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Reader Aids
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CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Proclamation 6297 of May 20, 1991

National Foster Care Month, 1991

By the President of the United States of America

A Proclamation

No institution is more important to society than the family. Parents not only have primary responsibility for the physical care of their children, they also have the greatest influence in shaping their character. It is within the inimitable shelter of the family that children first learn the lessons of love and commitment, personal responsibility, and civic duty.

Tragically, some families are unable to provide a minimally acceptable level of care for their children, resulting in the need for temporary or even permanent alternative placement for them. Foster families are the resource used most frequently to provide the loving guardianship and guidance that these unfortunate children need and deserve.

Those Americans who open their hearts and their homes to foster children are making a significant difference in the lives of troubled children and families. Foster parents often provide temporary care and protection for children with complex needs—children who might be physically or mentally handicapped or suffering from physical or emotional abuse—while child welfare agencies work to help the biological family gain stability and strength. In some cases, foster parents may choose to adopt the youngsters in their care when a permanent home is needed.

National Foster Care Month gives all Americans an opportunity to reflect on the importance of strong families to the future of every child and to the future of our country. It reminds each of us—parents, public officials, religious and community leaders alike—of our responsibility to identify the forces that erode the strength of the family and to develop ways to overcome them. For example, the Department of Health and Human Services reports that many of the problems faced by foster children today stem directly from their parents' substance abuse. Thus, our observance of National Foster Care Month should renew our resolve to win the war against drugs.

This month also provides a special opportunity to recognize the dedication and generosity that foster families and professionals working in the field of foster care demonstrate throughout the year. In the United States more than 250,000 licensed foster families work together with social service providers, law enforcement officials, and others to assist troubled children and families. Their contributions to our communities and to our Nation are invaluable.

The Congress, by House Joint Resolution 154, has designated the month of May 1991 as "National Foster Care Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the month of May 1991 as National Foster Care Month. I call upon all Americans to observe this month with appropriate ceremonies and activities.

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

George Bush

[FR Doc. 91-12334
Filed 5-20-91; 4:05 pm]
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Rules and Regulations

Federal Register
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Wednesday, May 22, 1991

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 91-067]

Pink Bollworm; Removal of Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the pink bollworm regulations by removing a portion of Desha County, Arkansas, from the list of suppressive areas, and by removing Arkansas from the list of States quarantined because of the pink bollworm. We have determined that the pink bollworm has been eradicated from Arkansas. The rule we are affirming removes unnecessary restrictions on the interstate movement of regulated articles.

EFFECTIVE DATE: June 21, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Sidney E. Cousins, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 644, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8247.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the Federal Register and effective March 6, 1991, (56 FR 9273-9274, Docket Number 91-015) we amended the pink bollworm regulations (7 CFR 301.52 *et seq.*) by removing a portion of Desha County, Arkansas, from the list of suppressive areas in § 301.52-2a, and by removing Arkansas from the list of States in § 301.52(a) quarantined because of the pink bollworm.

Comments on the interim rule were required to be received on or before May 6, 1991. We did not receive any comments. The facts presented in the interim rule still provide a basis for this rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect 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.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from a portion of Desha County in Arkansas. There are nine cotton growers, processors, and seed producers within this area who will experience a modest economic benefit as a result of the interim rule, since they are no longer required to comply with the treatment and handling requirements contained in the pink bollworm regulations. We estimate that each of these entities will save approximately $100 per year in compliance costs. These entities comprise less than 1 percent of the total of similar enterprises operating in the State of Arkansas.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials (See 7 CFR part 3015, subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Pink bollworm, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, we are adopting as a final rule, without change, the interim rule amending 7 CFR 301.52(a) and 301.52-2a that was published at 56 FR 9273-9274 on March 6, 1991.

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164-167; 7 CFR 2.17, 2.51, and 371.2(c).

Done in Washington, DC, this 16th day of May, 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-12162 Filed 5-21-91; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 3, 103, 240, 274a, and 299

[INS No.: 1400-91; AG Order No. 1495-91]

Temporary Protected Status

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule implements new section 244A of the Immigration and Nationality Act (the Act), as added by section 302 of the Immigration Act of 1990 (IMMACT), Public Law 101-649, (November 29, 1990), and implements section 303 of IMMACT. The rule sets forth the procedures for applying for Temporary Protected Status (TPS) and provides, in accordance with the

provisions of the Act and IMMACT, an opportunity for eligible individuals temporarily to remain in and to work in the United States, until the end of the period designated by the Attorney General. In addition to the procedures for applying for Temporary Protected Status (TPS), this rule also references those forms and fees that are required as a part of the application process. This rule also contains conforming amendments to other parts of Title 8 of the Code of Federal Regulations.

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Gerald S. Hurwitz, Counsel to the Executive Director, Executive Office for Immigration Review, suite 2400 Skyline Tower, 5107 Leesburg Pike, Falls Church, VA 22041, telephone number (703) 756–6470; Patricia B. Feeney, Assistant General Counsel, Immigration and Naturalization Service, 425 I Street, NW., room 7048, Washington, DC 20536, telephone number (202) 514–2895; or Terrance O'Reilly, TPS Coordinator, Immigration and Naturalization Service, 425 I Street, NW., room 7122, Washington, DC 20536, telephone number (202) 514–5309.

SUPPLEMENTARY INFORMATION: On January 7, 1991, an interim rule with request for comments was published in the **Federal Register** at 56 FR 618. The comment period expired on February 6, 1991. The Immigration and Naturalization Service (the Service) received over 1,000 comments, representing the views of alien advocacy organizations, state and Federal Government agencies, Members of Congress, attorneys and individuals. The Service believes that the widest range of opinions has been expressed and greatly appreciates these comments. Each comment has been considered and many commenters will see the effects of their comments in this rule.

Almost all of the commenters stated that the fees to be charged by the program should be reduced and that a "family cap" should be instituted so that the cost of the Program is not prohibitive for large families. Additionally, commenters requested that no fee be charged for re-registration. After review of the comments and fee structure, the Service will maintain the initial registration filing fee for *Alien Address Report Card,* Form I–104, at $75 for nationals of El Salvador but will institute a "family cap" of $225 and will not charge an additional fee for the re-registration process. The family cap will mean that only the first three members of a family who apply for TPS as nationals of El Salvador will be charged the fee. Unmarried children under the age of 21 will be considered part of the family. Applicants will be required to pay the appropriate fee for issuance and extension of employment authorization.

Commenters also complained that the waiver of fees for applications has not been uniformly applied by District Offices and suggested that the regulations be amended to provide guidance to officers. Commenters further suggested that the Service use the economic necessity guidelines in 8 CFR 274a.12(d). The Service is mindful of the fact that some applicants will be unable to pay the prescribed fees. The Service has the authority to waive fees, pursuant to 8 CFR 103.7(c), when an applicant is able to substantiate the inability to pay the prescribed fees. The Service will consider all requests to waive fees and will act favorably when an applicant meets the regulatory requirements. The Service will determine inability to pay using the Public Welfare, Poverty Guidelines as provided in Title 45, Code of Federal Regulations, part 1060.2, which are the same guidelines used in determining economic necessity under 8 CFR 274a.12(d).

