as much attention as that employed by a normal person.

Researchers have been aware of this problem for years, but have not developed an acceptable device or strategy to deal with the sensory feedback problem. An acceptable feedback mechanism would be a major step in making robotic manipulators more useful to persons with disabilities. A project is proposed to design, develop, and test a robotic control system that includes an acceptable feedback mechanism.

Funding under this priority must include an extensive review of the literature that demonstrates the project's thorough familiarity with relevant research throughout the world and the project must present one or more technical concepts on which design and development will be based. The project must demonstrate that the proposed concept is scientifically defensible and that the proposed product has the potential to be produced commercially as an adjunct to a presently available robot.

The project also must detail expected progress for each year of the project and must include performance specifications that will be met by the completed system. These specifications should be based on the accuracy, force and speed with which an ablebodied person is able to position his index finger in the total three dimensional space available to one of his or her arms without visual feedback. The measures of such performance and the degree to which the developed system, operated by a paralyzed subject, will approach these measures should be presented in the application.

An absolute priority is proposed for a project to:

- Develop a prototype control system that enables a person with upper-extremity paralysis to position a state-of-the-art manipulator in three dimensional space with an accuracy and speed of response that approaches that of a normally functioning human being;
- Test the developed system on a sample of individuals with upper-extremity paralysis; and
- Disseminate results through presentations at scientific meetings and other appropriate means.

Demonstration of Comprehensive Rehabilitation Services Programs for Individuals With Traumatic Brain Injury (TBI)

Approximately 250,000 U.S. citizens suffer trauma-induced brain injuries each year. About 50,000 of these are left with physical, intellectual, behavioral, and social adjustment impairments severe enough to prevent them from returning to their former levels of functioning and responsibility. Both the number of persons with traumatic brain injury (TBI) and the severity of their injuries are increasing. The problem is further compounded by the fact that many persons with brain injuries are young and, with increased life expectancy, require comprehensive rehabilitation to maximize the quality of their lives.

Preliminary research indicates that early comprehensive and coordinated acute rehabilitation care is likely to improve the outcomes for this group. NIDRR proposes to demonstrate a comprehensive multidisciplinary model system of rehabilitative services for individuals with TBI and to evaluate its efficacy through the collection and analysis of uniform data on system benefits, costs, and outcomes.

The model system demonstration and the collection of uniform and standardized data must be conducted within the context of a comprehensive program of services that coordinates all aspects of care and rehabilitation. The model system must include emergency medical services; intensive and acute medical and surgical care; comprehensive rehabilitation management; psychosocial adjustment services; educational and vocational preparation; and community reintegration with extended follow-along services and day programs that promote independence and vocational success.

An absolute priority is proposed for one or more projects to:

- Demonstrate and evaluate the costs and benefits of a comprehensive service delivery system for individuals with traumatic brain injury;
- Develop and assess new methods and intervention techniques to improve the rehabilitation of individuals with TBI;
- Participate in clinical and systems analysis studies of the traumatic brain injury model system by contributing to a uniform, standardized national data base as prescribed by the Secretary;
- Disseminate findings to clinicians, researchers, rehabilitation educators and service providers, and individuals with TBI and their families;
- Demonstrate models that involve rehabilitation educators and service providers and individuals with TBI and their families in the design, implementation, and evaluation of the studies of TBI conducted under this priority; and
- Coordinate, as appropriate, with activities being undertaken by the regional head injury centers funded under RSA's Special Demonstrations Program and with the Head Injury Task Force established by the Secretary of Health and Human Services.

Vocational Education for Persons With Traumatic Brain Injury

The Interagency Head Injury Task Force (Health and Human Services, 1989) reported that someone receives a head injury every fifteen seconds in the United States. The report conservatively estimates the total number of such injuries at over two million per year and cites them as the leading killer and cause of disability among children and young adults. Among those who survive, traumatic brain injury (TBI) is further identified as the principal cause of permanent brain damage in young adults.

Individuals with traumatic brain injury frequently need additional services to assist them to enter and maintain adult roles, including employment, independent living, or post-secondary education. Persons with traumatic brain injuries, including those with mild losses, need vocational education programs designed to meet their unique cognitive, emotional, and behavioral deficits and capacities. Effective model vocational education programs are, therefore, essential to improving the quality of services to this disability population.

Any project to be funded in response to this priority must involve individuals with traumatic brain injury or their families in all phases of the conduct of the project and in the dissemination of project findings.

An absolute priority is proposed for a project to:

- Investigate the special problems and needs of persons with traumatic brain injuries, including ability to interact with others, stimulus distractions versus attention to task, affective and cognitive deficits, and other consequences of TBI as they affect vocational education programming;
- Identify existing, or develop and test new, models of secondary vocational education; considering state-of-the-art research in this area and including instructional materials specific to the unique needs of persons with traumatic brain injury;
- Develop and test techniques for training vocational instructors to work with students with TBI;
- Develop vocational education programming to enhance coordination and cooperation between secondary and postsecondary educational institutions and vocational rehabilitation agencies and other service systems to facilitate transition into employment;
- Identify strategies to maximize the inclusion and integration of persons with traumatic brain injury in the mainstream of vocational education activities; and
- Disseminate research findings to vocational education teachers, independent living service delivery personnel, rehabilitation agencies, special education personnel, researchers, rehabilitation educators, and persons with disabilities.

Vocational Education Models for Students With Sensory Disabilities

Students with sensory disabilities may not achieve satisfactory vocational education outcomes for a number of reasons. One problem derives from the fact that vocational education occupational skill courses on the secondary and postsecondary levels generally draw their instructors from the trades, labor, or industry. While this has major advantages for students without disabilities, it is problematic for those with vision and hearing disabilities. The instructors do not have special preparation to teach students with disabilities, equipment and teaching materials are often not accessible, and many vocational programs continue to direct students with sensory impairments into restrictive and stereotypical occupations, disregarding options available to their nondisabled peers. The instructors' links to local business are frequently the routes to postschool employment for students, and the students with disabilities are less likely to make the transition from vocational education to competitive employment.

To meet the needs of students with sensory disabilities, vocational education programs should include specialized training for instructional personnel, accessible equipment, texts, and examinations, and linkages with other community-based services. Any project to be funded in response to this priority must involve individuals with sensory disabilities in the conduct and evaluation of the project and in the dissemination of its results.

An absolute priority is proposed for a project to:

• Develop and evaluate non-stereotypical vocational education programs for students with sensory disabilities, including those who are visually impaired or blind and hearing-impaired or deaf, that will increase the rate of graduation for these students;

• Identify and test strategies that would maximize the integration of persons with sensory disabilities into mainstream vocational education;

• Develop and test instructional models to prepare vocational teachers, especially those from industry, to teach students with sensory disabilities;

• Evaluate the accessibility of current equipment and materials and develop strategies to enhance accessibility;

• Develop model programs to link vocational education with rehabilitation, independent living, and other adult services needed by students with sensory disabilities;

• Develop strategies to increase the rate of transition from vocational education into competitive employment for these students; and

• Disseminate materials, in accessible formats, to school systems, regular education and special education teachers, and educators, and students with sensory disabilities and their parents, making use of any appropriate clearinghouses and technical assistance projects that currently exist.