One commenter stated that the definitions of felony and misdemeanor should be clarified to state that the crimes refer only to "final" convictions. The definitions cited in this rule are identical to those used in other parts of Service regulations and have not been the source of confusion. The Service will use the definition of conviction as found in 8 CFR 242.2(b). Additionally, the issue of what constitutes a final conviction has been addressed in judicial decisions and, therefore, it is not necessary for the regulations to be amended further.

A few commenters requested that the definition of *prima facie* be changed, deleting the phrase "if unrebutted" and inserting "on its face," because the current definition implies that the Service may delay TPS benefits in order to locate potential rebuttal evidence. The commenters believe that such action is only appropriate when making the ultimate determination of TPS eligibility. Making the change suggested would require the Service to accept the statements made by an applicant, even when the Service has evidence in its possession establishing that the applicant is ineligible for TPS. The Service must be able to use independent evidence, such as a criminal conviction, when making its determination. Therefore, the definition of *prima facie* has not been changed.

Commenters stated that the definition of brief, casual and innocent absence is too subjective. The Service believes the definition must be broad to allow for flexibility. To do otherwise would require the Service to establish a specific time limit, which may cause some applicants to be disadvantaged. Therefore, this portion of the regulation has not been changed.

One commenter suggested that the regulations include a definition of the term "armed conflict," based on the Geneva Convention. The statute gives the Attorney General the authority, in his discretion, to designate any foreign state to be eligible for the TPS program. The purpose of the regulation is to state the requirements for administering the TPS program, not to limit the authority of the Attorney General. Therefore, it is unnecessary to provide a definition as requested by the commenter.

Several commenters suggested that the Service delete references to a District Director having any discretion in the granting of TPS. The commenters believe that there is no discretion to deny TPS if an applicant establishes eligibility based on the requirements of the statute. Another commenter believes that certain language in §§ 240.42(a) and 240.43 of the regulations is misleading and implies that the District Director enjoys special discretionary powers independent of the statute. The Service believes the statute is clear that a decision to grant TPS benefits is a discretionary decision. The phrase "to the satisfaction of the district director," however, has been removed from the sections discussed by the commenter because it is redundant.

Commenters stated that the Service has the authority to issue regulations relating to the dates by which aliens must have arrived in the United States and that the regulations should be promulgated without cut-off dates for arrival. The Service disagrees and believes that section 244A(c)(1)(A)(i) of the Act requires aliens to be physically present in the United States by the effective date of the most recent designation of the state. The effective date of a designation will be determined by the Attorney General as provided in section 244A(b)(2)(A) of the Act. No change has been made to § 240.2(b) of the regulations.

One commenter suggested that waivers of grounds of ineligibility should always be granted on humanitarian grounds, unless the individual is also ineligible or excludable on a non-waivable ground. The Service believes that discretion should be exercised on a case-by-case basis. Adopting the commenter's suggestions would take discretion away from the Service. Another commenter stated that no separate waiver

application should be required. Since a case-by-case determination must be made, an application is required. This is to the applicant's benefit since the application gives the applicant the opportunity to provide a detailed explanation of the reasons a waiver should be granted.

One commenter questioned at what point the Service would inform an applicant that he or she will need a waiver to obtain TPS. The Service will notify an applicant of the need for a waiver application when the determination is made that a waiver is necessary. This is a practical issue that does not need to be addressed in the regulations.

One commenter stated that the provisions of § 240.3(b) merely track the statute verbatim and, therefore, are virtually worthless. The commenter believes there is no guidance provided to such persons as applicants, attorneys, etc. The Service maintains that the regulation is sufficiently broad to allow for discretion to be used in a decision on a waiver. Further guidance would only serve to limit discretion, possibly to the detriment of an applicant.

Commenters stated that temporary treatment benefits should be issued immediately upon the completion of an application which, on its face, establishes the alien's eligibility. The Service agrees that temporary treatment benefits should be issued immediately after the applicant establishes his or her *prima facie* eligibility. As noted above, the Service must be able to make use of evidence that effectively rebuts the alien's claim to eligibility. Therefore, this portion of the rule has not been changed.

Commenters contended that the TPS program should be similar to the Extended Voluntary Departure (EVD) Program and should, therefore, not require an application process, i.e., should not have special forms, documents or fees. The commenters point to the fact that the statute deliberately uses the term "registration." The Service disagrees. The statute specifically requires the Attorney General to establish a procedure for registration. Nothing in the statute prohibits the use of any specific forms or documents. Additionally, section 244A(c)(1)(B), of the Act expressly permits the Attorney General to require payment of a registration fee and section 303 of IMMACT requires a fee for registraton for nationals of El Savador. Therefore, the Service has not changed this portion of the rule.

Commenters stated that the forms required by the regulations request some of the same information repeatedly, as well as information wholly unrelated to a determination of eligibility. Additionally, one commenter asserted that the registration process is overly burdensome and suggested that the Application for Employment Authorization, Form I–765, should be required only for those applicants wishing to work. The Service is in the process of revising and combining the required forms and will take commenters' suggestions during this process. Additionally, commenters should be aware that Form I–765 is used in connection with the computer system supporting the TPS Program and that the fee is used to offset the cost of the program. This necessitates the use of Form I–765 for all applicants. The fee for Form I–765 will be charged only for those aliens who are nationals of El Salvador, are between the ages of 14 and 65 (inclusive), and are requesting work authorization.

Commenters suggested that an alien from a country that is designated for TPS, who is also in deportation proceedings, should be given a notice of the TPS Program. The Service agrees with the commenters and has amended § 240.7(d) to reflect the requirement that an alien who is in proceedings and is a national of a country designated under the program will be given notice of the requirements and benefits of the program.

One commenter suggested that the regulations should clearly state that Qualified Designated Entities (QDES) and voluntary agencies (VOLAGS) are not accredited by the Board of Immigration Appeals under 8 CFR 292.1 and are not therefore permitted to represent TPS applicants during any examination by the Service. QDES and VOLAGS provide assistance to aliens in filling out the forms required by the program. In many instances, these organizations have close ties to the alien community and provide valuable services to the community. Without them, many aliens would not have the access needed to obtain the benefits to which they are entitled. The regulations concerning accredited representatives are very clear. Since many QDES and VOLAGS have accredited representatives on their staff, they would have the right to represent an applicant. Therefore, no addition has been made to this portion of the rule.

Commenters stated that the Service has no legal basis to bar representatives from participating directly in the examination of an alien seeking TPS benefits and should strike the sentence in § 240.8 precluding direct participation. Commenters argued that since the application process may result in the institution of deportation proceedings, it is important that representatives be allowed to participate in the interview. The Service disagrees that the applicant would be disadvantaged in any way by this portion of the regulations. Nothing in the regulations precludes an attorney from providing his or her client with representation. In interviewing the applicant, the Service has the right to expect that the applicant respond and to maintain control over the interview. This regulation balances the needs of the Service in the adjudicative process with those of the applicant and his or her representative, and it has not been changed.

One commenter suggested that the appearance of children under the age of 14 should be waived when the child is applying with a parent. Section 240.8 states that the appearance of the applicant may be required. Nothing in this section requires the appearance of children, unless it is requested by the District Director. It is unnecessary to change this portion of the regulations.

Commenters stated that, under § 240.9(a)(2)(i), employers are required to meet a higher standard than other individuals or organizations when providing documentation for the TPS applicant to establish proof of residence. The Service believes that a higher standard is required of an employer since this type of documentation is the most common type of document received and generally is the most reliable document an alien can submit. This regulation does not preclude the Service from accepting documents without the requisite attestation under penalty of perjury. Such documents will be evaluated individually and given appropriate weight. The Service intends to be very flexible with regard to the acceptance of documentation establishing an applicant's residence in the United States. The Service does agree with commenters that the requirement that an employer state his or her willingness to come forward and give testimony is unnecessary. The Service has the right to subpoena individuals and documents and would exercise that right if necessary to substantiate documentation submitted in support of an application. Therefore, the requirement that a letter from an employer state the employer's willingness to testify has been removed.

Commenters argued that the documentation requirements for evidence of identity and nationality are too onerous and should not require proof of unsuccessful efforts to obtain documents. Commenters pointed out that attempting to obtain the

documentation or evidence of an unsuccessful effort may endanger a prospective registrant and can be extremely time consuming. The Service understands the comments but believes that since the cornerstone of the TPS provision is the applicant's nationality, the Service must have the flexibility to require whatever documentation is necessary to establish such nationality. The regulations provide this flexibility but do not require the submission of proof of unsuccessful efforts to obtain documents in every case. Where primary documentary evidence is unavailable, the Service will require a personal interview of the applicant and an affidavit attesting to unsuccessful efforts to obtain identity documents, explaining why the consular process is unavailable and affirming of his or her nationality. Other credible evidence may be submitted at the time of the interview. This portion of the rule has been modified to set forth the requirements of the application more clearly.

Commenters stated that the Service should be flexible in the types of documentation accepted to show nationality and that three additional types of documents should be added to the list of acceptable evidence: (1) An Order to Show Cause or other Service document alleging nationality; (2) any church record that indicates birthplace or nationality such as baptismal, marriage or divorce certificates; and (3) any other relevant document, affidavit or other credible evidence, including school records and correspondence. Nothing in the regulations precludes the submission of any type of credible document or affidavit. Specifically, the regulations allow for the submission of any "other credible evidence." The list provided in the regulations is not an exclusive one but is offered to provide guidance on the types of acceptable documentation. Additionally, the Service will examine its records in the adjudication of an application for TPS status and may use any documents in its possession in the determination of eligibility. The wording of the regulation already allows for the flexibility requested by commenters and has not been changed.

Commenters requested that § 240.9(a)(2) be amended to read "evidence * * * may consist of *any* of the following." As noted above, the Service intends to be flexible when accepting documents for this program and has amended the regulation as suggested by commenters to clarify that any evidence can be submitted and will be considered.

Commenters also suggested that there should be a presumption of continuous residence for those applicants with pending court proceedings or an asylum application before the Service. As noted above, the Service intends to be very flexible with regard to the type of documents it accepts and will examine its records in processing of a TPS application. The Service must be able to give whatever weight it deems appropriate to the documentation available and should not be required to make presumptions simply because the applicant is involved in proceedings or has submitted another type of application to the Service. The Service will consider these factors in its determination but should not be bound by the suggested constraint. Therefore, this additional requirement has not been added to the rule.

Commenters stated that § 240.9(c) is ambiguous and that any period of less than 30 days is an unreasonably short period of time to respond to a request for information or to show good cause for failure to appear for a scheduled interview. Although the Service generally provides 30 days to respond to such requests, there may be circumstances where a shorter time frame is appropriate. The Service must have the ability to control its work flow and must remain flexible when requiring an applicant to respond to a Service request. Therefore, the Service has not changed the language in § 240.9(c).

Commenters stated that the regulations should allow for a motion to reopen a TPS application denied on the basis of an untimely response or a failure to appear where good cause exists. Nothing in the regulations precludes the filing of a motion to reopen pursuant to 8 CFR 103.5. Since the provisions for such a motion are provided in another section of the regulations, changes to 8 CFR 240 are unnecessary.

Commenters contended that § 240.9(b) implies that affidavits will not suffice to meet the applicant's burden of proof and also argued that it makes no sense to list types of evidence sufficient to demonstrate eligibility but then to add a provision allowing the Service to dictate what must be submitted. Commenters suggested that the regulations be amended to clarify that clear, consistent and detailed written statements from applicants are sufficient to meet the applicant's burden. As previously stated, the Service intends to be flexible in considering all documents submitted, including written statements. However, the Service will require independent evidence of the applicant's eligibility apart from his or her own statements. The Service will accept all evidence submitted by an applicant and will weigh the totality of the evidence submitted when deciding a case. The Service agrees with the commenters that it is unnecessary to state that the applicant must provide proof of eligibility in the form requested by the Service and believes that 8 CFR 103.2(b) is controlling in regard to documentary requirements. Therefore, the last sentence of § 240.9(a)(3) has been deleted. The Service has also amended § 240.9 to clarify that documentation other than that listed in § 240.9(a)(1) can be submitted to establish eligibility for TPS.

Commenters stated that § 240.10(c), relating to the denial by the District Director, omits specific information regarding the form, fee, process and content of notices of appeal. Additionally, commenters stated that § 240.10(c) should be amended to state that denial decisions must be made by personal service and that the applicant has 30 days from the receipt of denial to submit a notice of appeal. The TPS application process is governed by the rules for any other application. Nothing in current regulations requires the Service to make denials of applications by personal service. Therefore, this additional requirement has not been included for TPS. The provisions of 8 CFR 103 are controlling concerning forms, fees and notices. Accordingly, the reference to a time limit to file an appeal has been removed from this regulation.

Commenters argued that the provisions in § 240.10(c) (1) and (2) should be deleted because section 244A(b)(5)(B) of the Act requires an administrative review of all denials. Additionally, commenters stated that TPS applicants must be given the opportunity to perfect an administrative appeal before being subject to deportation proceedings. The statute requires that an alien not be precluded from asserting protection in deportation proceedings. The Service believes an alien can be placed in deportation proceedings at any time. Administrative review of the decision in deportation proceedings is available by the Board of Immigration Appeals. Therefore, an alien has access to administrative review and this portion of the rule has not been changed.