Preparing Young Persons With Deafness To Make Optimal Use of Interpreter Services

There has been a serious effort over the past two decades to increase the numbers of interpreters for the deaf. In its report to Congress, the Commission on Education of the Deaf (COED) established under Public Law 99-371, "The Education of the Deaf Act of 1986", recognized the growing role that interpreters play in both the education and rehabilitation of persons with deafness. The COED recommendations address the need for increased efforts in training and coordinating interpreter services both in the schools and in the community. However, the training of interpreters alone, without a parallel effort to train children who are deaf to fully utilize these services, will not result in maximum long-term benefit.

While educators have long accepted that children with normal hearing can be trained to listen more effectively, no information exists as to whether, or how, a similar principle applies to teaching deaf children to receive information effectively through a sign language interpreter. It is too frequently taken for granted that deaf children have inherent skills in effectively using interpreters and accurately understanding signed information.

There is little research into how deaf children can be trained to make more efficient use of interpreters in school and in their general lives and how interpreters can be trained to convey information appropriate for the child's age and subject matter needs. It is important to learn what schools are doing to prepare children who are deaf to work with interpreters and to train interpreters and classroom teachers to provide appropriate services.

In addition, there is a lack of objective data about what older deaf children of differing etiologies in different educational settings prefer in the interpreting process or about how to enhance the consumer's level of comprehension and retention. Similarly, there is little information on the relationship between early acquisition of sign language skills and effective use of interpreters. This knowledge could have significant implications for the manner in which interpreters are trained or retrained. Although the Federal government is spending $2.5 million in 1991 on training interpreters, of which $1 million is targeted toward educational interpreters, there are no data available as to what type of training might benefit the users of these services.

Any project to be funded in response to this priority must involve individuals who are deaf, individuals who provide sign language interpretation, teachers of deaf children, and trainers of sign language interpreters in all phases of the planning, implementation, and evaluation of the project and in the dissemination of the project results.

An absolute priority is proposed for a project to:

• Survey current practices in preparing deaf children of varying ages and etiologies, in different educational settings, to use interpreters in various environments more effectively;

• Investigate the attitudes of deaf children, of varying ages and etiologies and in different educational settings, about their capacities to assimilate information through interpreters and interpreter services, in order to provide an information base for the development of more effective models of interpreter services;

• Determine ways that the interpreting process can be improved to enhance reception, comprehension, and retention of information that is conveyed manually by interpreters;

• Develop conceptual models, borrowing from those used in cross-cultural interpreting, to enhance the interpreter's ability to improve the dynamics of communication between deaf children and others;

• Translate the research into appropriate recommendations, guidelines, methodologies, curricula, and supporting materials for enhancing the ability of children who are deaf to obtain maximum benefits from the interpreting process;

• Conduct studies to advance current knowledge of how well children who are deaf internalize, process, and retain information obtained through current interpreting methods; and

• Disseminate findings in accessible formats to interpreters and trainers of interpreters, educators, and others who provide services to deaf children, and to deaf children and their parents.

Case Management of Secondary Complications and Disabilities Resulting From Diabetes

Approximately seven million people in the United States have been diagnosed with diabetes, including those with juvenile diabetes, and an additional five million may have the disease unknowingly. Each year more than 650,000 new cases of diabetes are identified, and in 1985, diabetes was the sixth leading underlying cause of death due to disease. In terms of human suffering, individuals with diabetes face not only a shortened life span but also the probability of incurring acute and chronic secondary complications and disabilities. Nearly all persons with diabetes develop at least some complications of the disease. For example, cardiovascular disease is the leading cause of mortality among people with diabetes, accounting for over half of all deaths. Preventing cardiovascular disease could have a major effect on morbidity and mortality from diabetes mellitus.

Approximately 50,000, or half of all nontraumatic amputations in the United States, occur in people with diabetes. Half of all lower extremity amputations can be prevented through proper foot care or reducing risk factors such as hyperglycemia, cigarette smoking, and high blood pressure in persons with diabetes. In addition, peripheral nerve dysfunction has been estimated to occur in over 50 percent of diabetic patients. The likelihood of developing a diabetic neuropathy correlates with duration and severity of disease. A major secondary complication, diabetic retinopathy, the most common eye complication of diabetes, also is related to the duration and type of diabetes. An estimated 40 percent of those having Type I diabetes for less than 10 years, and 95 percent of those with the disease for more than 15

years, develop retinopathy. For those with Type II diabetes, the corresponding incidences are 25 percent and 50 percent, respectively. Diabetic retinopathy is the leading cause of new cases of blindness among people ages 20 through 44. Among people ages 45 through 74, it is the second leading cause of blindness. In 1987, diabetes accounted for approximately 10,000 new cases of end-stage renal disease (ESRD), or progressive chronic kidney failure in the United States. In that year, 30 percent of new chronic kidney failure cases were the result of diabetes.

Service providers and researchers have identified case management as a significant mechanism for providing outcome-oriented, individualized, continuous assistance to persons (including persons with disabilities) whose complex needs often require the coordinated services of several agencies over a period of time. Providing comprehensive, coordinated services to an individual with disabilities who is participating in the rehabilitation process requires skill in diagnostic and evaluation areas that are based in part on knowledge of the present medical issues and those to be anticipated. Due to the variety of problems encountered and the need for a comprehensive coordinated approach that includes prevention of secondary complications, early diagnosis and evaluation (treatment and rehabilitation), the case manager must interact effectively with all participants including the consumer, family members, physicians, other members of the treatment team, social services personnel, employers and persons from offices providing community resources.

Some of the questions to be addressed by a case management model focusing on secondary complications and disabilities resulting from diabetes include the following:

(1) What are the possible and probable secondary complications to be managed?

(2) What comprehensive medical and non-medical resources should be accessed?

(3) What are the funding issues, particularly as related to health insurance coverage?

(4) What is an appropriate program to help control the development of complications?

(5) What are the functional limitations resulting from specific secondary complications?

(6) What impact do these functional limitations have on educational and vocational potential?

(7) What allied professions and support systems appear to be necessary for the care and management of an individual with secondary complications of diabetes?

(8) Are different guidance and counseling techniques necessary because complications are secondary to the disease process?

(9) What are the psychosocial issues or problems that will affect goal-setting?

(10) What are the employer's concerns?

(11) How can consumers and families be their own best advocates?

Any project to be funded in response to this priority must involve individuals who have diabetes, including those who have experienced secondary complications and work limitations, and rehabilitation counselors and others who provide services to this population, in the planning, implementation, and evaluation of the project and in the dissemination of project results.