Commenters stated that § 240.10(c) should be amended to require that the Service provide for both written and oral notice of appeal rights where the decision to deny TPS is made at a TPS interview. The language of the statute does not specify the manner for

providing notice. As a policy matter, the Service intends to notify applicants in writing as well as orally, when practical, but has not changed this regulation.

Commenters suggested that the provisions in §§ 240.10(c)(1), 240.10(d)(2) and 240.14(d), requiring the issuance of a charging document after denial of a TPS application, be deleted and that the institution of exclusion or deportation proceedings should not be based solely on the information obtained from the TPS application. The TPS program is not a Legalization Program. In that program, information from the application could be used only to adjudicate the application and prosecute for fraud. Congress did not provide this specific limitation of information obtained through the TPS Program. The Service, therefore, believes that the information provided on the application can be used to issue a charging document. This belief is affirmed by the provisions of section 303(d) of IMMACT, relating to El Salvadoran nationals. That section requires that an Order to Show Cause be issued at the time of the final registration under the TPS Program. It is, therefore, evident that the Service has the authority to institute proceedings upon the denial, withdrawal or expiration of TPS and, therefore the regulation has not been amended in this respect.

One commenter suggested that the regulations should clarify whether an appeal should be filed with the District Director having jurisdiction over the denied TPS applicant's current place of residence or with the District Director who denied the application. The Service agrees that the § 240.10(c) was unclear and has changed that section to indicate that the notice of appeal should be filed with the District Director who denied the application. Since the District Director who issued the denial has the administrative record and also has the responsibility for forwarding the record to the appeals unit, it would not be appropriate or expedient to appeal to a District Director at a different location.

Several individuals commented that § 240.10(f)(1) provides that the Employment Authorization Document (EAD) will be the only documentation evidencing TPS but that the Service does not issue EAD's to minor children or persons over 65. The Service intends to issue Form I–688B, Employment Authorization Document, to all those applicants granted employment authorization. This document will also serve as proof of alien registration. For children under 14 years of age, persons over 65 and those individuals not requesting employment authorization, the Service will issue Form I–94 as proof of alien registration and TPS. The regulation has been changed to clarify the Service's procedures.

Commenters also stated that § 240.10(f)(2) should be amended to provide for both written and oral notice of rights and responsibilities for those applicants granted TPS. The Service intends, as a matter of policy, to provide oral notification when practical.

Commenters stated that aliens granted TPS should be allowed to adjust status in the United States, regardless of how they entered the United States. While section 245(c)(2) of the Act, requiring maintenance of lawful status, has been made inapplicable to aliens granted TPS, there is no corresponding change in the requirements of section 245(a) of the Act. Section 245(a) provides that, in order to be eligible to adjust, the alien must have been "inspected and admitted or paroled into the United States". An alien who entered the United States without inspection cannot satisfy this requirement and, therefore, would not be eligible to adjust. The Service believes the regulations are clear on this point and will not be changed.

Commenters also suggested that the notices given to TPS applicants should specifically state the 30-day re-registration beginning and ending dates. The Service believes that the expiration date of the applicant's alien registration document will serve as ample reminder of the applicant's responsibilities to reregister. This is especially true since the applicant is required to carry this document with him or her at all times. Additionally, providing a notice with the expiration date, which would have to be handwritten, increases the chances of errors in the dates and confusion to the applicant. Therefore, the commenters' suggestion has not been adopted.

Commenters stated that the contents of the notice to applicants should be published in the **Federal Register**, giving the public an opportunity to comment. The notice to applicants is a straightforward statement of the applicant's rights and responsibilities as provided by the statute. Because of the nature of this notice, the Service believes it is not necessary to offer this notice for public comment. Additionally, this requirement would be administratively burdensome and may result in a delay in applicants receiving the required information.

Commenters also stated that the notice to applicants should include a note that the release from detention is a statutory benefit. The statute specifically provides that an alien provided TPS shall not be detained by the Attorney General on the basis of the alien's immigration status in the United States. This requirement does not preclude the Service from detaining an alien on grounds that make the alien ineligible for TPS. Including the notice suggested by commenters may cause confusion and imply additional rights not provided for by the statute.

One commenter requested that the notice to TPS applicants should include a statement that the withdrawal of TPS status "may result in the institution of exclusion or deportation proceedings" rather than "may result in the alien's deportation from the United States." Section 240.10(f)(4)(iii) of the regulation specifically provides for this notice. The suggested language of the commenter is not totally accurate, as, for example, where an alien is already in deportation or exclusion proceedings. Therefore, this portion of the rule has not been changed.

Commenters stated that a TPS applicant should be able to supplement an incomplete application prior to denial and that a notice of intent to deny should be issued prior to denial where the denial would be based on insufficient evidence. As a practical matter, the Service routinely gives an applicant additional time to provide documentation when a determination is made that the documentation can be obtained. This practice benefits both the applicant and the Service. The Service retains the right to make this determination. A notice of intent to deny is appropriate only to notify the applicant of derogatory information unknown to the applicant. The provisions of 8 CFR 103.2(b)(3)(i) are controlling in these instances. It is not necessary, therefore, to change the rule in this instance.

Commenters requested that the period for an alien to respond to a notice of withdrawal of status be increased from 15 to 30 days. The Service agrees with commenters and has amended § 240.14(b) accordingly.

One commenter objected to the provisions of § 240.14(d) that permit a charging document to constitute notice that an alien's status in the United States is subject to withdrawal. The commenter suggested that, if the purpose of the regulation is to allow the charging document alone, without further explanation, to be the notice of the Service's intent to withdraw TPS, a brief statement should be added to the charging document stating that, if the allegations are true, the alien is ineligible for TPS and his or her status is subject to withdrawal. An alien in

exclusion or deportation proceedings, after an initial grant of TPS, is entitled to a *de novo* determination of eligibility for TPS. Because of the nature of the hearing, the Service believes it is not necessary to add additional statements. The immigration judge will review the alien's eligibility for benefits and will issue an order based on the findings after a hearing. That order would necessarily contain a discussion of the alien's eligibility. The Service has reviewed the section discussed by the commenter and determined that it is redundant with the provision in § 240.18 and has, therefore, deleted § 240.14(d).

Commenters suggested that the standards for granting advance parole should be liberal and further suggested that the standards should be the same as provided in the Service's Operating Instructions, 212.5(c), including allowing travel for any *bona fide* business or personal reason. Section 240.15 has been amended to remove the reference to § 212.5(e) which does not relate to advance parole. Language has been substituted to indicate that advance parole will be granted in the discretion of the District Director. This change will require the District Director to use the standards set forth in the Operating Instructions.