An absolute priority is proposed for a project to:

- Identify current case management practices that can most effectively integrate the myriad of services required to prevent and treat secondary complications for persons with Type I and II diabetes mellitus;
- Develop and demonstrate the effectiveness of a case management model that provides a comprehensive coordinated service delivery system specifically related to the problem of secondary complications of diabetes, including prevention, treatment, the use of assistive technologies, and follow-up;
- Develop, test and evaluate an effective education and training program for case managers and vocational rehabilitation personnel for the purpose of upgrading their knowledge and skills to provide coordinated prevention and treatment services to mitigate the effects of secondary complications for persons with Type I and Type II diabetes mellitus;
- Through consultation with appropriate health agencies, either local, State, or national, determine current gaps in information and establish priorities among research needs; and
- Prepare and disseminate materials such as monographs, presentations, professional training materials, and scientific journal articles, on aspects of case management relating to rehabilitation of disabilities resulting from secondary complications of diabetes, in order to disseminate project findings to VR and other relevant audiences, including consumers, families, advocacy groups, and service providers in various agencies.

Rehabilitation Research and Training Centers

Authority for the Rehabilitation Research and Training Centers (RRTCs) program of NIDRR is contained in section 204(b)(1) of the Rehabilitation Act of 1973, as amended. Under the RRTC program, awards are made to institutions of higher education, or to public and private organizations, including Indian tribes and tribal organizations, that collaborate with institutions of higher education.

RRTCs conduct programmatic, multidisciplinary, and synergistic research, training, and information dissemination in designated areas of high priority. NIDRR's regulations authorize the Secretary to establish research priorities by reserving funds to support particular research activities (see 34 CFR 352.32). A program of RRTCs has been established to conduct coordinated and advanced programs of rehabilitation research and to provide training to rehabilitation personnel engaged in research or the provision of services. Each Center conducts a synergistic program of research, evaluation, and training activities focused on a particular rehabilitation problem area. Each Center is encouraged to develop practical applications for all of its research findings. Centers generally disseminate and encourage the utilization of new rehabilitation knowledge through such means as writing and publishing undergraduate and graduate texts and curricula and publishing findings in professional journals. All materials that the Centers develop for dissemination training must be accessible to individuals with a range of disabling conditions. RRTCs also conduct programs of in-service training for rehabilitation practitioners, education at the pre-doctoral and post-doctoral levels, and continuing education. Each RRTC must conduct an interdisciplinary program of training in rehabilitation research, including training in research methodology and applied research experience, that will contribute to the number of qualified researchers working in the area of rehabilitation research. Centers must also conduct state-of-the-art studies in relevant aspects of their priority areas. Each RRTC must also provide training to individuals with disabilities and their families in managing and coping with disabilities.

Each RRTC is encouraged to develop an effective partnership with a Historically Black College or University (HBCU) that is interested in conducting research in a related area. The

partnership may include joint projects, fellowships for HBCU students or faculty to obtain intensive research training and experience at the RRTC, student or faculty exchanges, or other arrangements suggested by the applicant. The purpose of the partnerships is to develop the interest and capacity of the HBCUs to conduct independent research and training in areas related to disability and rehabilitation.

NIDRR will conduct, not later than three years after the establishment of any RRTC, one or more reviews of the activities and achievements of the Center. Continued funding depends at all times on satisfactory performance and accomplishment, in accordance with the provisions of 34 CFR 75.253(a).

Rural Rehabilitation Service Delivery

Early rural development efforts were initiated to alleviate agricultural infrastructure limitations, or improve farm family living conditions. Because rural America is a diverse and changing place today, rural development efforts must reach a far more varied segment of rural America, and require better coordination. For example, while agricultural workers accounted for a substantial portion of the rural population in the past, recent estimates indicate that only five million people, or less than 2.4 percent of the population, are directly involved in agricultural productivity today.

Both employment and independent living for rural residents with disabilities can be adversely affected by the inaccessibility of health, education, and social services, inaccessible public and private facilities, extremely limited job opportunities, and limited resources for social services. Current advocacy models, service delivery methods, and concepts of independence generally were developed in urban settings and are most applicable to urban living conditions. The problems of persons with disabilities in rural areas are further complicated by limited rural educational and employment opportunities (Omohundro, Schneider, Marr, and Grannemann, 1983). A high proportion of the jobs in rural settings involves manual labor. A history of limited access to education and limited demand for an educated labor force has resulted in generally lower educational levels in rural areas.

There is a great demand by individuals with disabilities and service providers for information sharing and dissemination in rural areas due to geographic distances and barriers to personal access. Any center to be funded in response to this priority must involve rural residents who have disabilities in all phases of the planning, implementation, and evaluation of the center and in the dissemination of center findings and products.

An absolute priority is proposed for a center to:

- Identify the employment and vocational rehabilitation service need of persons with disabilities living in rural communities, and develop, field test, and evaluate appropriate interventions to expand and improve training, employment opportunities, and job placement in semi-skilled, light industrial or factory, and other manual labor occupations;
- Demonstrate and assess the applicability of supported employment program models for residents of rural areas who have disabilities;
- Identify issues in independent living in rural communities and develop model interventions to improve transportation, health care, housing, and the accessibility of facilities;
- As appropriate, coordinate with RSA's Independent Living Centers primarily serving rural areas;
- Provide undergraduate and graduate level training, including training of persons with disabilities, in rehabilitation research methods and in subjects related to disability in rural areas;
- Identify or design and test alternative models for delivery of rehabilitation services for residents of rural areas who have disabilities;
- Conduct at least one meeting on the state-of-the-art in rehabilitation in rural areas; and
- Disseminate research findings to vocational and independent living rehabilitation service delivery personnel, researchers, rehabilitation educators, and persons with disabilities.

Community-Based Positive Approaches to the Management of Excess Behaviors

Since 1967, the population of persons with developmental disabilities living in public institutions has been reduced by more than half. Today about 135,000 children and adults are now living in more normalized, community-based environments, and evidence suggests that this trend will continue.

Recent studies of all State institutions indicate that 46 percent of the residents engage in patterns of serious and challenging excess behaviors that may result in self-injury, injury to others, damage to the physical environment, interference with the acquisition of new skills, and social isolation. Excess behaviors frequently are barriers to community placements, as well as a leading cause of both first-time admissions and readmissions to State institutions. Many community-based programs are now challenged to meet the needs of persons with excess behavior patterns. Studies of various types of smaller community residences indicate that between 10 and 25 percent of residents engage in problematic excess behaviors.

In 1990, NIDRR supported a state-of-the-art conference on positive approaches to the management of excess behaviors. The purposes of the conference were to assess how well current practices meet the needs of persons with excess behaviors and to identify the existing knowledge and training gaps. Conference participants recommended that NIDRR consider issues of intervention techniques; etiology and prevention; training; and family involvement as areas of need.

The field is developing the capacity to analyze functionally the variables that influence excess behaviors. In-depth studies, new classification systems, and valid data are essential for designing effective, positive interventions that can be readily applied in a variety of natural settings. Additional information is needed to identify which interventions and reinforcers work best with different individuals, and which new relevant behaviors should be taught to replace the problem behaviors. New interventions must take into consideration the effects that biological and pharmacological interactions, communication disorders, the environment, the presence of other persons, emotions, motivation, and personal preferences have on the incidence of excess behaviors and the development, maintenance, and generalization of new, socially acceptable behaviors.

There is little information about the social acceptability of nonaversive methodologies and interventions, or the cost effectiveness, ease of application, and practicality of these interventions. A center funded in response to this priority will have the task of evaluating the social acceptability and utility of interventions that will reduce excess behaviors and at the same time contribute to greater community integration and inclusion.

Further information is needed about the etiology and prevention of excess behaviors. The recent enactment of legislation that mandates educational services for very young children with disabilities provides an incentive to design effective strategies to prevent the development of excess behaviors. Most research to date has focused on interventions after the problem

behaviors have become ingrained and are putting strains on the service delivery system. There is a significant need to study the developmental, biomedical, and environmental variables that may predict or help explain the development, emergence, and maintenance of patterns of excess behaviors.

A major national issue is the discrepancy between what is believed to be effective practice and what is available in most communities. Current data indicate that there may be a reluctance to serve more persons with excess behaviors in integrated, community settings because of the lack of personnel who are adequately trained in nonaversive intervention approaches. Adults are often excluded from integrated or supported employment opportunities. There is a significant need, therefore, to provide training and information to develop a national cadre of service providers who are skilled in addressing a variety of patterns of excess behaviors with positive intervention strategies.

Interdisciplinary, comprehensive curricula, textbooks, and other training materials relevant to nonaversive behavior interventions are needed. Nonaversive interventions are those that do not cause tissue damage, physical pain, stigmatization, or humiliation to the person who exhibits the problem behavior. Nonaversive interventions are also those that the general community would find to be acceptable if applied to members of the population without disabilities. Several communities have exemplary nonaversive programs in place. However, there is no systematic practice of disseminating information about the programs or for providing technical assistance for replication.

In addition, families lack information about the range of nonaversive intervention options that may be implemented at home. They also want information regarding the evaluation of effective interventions, names and locations of skilled professionals and exemplary programs, and access to groups that provide parent-to-parent support. The proposed Center must test and disseminate strategies to help the community level practitioner and families address the varied needs of persons with excess behaviors.

NIDRR proposes to support an RRTC that will conduct comprehensive research, training, and dissemination activities on positive approaches to the management of excess behaviors. The proposed center is to develop and evaluate nonaversive strategies and interventions to address serious, excess behaviors that occur in a variety of integrated settings.

Any RRTC to be supported in response to this priority statement must provide for an advisory committee that is national in scope and includes significant representation of persons with developmental disabilities, family members, scientists, educators, service providers, health care providers, and others with relevant expertise. Family members and representatives of individuals who exhibit problem behaviors and practitioners who work with them must be involved in all aspects of planning, implementation, and evaluation of the Center's activities.

An absolute priority is proposed for a Center to:

- Document the role that variables such as behavior states, drug therapies, communication disorders, biomedical conditions, motivation, choices and preferences, time of the provoking stimulus, and the physical environment have in the reduction of excess behaviors and the development, maintenance, and generalization of new behaviors.
- Develop methods for determining which new behaviors should be taught to replace the excess behaviors;
- Design and evaluate multi-component interventions that result in improved functioning in a range of natural settings, identify which intervention approaches are most effective in specific situations, investigate the interactive and individual effects of the interventions, and document the cost effectiveness, ease of application, fidelity, and practicality of the positive interventions;
- Identify, document, and disseminate model community-based practices;
- Investigate the etiology of patterns of excess behaviors, and assess the developmental, physiological, and environmental indicators that emerge during preschool years that may be related to both problem as well as positive social behaviors;
- Develop and test techniques to prevent the development of patterns of excess behavior;
- Develop and implement multidisciplinary preservice and inservice training strategies, curricula, and other non-traditional materials that focus on a wide range of constituency groups and include common elements such as supervised practical experience in implementing intervention and assessment techniques, a trainer-of-trainers model, and training materials and methods that reach out to professionals and consumers who are members of minority populations;
- Develop and evaluate activities to enhance families' abilities to carry out home programs, evaluate and monitor interventions on the basis of effectiveness, practicality, and appropriateness relative to practices, serve as systems change agents, and serve as supports and trainers for other families, developing the materials in formats that can be easily accessed and implemented by families;
- Provide training in research methods and subjects on undergraduate and graduate levels;
- Disseminate information on positive approaches to the management of excess behaviors and training materials for families and service providers; and
- Conduct at least three national meetings that address research needs and disseminate state-of-the-art research and training to families, researchers, community service providers, health care providers, educators, policymakers, and persons with developmental disabilities as planners of, participants in, and presenters at the conferences.

Substance Abuse and Disability

The purpose of this proposed priority is to establish a research and training center to focus exclusively on the major rehabilitation problem of substance abuse among persons with other disabilities, e.g., spinal cord injury, traumatic brain injury, developmental disabilities, chronic mental illness and so forth. Although there are no definitive data on the prevalence of drug abuse in populations with other disabilities, many studies indicate that the problem is significant.

Substance abuse problems may affect persons with disabilities at different times in their lives. It may be the cause of disability: For example, head injury as a result of drinking and driving (Gale, Dikmen, Wyler, Temkin & McClean, 1983). Substance abuse may adversely affect the rehabilitation process by causing behavioral alterations or by impairing cognitive processes since rehabilitation is largely a task of adaptation and learning. Substance abuse may affect rehabilitation outcome due to medical complications developing directly from the use of substances, for example, by decreasing motor performance in an individual learning new motor skills. Finally, substance abuse may disrupt vocational rehabilitation and thereby reverse the effectiveness of the personal, professional staff, and financial investments in rehabilitation.

Several studies have documented a relationship between the onset of spinal

cord injury, head injury, and substance use. Others have indicated that there is a substantial relationship between substance abuse and chronic mental illness, cognitive disabilities, sensory disabilities, and disabilities characterized by chronic pain. While little is known about the characteristics associated with substance abuse in persons with disabilities, researchers have found that self-esteem, mood, premorbid personality, and self-destructive behavior appear to be important variables.

Rehabilitation outcomes may be influenced profoundly by substance abuse. Unrecognized and untreated substance dependence is likely to interfere with the intensive physical, vocational and psychological adjustment required following a disability and injury. Reliable predictors of future chemical dependence problems among persons with disabilities will be essential for improving patient care and rehabilitation planning. Sweeney and Foote (1982) suggest that the problems of addiction and disability combine not additively, but multiplicatively, and thus create a need for a special responsive and innovative approach to intervention.

Rohe and DePompolo (1985) along with Heinemann and his colleagues (Heinemann, Keen, Donohue, & Schnoll, 1988) suggest that rehabilitation professionals have not adequately addressed substance abuse issues related to policy making, prevention, education, treatment and followup. Nevertheless, substance use and abuse and associated adverse consequences apparently have a serious impact on the daily work of rehabilitation professionals.