Commenters stated that the Service should cease requiring a Social Security number on any TPS application since aliens will be exposing themselves to possible criminal prosecution for use of false Social Security numbers. Additionally, commenters stated that the regulations should be amended to require that an agency receiving information provided by the applicant should have procedures to guarantee the confidentiality of the information, especially as it relates to employers, and that the information should not be disclosed to the government of the designated country. The Service requires the Social Security number for identification purposes and to corroborate documentation submitted with that number. Therefore, the Service will continue to request the number. While the Service will not routinely use the information on a TPS application to institute sanction actions against employers, the Service reserves the right to enforce the Act whenever it is in the public interest to do so. The Freedom of Information and Privacy Acts control the release of third party information. Therefore, it is not necessary to include the suggestions of commenters concerning the release of TPS information to other Federal agencies or to foreign governments.

One commenter stated that § 240.18 should be amended to provide that all waiver issues must be decided prior to the issuance of an Order to Show Cause (OSC). The Service believes that the alien's rights to a full adjudication of TPS eligibility are protected in the manner in which the regulations are currently constructed. Changing the regulations may cause a situation where the Service would be precluded from issuing an OSC where an alien has not filed a waiver. Therefore, the regulations have not been changed on this point.

One commenter stated that the provisions in § 240.18 (a) and (d) are unnecessarily complicated, with indirect references to other sections of the regulations. The Service agrees and has changed the regulation to provide for more clear references.

One commenter believed that § 240.46 should be amended so that emergency and extenuating circumstances beyond the control of the alien would constitute an additional ground for authorizing advance parole, not an additional condition required for parole. The Service disagrees and believes that section 303(c)(4) of IMMACT requires Salvadoran nationals to show emergency or extenuating circumstances before being granted the benefit of advance parole. This portion of the rule has not been changed.

One commenter stated that the regulations should provide a *de novo* determination by the Board of Immigration Appeals (BIA) of a TPS denial for those individuals in pending cases before the BIA since the aliens would not have the right to such a determination under the current regulations. An alien in proceedings before the BIA will have a *de novo* determination of a denial either by a remand from the BIA to the Immigration Judge or by the alien filing an appeal to the Administrative Appeals Unit (AAU). For example, an alien who has been found deportable on a charge which also makes him or her ineligible for TPS (i.e. criminal conviction) would have the case remanded to the Immigration Judge for a *de novo* determination of eligibility for TPS. Therefore, no original jurisdiction before the BIA is necessary.

Although no comments were received from the public on this point, section 240.47 is being amended to reflect that an alien can be placed in exclusion proceedings, in addition to deportation proceedings. This change is consistent with the definition of "charging document" which refers to both exclusion and deportation documents. The change will also ensure that there is no misunderstanding and that the regulation does not seem to convey the right of a deportation hearing to an alien who properly belongs in exclusion proceedings.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment pursuant to E.O. 12612.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act. The OMB control numbers for these collections are provided in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Organization and functions (Government agencies).

8 CFR Part 103

Administrative practice and procedure, Aliens, Authority delegations (Government agencies), Freedom of Information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 240

Administrative practice and procedure, Immigration.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, the interim rule amending parts 3, 103, 274a, and 299 and creating a new part 240 which was published at 56 FR 618–624 on January 7, 1991 is adopted as final with the following changes:

PART 240—TEMPORARY PROTECTED STATUS FOR NATIONALS OF DESIGNATED STATES

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

Authority: 8 U.S.C. 1103, 1254a, 1254a note.

§ 240.1 [Amended]

2. Section 240.1 is amended by adding in the definition of the term "Charging document" the phrase ", Form I–221S (Order to Show Cause, Notice of Hearing, and Warrant for Arrest of Alien)" immediately before the phrase "or Form I–122"; and by removing the definition of "Service".

§ 240.2 [Amended]

3. Section 240.2(a) is amended by adding the phrase ", as defined in section 101(a)(21) of the Act," after the phrase "Is a national".

§ 240.4 [Amended]

4. Section 240.4(a) is amended by adding the phrase ", as defined in section 240.1," after the phrase "two or more misdemeanors".

§ 240.5 [Amended]

5. Section 240.5(a) is amended by adding in the third sentence, the phrase ", if granted," after the phrase "Temporary treatment benefits" and by adding in that same sentence the phrase "or a waiver is sought" after the phrase "fee is paid".

§ 240.6 [Amended]

6. Section 240.6 is amended by removing in the second sentence the phrase "proper fee", adding in its place the phrase "the fee as provided in § 103.7 of this chapter," and by removing the period at the end of that sentence and adding the phrase ", except that the fee for Form I–765 will be charged only for those aliens who are nationals of El Salvador, and are between the ages of 14 and 65 (inclusive), and are requesting work authorization.".

7. Section 240.7(d) is amended by revising the first sentence and adding a new sentence immediately after the first to read as follows:

§ 240.7 Filing the application.

* * * * *

(d) If the alien has a pending deportation or exclusion proceeding before the immigration judge or Board of Immigration Appeals at the time a state is designated under section 244A(b) of the Act, the alien shall be given written notice concerning Temporary Protected Status. Such alien shall have the opportunity to submit an application for Temporary Protected Status to the district director under § 240.7(a) during the published registration period unless the basis of the charging document, if established, would render the alien ineligible for Temporary Protected Status under § 240.3(c) or 240.4. * * *

§ 240.8 [Amended]

8. Section 240.8 is amended by adding to the last sentence the phrase "the application ," after the phrase "shall consist of."

9. Section 240.9 is amended as follows:

a. In paragraph (a)(1) introductory text in the first sentence, by adding immediately before the period at the end of the sentence the phrase ", if available", and by adding after the first sentence three new sentences;

b. In paragraph (a)(2) introductory text by adding the phrase "any of" after the phrase "may consist of";

c. In paragraph (a)(2)(i) introductory text by removing, at the end of the third sentence, the phrase ", and shall state the employer's willingness to come forward and give testimony if requested by the Immigration and Naturalization Service";

d. In paragraph (a)(3) by removing the second sentence; and

e. In paragraph (c) by removing, in the first sentence, the term "constitute" and inserting the phrase "be deemed" to read as follows:

§ 240.9 Evidence.