NIDRR has concluded that an RRTC is an appropriate mechanism to accomplish the following objectives:

(1) Determine the effect of substance abuse on rehabilitation;

(2) Assess the efficacy of current chemical dependence interventions on individuals with various types of disabilities;

(3) Develop and evaluate new and effective substance abuse intervention strategies and treatment techniques for use during rehabilitation;

(4) Analyze the history of substance use among persons who have other disabilities, including the prevalence and frequency of substance use before and after disability onset and types of substances abused;

(5) Assess the personal, medical, and behavioral characteristics of persons with disabilities that predict substance use and abuse;

(6) Develop and implement preservice and inservice training programs for clinicians, rehabilitation personnel, allied health professionals, and community support staff in techniques of identification, early intervention and remediation of substance abuse in persons with disabilities; and

(7) Disseminate findings in accessible formats to service providers, researchers, and persons with disabilities and their families.

Any Center to be funded in response to this priority must involve representatives of the target population in conduct and evaluation of center activities and in dissemination of findings and products. The Center must also provide training in research methods and rehabilitation research subjects to undergraduates and graduate students, as well as preservice and inservice training to rehabilitation service providers.

An absolute priority is proposed for a Center to:

- Analyze the history of substance use among persons who have disabilities, including the prevalence and frequency of substance use before and after disability onset, and types of substances abused;
- Identify and describe the personal, medical, and behavioral characteristics of persons with disabilities that predict substance use and abuse;
- Assess the effect of substance abuse on rehabilitation outcome, including employment outcomes;
- Evaluate the efficacy of current chemical dependence interventions in individuals with various types of disabilities;
- Develop and evaluate new and effective substance abuse intervention strategies and treatment techniques for use during rehabilitation;
- Develop and implement preservice and inservice training programs for clinicians, rehabilitation personnel, allied health professionals, and community support staff in techniques of identification, early intervention and remediation of substance abuse in persons with disabilities; and
- Disseminate findings in accessible formats to service providers, researchers, and persons with disabilities and their families.

Knowledge Dissemination and Utilization Program (D&U)

Knowledge Dissemination and Utilization (D&U) projects ensure that rehabilitation knowledge generated from projects and centers funded by NIDRR and others is utilized fully to improve the lives of individuals with disabilities. The authority for this program is contained in sections 202 and 204(a) and (b)(5) of the Rehabilitation Act of 1973, as amended.

Proposed Priority for Knowledge Dissemination and Utilization Projects

Regional Information Exchange

As part of its effort to disseminate new knowledge on improved rehabilitation practices, NIDRR seeks to promote the widespread use of validated exemplary practices in rehabilitation in order to improve the service delivery system for individuals with disabilities. Many of these exemplary programs were developed at the "grassroots" in communities; others emerged as a result of research sponsored by NIDRR or other agencies. NIDRR proposes to address this objective by establishing one or more Regional Information Exchanges.

A Regional Information Exchange (RIE) is intended to facilitate the adoption of exemplary program models that were developed within the locality or region of the adopting agency. The RIEs must identify and validate exemplary programs within the established priority areas, "market" the model programs to potential adopting agencies, and provide technical assistance in the adoption or adaptation of the model.

Priority areas for RIE diffusion efforts during the period of this priority include:

(1) Techniques to facilitate the implementation of the Americans with Disabilities Act (ADA);

(2) Model literacy programs for individuals with disabilities;

(3) Interagency collaboration and coordination in programs for transition from school to work, including model programs that are exemplary in their use of State school exiting data for program planning;

(4) Parent-professional collaboration in the integration of individuals with disabilities in education, community living, and employment;

(5) Model programs for the provision of rehabilitation services to persons with epilepsy and their parents; and

(6) Model programs for the delivery of rehabilitation engineering services in vocational rehabilitation agencies.

The RIE programs are restricted to the diffusion of carefully validated model programs in two or more of the designated priority areas listed above, and must provide necessary technical assistance to facilitate the successful adoption or adaptation of the exemplary programs. Each RIE will work within its designated region, as defined in the grant application and cooperative

agreement, and must demonstrate the appropriateness of the selected region for diffusion of exemplary programs in the specified priority areas.

An absolute priority is proposed for a project to:

- Develop a process for identifying exemplary programs, including criteria, a methodology for data collection, and evaluation instruments that include measurements related to the identified criteria;
- Solicit nominations of exemplary programs in the priority area(s) from program operators, consumer organizations, and other relevant parties in the region, giving consideration to the inclusion of demonstration projects funded by NIDRR, the Rehabilitation Services Administration, and other Federal agencies;
- Develop and implement a procedure to validate exemplary programs in the region in the specified priority areas, involving individuals with disabilities and technical experts in the validation process, and document the methodology and findings of the validation process;
- Develop and implement strategies to make the wide audience of rehabilitation service providers and special educators aware of the exemplary programs and stimulate their interest in adopting or adapting similar models, with the assistance of the RIE;
- Develop and maintain a cadre of expert consultants in the RIE's priority areas and in the general area of knowledge transfer who can facilitate the adoption or adaptation of exemplary programs;
- Facilitate the exchange of technical assistance between the exemplary program and the requesting adopter program through onsite demonstrations, training materials, and direct consultation; and
- Maintain appropriate data on the activities of the RIE to support an evaluation of its effectiveness.

Rehabilitation Engineering Centers

Authority for the Rehabilitation Engineering Center (REC) program of NIDRR is contained in section 204(b)(2) of the Rehabilitation Act of 1973, as amended. Under this program, awards are made to public and private organizations, including institutions of higher education, Indian tribes, and tribal organizations to conduct coordinated programs of advanced research of an engineering or technological nature. REC's also work to develop systems for the exchange of technical and engineering information and to improve the distribution of assistive devices and equipment to individuals with disabilities. Each REC must be located in a clinical setting and is encouraged to collaborate with institutions of higher education in the conduct of a program of research, scientific evaluation, and training that advances the state-of-the-art in technology or its application. Each Center is expected to contribute substantially to the solution of rehabilitation problems through developing practical applications for their research and through scientific evaluation to validate the findings of their research and that of other Centers. REC's generally conduct both academic and inservice training to disseminate and encourage the use of new rehabilitation engineering knowledge, and to build capacity for engineering research in the rehabilitation field. Each REC must ensure that all training materials developed by the Center are presented in several formats that will be accessible to individuals with various types of sensory and mobility impairments.

NIDRR will conduct, not later than three years after the establishment of any REC, one or more reviews of the activities and achievements of the Center. Continued funding depends at all times on satisfactory performance and accomplishment in accordance with the provisions of 34 CFR 75.253(a).