(a) * * *

(1) * * * If these documents are unavailable, the applicant shall file an affidavit showing proof of unsuccessful efforts to obtain such identity documents, explaining why the consular process is unavailable, and affirming that he or she is a national of the designated state. A personal interview before an immigration officer shall be required for each applicant who fails to provide documentary proof of identity or nationality. During this interview, the applicant may present any secondary evidence that he or she feels would be helpful in showing nationality. * * *

* * * * *

10. Section 240.10 is amended by:

a. Adding in paragraph (c) in the first sentence, immediately following the phrase "to deny Temporary Protected Status" the phrase ", a waiver of grounds of inadmissibility,";

b. Removing in the second sentence of paragraph (c) the phrase ", within fifteen (15) days,";

c. Revising the third sentence of paragraph (c);

d. Removing the term "denied" and replacing it with the term "dismissed" in paragraph (d) introductory text;

e. Adding to the beginning of the sentence the phrase "If the appeal is dismissed by the AAU," and replacing the capital "T" in the word "The" with a lower case "t" in paragraph (d)(2);

f. Removing the phrase "Immigration Court" and replacing it with the phrase "Office of the Immigration Judge" in paragraph (d)(3);

g. Revising paragraphs (e)(1) introductory text and (f)(1) and introductory text in paragraph (f)(2);

h. Removing the phrase "while in" and adding in its place the word "under" in paragraph (f)(3);

i. Revising paragraph (f)(4)(ii);

j. Removing after the phrase "paragraphs (f)(4)(i)" the word "and" and by adding in its place the word "or", and by adding immediately following the phrase "including work authorization" the phrase "granted under this Program" in paragraph (f)(4)(iii) to read as follows:

§ 240.10 Decision by the District Director or Administrative Appeals Unit (AAU).

* * * * *

(c) * * * To exercise such right, the alien shall file a notice of appeal, Form I–290B, with the district director who issued the denial. * * *

* * * * *

(e) *Grant of temporary treatment benefits.*

(1) Temporary treatment benefits shall be evidenced by the issuance of an employment authorization document. The alien shall be given, in English and in the language of the designated state or a language that the alien understands, a notice of the registration requirements for Temporary Protected Status and a notice of the following benefits:

* * * * *

(f) *Grant of temporary protected status.*

(1) The decision to grant Temporary Protected Status shall be evidenced by the issuance of an alien registration document. For those aliens requesting employment authorization, the employment authorization document will act as alien registration.

(2) The alien shall be provided with a notice, in English and in the language of the designated state or a language that the alien understands, of the following benefits:

* * * * *

(4) * * *

(ii) The alien must register annually with the District Office having jurisdiction over the alien's place of residence; and

* * * * *

§ 240.11 [Amended]

11. Section 240.11 is amended by removing in the first sentence the word "to" after the phrase "If a charging document is served" and adding in its place the word "on".

§ 240.12 [Amended]

12. Section 240.12(a) is amended by removing the phrase "for the foreign state involved" and adding the words "the state's" after the phrase "during the initial period of".

13. Section 240.14 is amended by:

a. Removing in paragraph (b)(1), in the first sentence, the phrase "in person or by mail to the alien's most recent address provided to the Service" and adding in its place the phrase "by personal service pursuant to § 103.5(a) of this chapter";

b. Removing in paragraph (b)(1) both references to "fifteen (15) days" and adding, in their place, references to "thirty (30) days";

c. Adding in paragraph (b)(3) a new sentence at the end of the paragraph; and

d. Removing paragraph (d) to read as follows:

§ 240.14 Withdrawal of Temporary Protected Status.

* * * * *

(b) * * *

(3) * * * Temporary Protected Status benefits will be extended during the pendency of an appeal.

* * * * *

§ 240.15 [Amended]

14. Section 240.15 is amended by:

a. Adding in paragraph (a) at the end of the third sentence the phrase "pursuant to the Service's advance parole provisions" and by removing the fourth sentence; and

b. Adding in paragraph (b) immediately following the phrase "prior to the alien's departure" the phrase "from the United States" and by adding immediately following the phrase "and or institution" the phrase "or recalendering".

15. Section 240.17 is amended by revising paragraphs (a) and (b) to read as follows:

§ 240.17 Annual registration.

(a) Aliens granted Temporary Protected Status must register annually with the District Office having jurisdiction over their place of residence. Such registration will apply to nationals of those countries designated or redesignated for more than one year by the Attorney General pursuant to section 244A(b) of the Act. Registration may be accomplished by mailing or submitting in person, depending on the practice in place at the District Office, completed Forms I–821 and I–765 within the thirty (30) day period prior to the anniversary of the grant of Temporary Protected Status (inclusive of such anniversary date). Form I–821 will be filed without fee. Form I–765 will be filed with fee only if the alien is requesting employment authorization. Completing the block on the I–821 attesting to the continued maintenance of the conditions of eligibility will generally preclude the need for supporting documents or evidence. The Service, however, reserves the right to request additional information and/or documentation on a case-by-case basis.

(b) Unless the Service determines otherwise, registration by mail shall suffice to meet the alien's registration requirements. However, as part of the registration process, an alien will generally have to appear in person in order to secure a renewal of employment authorization unless the Service determines that employment authorization will be extended in another fashion due to operational need. The Service may also request that an alien appear in person as part of the registration process. In such cases, failure to appear without good cause shall be deemed a failure to register under this chapter.

* * * * *

§ 240.18 [Amended]

16. Section 240.18 is amended by:

a. Removing in paragraph (a) the reference to "§ 240.10(c)(1)" and adding in its place the reference "§§ 240.3(c) and 240.4";

b. Adding in the fourth sentence of paragraph (a) a period "." after the phrase "subject to withdrawal" and removing, immediately thereafter the word "and" and capitalizing the word "a";

c. Adding in the last sentence of paragraph (a) immediately following the term "exclusion" the phrase "against an alien granted Temporary Protected Status";

d. Adding in the first sentence of paragraph (b) immediately after the term "document" the phrase "by the Service" and by adding in the same sentence immediately after the term "administrative" the phrase "adjudication or"; and

e. Removing in paragraph (d) the phrase "paragraph (a) of this section and whose Temporary Protected Status has been withdrawn" and adding in its place the phrase "§§240.3(c) and 240.4".

§ 240.41 [Amended]

17. Section 240.41 is amended by adding the phrase "not authorized by the Service (e.g., under advance parole)," after the words "Any departure," in the definition of the term *Continuously physically present.*

§ 240.42 [Amended]

18. Section 240.42(a) is amended by removing the phrase "to the satisfaction of the district director,".

§ 240.43 [Amended]

19. Section 240.43(a) is amended by removing the phrase "to the satisfaction of the district director".

20. Section 240.46 is revised to read as follows:

§ 240.46 Travel abroad.

Permission to travel abroad shall be granted under § 240.15 if the alien demonstrates to the satisfaction of the district director that emergency and extenuating circumstances beyond the control of the alien require the departure of the alien for a brief, temporary trip abroad.

21. Section 240.47 is amended by adding the phrase in the first sentence "exclusion or" after the phrase "establishes a date for" and revising paragraph (b) to read as follows:

§ 240.47 Departure at time of termination of designation.

* * * * *

(b) If an alien provided with a charging document under paragraph (a) of this section fails to appear at such exclusion or deportation proceedings, the alien may be ordered excluded or deported in absentia as provided for under section 236 or 242(b) of the Act.

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

21. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1201, 1304; 31 U.S.C. 9701; E.O. 12356, 47 FR 14874, 15557; 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

22. Section 103.7(b)(1), Form I–104, is amended by revising the second sentence and by adding a third sentence at the end of the paragraph to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form I–104. * * * Each application shall be submitted with, for applicants who are nationals of El Salvador, a fee of seventy-five dollars ($75.00); for applicants who are nationals of another state, the fee, not to exceed fifty dollars ($50.00), determined in the Attorney General's designation of such other state. The maximum amount that will be charged a family (husband, wife, and any unmarried children under 21 years

of age) applying for Temporary Protected Status as nationals of El Salvador shall be two hundred twenty-five dollars ($225.00).

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

23. The authority citation for part 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a, and 8 CFR part 2.

24. In section 274a.12, paragraph (a) is amended by adding a concluding sentence after paragraph (a)(12) to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

(a) * * *

Any alien within a class of aliens described in paragraphs (a)(3) through (a)(8), and (a)(10) through (a)(12) of this section, who seeks to be employed in the United States must apply to the Service for a document evidencing such employment authorization.

* * * * *

Dated: May 14, 1991.

Dick Thornburgh,

Attorney General.

[FR Doc. 91–12098 Filed 5–21–91; 8:45 am]

BILLING CODE 4410–10–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

Loans to State and Local Development Companies; Delegation of Authority

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: This rule increases the overall project size for which Certified Development Company debenture guarantees may be approved by certain SBA officers. Specifically, this rule increases the field offices' authority to approve projects from $2 million to $3 million, from $1.5 million to $2 million, and from $1 million to $1.5 million, respectively, depending upon the SBA official involved. This change will permit certain projects to be approved at SBA Field Offices, where adequate resources exist to conduct necessary reviews on a timely basis. In order to fully implement this change it is necessary to amend SBA's regulations pertaining to both business loans and development company loans.

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: LeAnn M. Oliver, Deputy Director for Program Development, Office of Economic Development, (202) 205–6485, Small Business Administration, 409–3rd Street, SW., 8th Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Prior to November 15, 1990, Section 502(2) of the Small Business Investment Act limited the amount of loans SBA could make to a local development company under that section to $750,000. Public Law 101–574 raised the limit in certain cases to $1,000,000. Such cases are designed to achieve specific policy goals including business district revitalization, expansion of exports, expansion of minority business development, rural development, enhanced economic competition, changes necessitated by Federal budget cutbacks, and business restructuring arising from Federally mandated standards affecting the environment or working health and safety.

Pursuant to section 503 of the Small Business Investment Act, certified development company debentures provide a percentage of the total project cost, typically the lesser of 40% or the maximum allowable dollar amount (13 CFR 108.503–9(a)(8)).

To meet the above needs it is necessary to amend SBA's regulations in 2 places: (1) Pertaining first to SBA's guaranteed loan authority under section 7(a)(13) of the Small Business Act, and; (2) SBA's development company program authorized under the Small Business Investment Act. The rule promulgated below increases the overall project size for which approval authority is delegated to certain SBA officers in the field from $2,000,000 to $3,000,000, from $1,500,000 to $2,000,000, and from $1,000,000 to $1,500,000 respectively. The share of the project cost funded by the Certified Development Company debenture that is guaranteed by SBA remains unchanged. The changes are being made to better facilitate the approval of development projects through appropriate use of SBA field personnel and resources.

Compliance with Executive Orders 12291 and 12612, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

For purpose of Executive Order 12291, SBA certifies that this rule is not a major rule because it merely defines Agency procedure.

For purpose of the Regulatory Flexibility Act, SBA certifies that this rule will not have a significant economic impact on a substantial number of small entities for the same reason that this is not a major rule.

For purposes of the Paperwork Reduction Act, SBA certified that this rule contains no new recordkeeping or reporting requirements.

For purposes of Executive Order 12612, SBA certifies that this rule does not have federalism implications warranting the preparation of a Federalism Assessment.

SBA is publishing this rule governing agency organization, procedure and practice as a final rule without opportunity for public comment pursuant to 5 U.S.C. 553(b)(3)(A).

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

Accordingly, part 101 of title 13, chapter 1 of the Code of Federal Regulations is hereby amended as follows:

1. The authority citation for part 101 continues to read as follows:

Authority: Secs. 4 and 5, Public Law 85–536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Public Law 85–699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Public Law 93–386 (Aug. 23, 1974); and 5 U.S.C. 552.

2. Section 101.3–2 is amended by revising part I section C, paragraph 2, to read as follows:

§ 101.3–2 Delegation of authority to conduct program activities in field offices.

* * * * *

Section C: Section 7(a)(13) Loans Approval Authority

* * * * *

2. Loans to a Local Development Company (SBI Act): To approve or decline loans to a local development company not exceeding the following amounts (SBA share) for each small business concern being assisted, within the project cost limitations shown below:

Note: Project cost applies to the cumulative SBA assistance to a small business concern and its affiliates and not to the additional assistance on which the action is being taken.

a. Unlimited project cost:	
(1) Regional Administrator	$1,000,000
b. Overall project cost not exceeding $2,500,000:	
(2) ARA/F&I	1,000,000
(3) District Director	1,000,000
(4) Deputy District Director	1,000,000
(5) ADA/F&I	1,000,000
(6) Branch Manager	750,000
(7) Assistant Branch Manager/F&I, Corpus Christi B.O. only	750,000

c. Overall project cost not exceeding $1,000,000:	
(8) Chief, Financing D/O	1,000,000
(9) Financial/Management Assistant Officer, Minneapolis, MN D/O	750,000
(10) Assistant Branch Manager/F&I, Sacramento B.O.	750,000

3. Section 101.3–2 is further amended by revising part III to read as follows:

Part III—Other Financial and Guarantee Programs

Section A—Section 503/504 Debenture Guaranty Approval Authority (Small Business Investment Act)

1. Section 503/504 Certified Development Company Debenture Guaranty Approval Authority (SBA Act.) To approve or decline guarantees of section 503 or section 504 debentures issued by certified development companies not exceeding the following amount (SBA share) for each small business being assisted, within the project cost limitations shown below:

Note: Project cost as used in this part, means the sum of all financial assistance to the small business concern and its affiliates construction project under consideration, not just that portion on which the 503/504 debenture guarantee action is being taken.

a. Unlimited project cost:	
(1) Regional Administrator	$1,000,000
b. Overall project cost not exceeding $3,000,000:	
(2) ARA/F&I	1,000,000
(3) District Director	1,000,000
(4) Deputy District Director	1,000,000
(5) ADA/F&I	1,000,000
(6) Branch Managers	750,000
c. Overall project cost not exceeding $1,500,000:	
(1) Chief, Financing D/O	750,000
(2) Assistant Branch Managers/F&I	600,000

* * * * *

Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans).