Priority for a Rehabilitation Engineering Center Rehabilitation Technology Services in Vocational Rehabilitation

The Rehabilitation Act of 1973 incorporated a definition of rehabilitation engineering and a directive to provide rehabilitation engineering services for persons with disabilities under the auspices of State Rehabilitation agencies. "Rehabilitation engineering" is defined in section 7 of the Rehabilitation Act of 1973 as "the systematic application of technologies * * * to meet the needs of * * * individuals with disabilities." The 1986 amendments to the Act modified section 101 to require a description in each State's Plan of how rehabilitation engineering services will be provided to assist an increasing number of individuals with disabilities. The 1986 amendments to section 102 provide for the inclusion in the Individual Written Rehabilitation Plan (IWRP) of a statement, "where appropriate, of the specific rehabilitation engineering services to be provided." Section 103—Scope of Vocational Rehabilitation (VR) Services—states that VR services may include, where appropriate, an evaluation by a person skilled in rehabilitation engineering technology, engineering services. State VR agencies are not required to provide rehabilitation engineering or assistive technology devices to clients, however.

It has been a common practice for most of the State VR agencies to contract with outside rehabilitation agencies or product vendors for rehabilitation engineering services. There are some States that maintain their own engineering and technology staff. North Carolina, Florida, Arkansas, Alabama, Maryland, Michigan, North Dakota, and California are among State agencies that have rehabilitation engineers on State VR agency staff. Some State VR staff contend that direct rather than contracted rehabilitation engineering services are more an efficient, responsive, and productive means of providing rehabilitation engineering services to VR clients. Since independent living services have also been expanded to include rehabilitation engineering services, there is increased demand for consumers to have access to community-based engineering and assistive technology support.

A NIDRR-funded field initiated research project entitled "Manpower, Education and Quality Assurance Needs in Rehabilitation Technology Service Delivery" will be completed in 1991. This project will estimate staffing levels and training needs in the field of rehabilitation engineering service delivery in VR agencies, and is expected to stimulate the development of training and quality assurance programs to meet the needs as defined by the study.

With this level of activity within VR agencies and the increased responsiveness on the part of VR to the technology needs of consumers, state VR agencies have implemented different and diverse models for delivering rehabilitation engineering services. It is important to assess the applicability and viability of the various approaches to service delivery. Questions frequently asked by VR counselors, administrators, and consumers include:

(1) How can VR best serve clients with engineering and assistive technology needs?

(2) How can VR counselors and agencies facilitate the integration of technology into the workplace and community?

(3) How can peers, co-workers and family be utilized to support rehabilitation engineering activities?

(4) How do employment needs change after the introduction of assistive technology?

(5) How do different approaches to providing direct services compare and what are best practices?

(6) Who should be responsible for providing these direct services and what

should be the role of the VR counselor in the process?

There is a need for research to examine the delivery of rehabilitation engineering services in vocational rehabilitation agencies and develop, test, and disseminate improved models. Any center to be funded in response to this priority must involve individuals with disabilities and vocational rehabilitation service providers in all phases of the planning, implementation, and evaluation of centers activities and in the dissemination of center findings and products.

An absolute priority is proposed for a Center to:

- Analyze service delivery practices and models for direct rehabilitation engineering services for VR clients, including costs, effectiveness, staffing, interagency coordination, and the roles of peers, co-workers, and family members;
- Examine the nature and viability of rehabilitation engineering training practices as they apply to the needs of the VR system;
- Evaluate various assessment protocols used in State VR agencies, including issues of personnel patterns, equipment, cost, and functional results;
- Identify innovative and creative models for providing rehabilitation engineering within or under the auspices of VR agencies;
- Examine VR practices for the purchase or direct provision of rehabilitation engineering services, including referral, assessment, purchase of equipment or devices for clients, training, and follow-along;
- Examine the relationship of engineering services and assistive technology acquisition to job readiness, job skills, and success and longevity on the job-site;
- Develop materials, based on research findings, that can be used by VR agencies to improve rehabilitation engineering services for clients;
- Develop materials and provide technical assistance to enhance involvement of consumers, advocates, and family in the delivery of rehabilitation engineering services;
- Provide training to rehabilitation engineers, rehabilitation counselors, VR administrators, allied health professionals, independent living program personnel, client assistance program personnel, consumers, and other relevant audiences, in optimum techniques for the delivery of assistive technology and rehabilitation engineering services in VR systems;
- Demonstrate models to effectively involve employers in the delivery of rehabilitation engineering services; and
- Disseminate project findings to all VR agencies and other rehabilitation facilities.

Authority: 29 U.S.C. 760–762.

(Catalog of Federal Domestic Assistance Nos. 84.133A, 84.133B, 84.133D, and 84.133E, National Institute on Disability and Rehabilitation Research)

Dated: August 12, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91–27676 Filed 11–15–91; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Monday
November 18, 1991

Part IV

Department of Transportation

Coast Guard

33 CFR Part 26

Requirement for Vessels Subject to Bridge to Bridge Radiotelephone Act to Carry VHF FM Channels 22A and 67; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 26

[CGD 91-046]

RIN 2115-AE07

Vessel Communications Equipment: Requirement for Vessels Subject to Bridge to Bridge Radiotelephone Act to Carry VHF FM Channels 22A and 67

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Under section 4118 of the Oil Pollution Act of 1990 (OPA 90) the Coast Guard proposes to require all vessels subject to the Vessel Bridge to Bridge Radiotelephone Act of 1971 (Bridge to Bridge Act) to be capable of transmitting and receiving on VHF FM channel 22A (157.1 MHz) while in U.S. navigable waters and on VHF FM channel 67 (156.375 MHz) while on certain portions of the lower Mississippi River. This action will enable both domestic and foreign-flagged vessels to receive critical and timely navigation safety warnings and to communicate with the Coast Guard while in U.S. waters. This communications capability is essential to ensure safe navigation in U.S. waters and will help reduce the number of marine accidents in those waters.

DATES: Comments must be received January 17, 1992.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA-2/3406) (CGD 91-046), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: LCDR Paul Jewell, Oil Pollution Act Staff (G-MS-1), United States Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, (202) 267-6746.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking (CGD 91-046), the specific section of this proposal to which each comment applies, and give the reason for each comment. Each person who wants the Coast Guard to acknowledge receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. The Coast Guard plans no public hearing. However, persons may request a public hearing by writing to the Marine Safety Council at the address under "**ADDRESSES.**" If it determines that the opportunity to make oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Drafting Information

The drafters of this regulation are LCDR Paul Jewell, Project Manager, and Joan Tilghman, Project Counsel.

Background and Purpose

Section 4118 of OPA 90 requires the Secretary of Transportation to issue regulations to ensure that all vessels subject to the Bridge to Bridge Act be equipped to "(1) receive radio marine navigation safety warnings; and (2) engage in radio communications on designated frequencies with the Coast Guard, and such other vessels and stations as may be specified by the Secretary."

Currently, VHF FM channel 22A simplex (transmit and receive on 157.1 MHz) is designated for Coast Guard liaison purposes and is used by that agency to broadcast marine navigational safety warnings. A number of foreign vessels equipped with radiotelephones operating on channels specified under the provisions of Appendix 18 of the International Telecommunications Union (ITU) Radio Regulations, are not able to receive these warnings, nor converse with the U.S. Coast Guard on VHF FM channel 22A, because internationally channel 22 is configured as a duplex channel (ship station transmits on 157.1 MHz, shore station transmits on 161.7 MHz).

The Coast Guard's VHF transmitting system, used for both command and control as well as distress communications, is limited to six specific channels. Moving the broadcasts to another VHF FM channel (if one were available) will require eliminating a radio channel needed by the Coast Guard for other purposes, or conducting a major overhaul of the Coast Guard's VHF FM transmitting equipment. A complete refurbishment of this system is scheduled for 1993-96, and any interim change will be costly and short-lived. The Coast Guard has determined that modifying its transmission system to accommodate foreign vessels not equipped to receive channel 22A is a high cost undertaking for very little net benefit. A 1987 study by the Coast Guard and Baltimore Pilots Association found that about 50 percent of the foreign vessels entering our waters were equipped with channel 22A. Domestic vessels subject to the Bridge to Bridge Act have already invested in radios with channel 22A.

The Safety of Life at Sea Convention (SOLAS), has recognized a system known as "NAVTEX" as a solution to most marine safety broadcast problems. Although this system enables vessels to receive navigational safety information through telegraphy, it does not meet the requirements specified in section 4118 of OPA 90. That section mandates that vessels be able to engage in radio communication on designated frequencies with the Coast Guard, and such other vessels and stations as may be specified. For communications with the Coast Guard, the quality and reliability of radio communications on the VHF band in near shore areas is far superior to that of NAVTEX or other radio bands close to shore. Consequently, using NAVTEX or other bands has been determined impractical. The Coast Guard also recognizes the relatively low cost of a VHF FM radio equipped with VHF FM 22A (157.1 MHz).

For communicating with other vessels, this rulemaking also proposes to require vessels transiting a certain portion of the lower Mississippi River to be equipped to communicate with each other on channel 67 (156.375 MHz). This additional requirement is necessary because channel 13 (156.650 MHz) designated for bridge-to-bridge intership navigational communications in other U.S. navigable waters, is unavailable for that purpose in the lower Mississippi River. There, the Federal Communications Commission (FCC) has designated channel 67 (156.375 MHz) for intership navigational communications.

Discussion of Proposed Amendments

To ensure that all vessels subject to the Bridge to Bridge Act are able to receive navigational safety warnings and communicate with the Coast Guard as necessary, the Coast Guard proposes to require these vessels to be equipped to transmit and receive on VHF FM channel 22A (157.1 MHz). To ensure that these same vessels can communicate with each other when they transit

certain portions of the lower Mississippi River, it is proposed that they also be required to have equipment to transmit and receive on channel 67 (156.375 MHz).

These proposed amendments to 33 CFR 26.03 will resolve longstanding problems in U.S. maritime communications. These problems stem from a difference between domestic and international frequency designations. Although requiring simplex (transmit and receive on the same frequency) operation on channel 22A is contrary to the ITU regulations, the U.S. has reserved the right to deviate from those regulations when doing so would not interfere with, or cause harm to, the international scheme. The existing VTS communications requirements imposed on foreign flag vessels are examples of such deviations.

In the U.S., certain ITU designated frequencies have been assigned for use by domestic agencies other than the Coast Guard. Therefore, redesignating these channels to comply with international accords is not an option. Requiring foreign vessels to procure the equipment necessary to transmit and receive on these uniquely U.S. channels is the least expensive option affecting the smallest number of entities. Implementing any other resolution to the problem will involve substantial costs or cause a major disruption to some portion of the U.S. VHF FM communications system.

Regulatory Evaluation

This proposal is non major under Executive Order 12291 and not significant under Department of Transportation Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. This regulation will affect foreign flag vessels only, because U.S. vessels already must have equipment capable of transmitting and receiving VHF FM channels 22A and 67.

The estimated total maximum cost of compliance with this regulation by the foreign fleet is about $1.2 million. This estimate conservatively assumes that each foreign vessel subject to the Bridge to Bridge Act (Coast Guard estimates approximately 6,000 foreign vessels visit U.S. ports annually) purchases a new VHF FM radiotelephone outfitted with U.S. channels (at a cost of $200). The actual cost will be substantially less since about half these vessels already carry a VHF radio equipped with U.S. channels. Foreign vessels will be in compliance with this regulation if, prior to entering U.S. pilotage waters, pilots are embarked who carry radios equipped with these channels.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). "Small entities" also include small not-for-profit organizations and small governmental jurisdictions. In view of the minimal cost of compliance for individual vessels, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in Executive Order 12612, and has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environment

The Coast Guard has considered the environmental impact of this proposal and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. This proposal is a procedural regulation which does not have any environmental impact. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **"ADDRESSES"**.

List of Subjects in 33 CFR Part 26

Telecommunications.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR part 26 as follows:

1. The authority citation for part 26 will be revised to read as follows:

Authority: 85 Stat. 164; 33 U.S.C. 1201–1208; Pub. L. 101–380 Section 4118, Aug. 18, 1990; 49 CFR 1.46(o)(2).

2. Section 26.03 would be amended by adding new paragraphs (c) and (d) and § 26.04 would be amended by removing the note at the end of the section to read as follows:

§ 26.03 Radiotelephone required.

* * * * *

(c) Each vessel subject to paragraph (a) of this section, shall have on board a radiotelephone capable of transmitting and receiving on VHF FM channel 22A (157.1 MHz).

(d) Each vessel subject to paragraph (a) of this section shall have on board a radiotelephone capable of transmitting and receiving on VHF FM channel 67 (156.375 MHz) while transiting any of the following waters: (1) That portion of the Lower Mississippi River from South Pass Lighted Bell Buoy "2" (LLNR 400) and Southwest Pass Entrance Lighted Buoy "SW" (LLNR 435) to mile 242.4 above Head of Passes (near Baton Rouge), (2) the Mississippi River-Gulf Outlet from the entrance to its junction with the Inner Harbor Navigation Canal, and (3) the full length of the Inner Harbor Navigation Canal from its junction with the Mississippi River to its entry to Lake Pontchartrain at the New Seabrook vehicular bridge.

§ 26.04 Use of the designated frequency.

* * * * *

Note: [Removed]

R.M. Polant,

Rear Admiral, U.S. Coast Guard, Chief, Office of Command, Control and Communications.

[FR Doc. 91-27644 Filed 11-15-91; 8:45 am]

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Monday
November 18, 1991

Federal Register

Part V

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 23 and 52
Federal Acquisition Regulation; Hazardous Warning Labels; Proposed Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 23 and 52

[FAR Case 91-51]

Federal Acquisition Regulation; Hazardous Warning Labels

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are considering changes to the Federal Acquisition Regulation (FAR), to revise coverage at subpart 23.3, Hazardous Material Identification and Material Safety Data, and add a provision and a clause to part 52, Solicitation Provisions and Contract Clauses, pertaining to hazardous warning labels.

The proposed rule will require offerors to submit information on hazardous materials they propose to supply to the Government and will require the apparently successful offeror to submit a copy of the hazard warning label for any hazardous material which is proposed to be delivered or otherwise furnished, under any resultant contract and which is subject to the labeling requirements of the Hazard Communication Standard (29 CFR 1910.1200, *et seq.*). The proposed rule will require contractors to label individual item packages of hazardous material to be delivered under the contract. The labeling shall conform to the requirements of the Hazard Communication Standard, unless the hazardous material is otherwise subject to the labeling requirements of one of the following statutes: Federal Insecticide, Fungicide and Rodenticide Act; Federal Food, Drug and Cosmetics Act; Consumer Product Safety Act; Federal Hazardous Substances Act; or the Federal Alcohol Administration Act.

These changes implement, in part, the Occupational Safety and Health Administration requirements of advising Government employees of on-the-job hazards to which they may be exposed.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before January 17, 1992, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), ATTN: Deloris Baker, 18th & F Streets, NW., room 4041, Washington, DC 20405.

Please cite FAR case 91-51 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein at (202) 501-3775 in reference to this FAR case. For general information, contact the FAR Secretariat, room 4041, GS Building, Washington, DC 20405, (202) 501-4755. Please cite FAR case 91-51.

SUPPLEMENTARY INFORMATION:

A. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule requires them to merely generate and furnish before award, and with their product, a hazard warning label which they are already required to do under 29 CFR 1910.1200. Therefore, the time and financial resources necessary to comply with the proposed requirement is already invested prior to any involvement in contracting with the Government. An Initial Regulatory Flexibility Analysis has, therefore, not been performed.

Comments from small entities concerning the affected FAR subpart will be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite FAR case 91-51 in correspondence.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping, information collection requirements, or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.* The hazard warning labels required under this proposed rule from offerors and contractors are already required under 29 CFR 1910.1200. Therefore, the time and financial resources necessary to comply with the proposed rule are already invested prior to any contractual involvement with the Government.

List of Subjects in 48 CFR Parts 23 and 52

Government procurement; Hazardous warning labels.

Dated: November 7, 1991.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR parts 23 and 52 be amended as set forth below:

1. The authority citation for 48 CFR parts 23 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 23—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE

2. Section 23.302 is amended by revising paragraphs (b), (c)(2), and (e) to read as follows:

23.302 Policy.

* * * * *

(b) To accomplish this objective, it is necessary to obtain certain information relative to the hazards which may be introduced into the workplace by supplies being acquired. Accordingly, offerors and contractors are required to submit information on hazardous materials under the provision at 52.223-XX, Pre-award Submission of Hazardous Material Labels, and the clauses at 52.223-3 and 52.223-XX, Hazard Warning Labels, as prescribed in 23.303. The latest version of Federal Standard No. 313 (Material Safety Data Sheet, Preparation and Submission of) includes criteria for identification of hazardous materials.

(c) * * *

(2) For any other material identified by the contracting officer as potentially hazardous and requiring safety controls.

* * * * *

(e)(1) The contracting officer shall provide a copy of all MSDS's received from the apparently successful offeror to the safety officer or other designated individual.

(2) The contracting officer shall also provide copies of hazard warning labels received from the apparently successful offeror to the safety officer or other designated individual when the provision at 52.223-XX, Pre-award Submission of Hazardous Material Labels, and the clause at 52.223-XX, Hazard Warning Labels, are included in the contract.

3. Section 23.303 is amended by revising the heading; by redesignating paragraphs (a) and (b) as (b)(1) and (b)(2), respectively; and by adding paragraphs (a) and (c) to read as follows:

23.303 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the provision at 52.223–XX, Pre-award Submission of Hazardous Material Labels, in solicitations containing the clause at 52.223–XX, Hazard Warning Labels.

* * * * *

(c)(1) For the Department of Defense, the contracting officer shall insert the clause at 52.223–XX, Hazard Warning Labels, in solicitations and contracts if the contract will require the delivery of hazardous materials as defined in 23.301. Use of the clause by other Government agencies is optional.

(2) If the contract is awarded by the Department of Defense, the contracting officer shall use the clause at 52.223–XX, Hazard Warning Labels, with its Alternate I.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Sections 52.223–XX, Pre-award Submission of Hazardous Material Labels, and 52.223–XX, Hazard Warning Labels, are added to read as follows:

52.223–XX Pre-Award Submission of Hazardous Material Labels.

As prescribed in 23.303(a), insert the following provision:

Pre-award Submission of Hazardous Material Labels (date)

(a) "Hazardous material," as used in this provision, includes any material defined as hazardous under the version of Federal Standard 313, current at the time of submission of this offer.

(b) All hazardous material to be delivered or otherwise furnished under the resultant contract requires labeling in accordance with either the Hazard Communication Standard (29 CFR 1910.1200, *et seq.*) or one of the statutes in paragraphs (b) (1) through (5) of the Hazard Warning Labels clause of this solicitation.

(1) *Hazardous material not subject to Hazard Communication Standard Labeling.* The offeror shall identify in the following spaces the hazardous material, to be delivered or otherwise furnished under the resultant contract, that requires labeling in accordance with one of the statutes in paragraphs (b) (1) through (5) of the Hazard Warning Labels clause of this solicitation. Use additional sheets, if necessary, and title them "Identification of Hazardous Material Not Subject to the Hazard Communication Standard—Continuation Sheet."

Material (Enter "None" if none exists)

_____

_____

_____

Statute

_____

_____

_____

(2) *Hazardous material subject to Hazard Communication Standard Labeling.* The apparent successful offeror shall submit before award of the contract a copy of the hazard warning label for any hazardous material which is proposed to be delivered, or otherwise furnished, under any resultant contract and which is subject to the labeling requirements of the Hazard Communication Standard (29 CFR 1910.1200, et seq.). The offeror shall submit the labels with the material data sheets being furnished under the Hazardous Material Identification and Material Safety Data clause of this solicitation.

(End of provision)

52.223–XX Hazard Warning Labels.

As prescribed in 23.303(c)(1), insert the following clause:

Hazard Warning Labels (date)

(a) "Hazardous material," as used in this clause, includes any material defined as hazardous under the latest version of Federal Standard 313 (including revisions adopted during the term of this contract).

(b) The Contractor shall label the individual item package (unit container) of any hazardous material to be delivered under this contract. The labeling shall conform to the requirements of the Hazard Communication Standard, unless the hazardous material is otherwise subject to the labeling requirements of one of the following statutes, in which case, the labeling shall conform to the statute:

(1) Federal Insecticide, Fungicide and Rodenticide Act;
(2) Federal Food, Drug and Cosmetics Act;
(3) Consumer Product Safety Act;
(4) Federal Hazardous Substances Act;
(5) Federal Alcohol Administration Act.

(End of clause)

Alternate I (DATE). If this is a Department of Defense contract, insert the following additional paragraph:

(c) The Contractor shall also comply with MIL–STD–129, Marking for Shipment and Storage (including revisions adopted during the term of this contract).

[FR Doc. 91–27636 Filed 11–15–91; 8:45 am]
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CFR CHECKLIST

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1990. The CFR volume issued January 1, 1987, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1991. The CFR volume issued April 1, 1990, should be retained.

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