Dated: April 17, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91–12075 Filed 5–21–91; 8:45 am]

BILLING CODE 8025–01–M

13 CFR Part 101

Administration

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Small Business Administration (SBA) is hereby changing its regulations to reflect the upgrading of the Buffalo office from a branch office to a district office and the Rochester office from a post-of-duty to a branch office. This action is being taken to enhance the SBA's ability to serve the upstate New York area.

EFFECTIVE DATE: This rule is effective June 21, 1991.

FOR FURTHER INFORMATION CONTACT: Doris Bywaters, Chief of Position Classification Branch, (202) 205–6795.

SUPPLEMENTARY INFORMATION: On January 25, 1990, a notice was published in the **Federal Register** upgrading the status of the SBA's Buffalo office from a branch office to a district office and the Rochester office from a post-of-duty to a branch office (55 FR 2570). This action was taken to enhance the SBA's ability to service the upstate New York area. Demand for SBA assistance in the Buffalo/Rochester area has grown as the area's commercial base has developed, and continued economic growth is expected to place greater demand upon SBA program delivery systems in the future. The geographic boundaries for these offices remained unchanged and there was no adverse impact on employees as a result of these changes. The regulations are being revised to reflect these changes.

Due to the fact that this final rule governs matters of agency organization, management and personnel and makes no substantive change to the current regulation, SBA is not required to determine if these changes constitute a major rule for purposes of Executive Order 12291, to determine if they have a significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to do a Federalism assessment pursuant to Executive Order 12612. Finally, SBA certifies that these changes will not impose an annual recordkeeping or reporting requirement on 10 or more persons under the Paperwork Reduction Act (44 U.S.C. ch. 35).

SBA is publishing this regulation governing agency organization, procedure and practice as a final rule without opportunity for public comment pursuant to 5 U.S.C. 553(b)(3)(A).

List of Subjects in 13 CFR Part 101

Administrative practice and procedure, Authority delegations (Government Agencies), Investigations, Organization and functions (Government Agencies), Reporting and recordkeeping requirements.

For the reasons set out in the preamble, part 101 of title 13, Code of Federal Regulations is amended as follows:

PART 101—ADMINISTRATION

1. The authority citation for part 101 continues to read as follows:

Authority: Secs. 4 and 5, Pub. L. 85–536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Pub. L. 85–699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Pub. L. 93–386 (Aug. 23, 1974); and 5 U.S.C. 552.

§ 101.3–1 [Amended]

2. Section 101.3–1(b)(8) is amended by removing from the first sentence the term "branch office" and by adding the term "district office" in lieu thereof.

§ 101.3–1 [Amended]

3. Section 101.3–1(b)(11) is amended by removing from the first sentence the term "post-of-duty" and by adding the term "branch office" in lieu thereof.

Dated: May 2, 1991.

June M. Nichols,

(Acting) Deputy Administrator.

[FR Doc. 91–12076 Filed 5–21–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–16–AD; Amendment 39–7010]

Airworthiness Directives; British Aerospace Viscount Model 810 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace Viscount Model 810 series airplanes, which requires a one-time X-ray inspection to detect incorrectly machined door operating torque shaft coupling sleeves, and replacement, if necessary. This amendment is prompted by a report of the rear passenger entrance door upper locking claws failing to operate due to the complete fracture of the door operating torque shaft coupling sleeve plug end. This condition, if not corrected, could result in in-flight separation of an entrance or emergency door from the airplane and subsequent decompression of the passenger cabin.

EFFECTIVE DATE: July 1, 1991.

ADDRESSES: The applicable service information may be obtained from British Aerospace, PLC, Librarian for

Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to all British Aerospace Viscount Model 810 series airplanes, which requires a one-time X-ray inspection to detect incorrectly machined door operating torque shaft coupling sleeves, and replacement, if necessary, was published in the **Federal Register** on February 20, 1991 (56 FR 6816).

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

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

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

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

It is estimated that one airplane of U.S. registry will be affected by this AD, that it will take approximately 6 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $330.

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

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

91–11–12. British Aerospace: Amendment 39–7010. Docket No. 91–NM–16–AD.

Applicability: All Viscount Model 810 series airplanes, certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent in-flight separation of an entrance or emergency door from the airplane and subsequent decompression of the passenger cabin, accomplish the following:

A. Within 90 days after the effective date of this AD, perform a nondestructive testing (NDT) X-ray inspection of the forward passenger door, and of the rear entrance and rear emergency doors, for incorrectly machined door operating torque shaft coupling sleeves, in accordance with Viscount Preliminary Technical Leaflet (PTL) No. 194, Revision 1, dated December 1989.

B. If incorrectly machined door operating torque shaft coupling sleeves are found, prior to further flight, replace the sleeves with correctly machined serviceable parts in accordance with Viscount PTL No. 194, Revision 1, dated December 1989.

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 British Aerospace, PLC, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041–0414. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment (39–7010, AD 91–11–12) becomes effective July 1, 1991.

Issued in Renton, Washington, on May 14, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–12090 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 90–NM–249–AD; Amendment 39–7008]

Airworthiness Directives; McDonnell Douglas Model DC–9–15F, –32F, –33F, and –34F Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9 series airplanes, which requires a revision to the FAA-approved Airplane Flight Manual (AFM) to include a "Cargo Door Opens During Flight" procedure. This amendment is prompted by an incident in which the main cargo door inadvertently opened on takeoff. This condition, if not corrected, could result in loss of pressurization and controllability of the airplane.

EFFECTIVE DATE: July 1, 1991.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855

Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager, Technical Publications, C1–HCW (34–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or at the Los Angeles Aircraft Certfication Office, 3229 East Spring Street, Long Beach, California 90806–2425.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Webre or Mr. Dick Edwards, Flight Test Branch, ANM–160L, FAA, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806–2425; telephone (213) 988–5373.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulation to include a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9 series airplanes, which requires a revision to the FAA-approved airplane flight manual (AFM) to include a "Cargo Door Opens During Flight" procedure, was published in the Federal Register on January 22, 1991 (56 FR 2148).

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

Two commenters were opposed to the requirement to retract the landing gear after takeoff when the cargo door opens. They contend that no flight test results/analyses have been conducted to support this procedure and that further disruption of airflow around the aircraft by changing gear configuration after takeoff is unnecessary. The FAA disagrees. While there is no flight test data available, interviews with several flight crews who experienced cargo door openings indicate that no increase in pilot workload was encountered when the gear was raised after takeoff. The requirement to raise the gear, however, does follow the natural reaction of the flight crew after takeoff. Reduced drag with the gear up provides better performance due to a cleaner configuration. Aircraft sideslip due to the open cargo door adds additional drag due to the sideloads on the gear/gear doors. Debris, resulting from the cargo door opening, could be ingested into the engine, further complicating the departure profile. The FAA does agree that after the takeoff profile is completed, however, no further configuration changes should be made until the aircraft is established on final approach; the final rule has been revised to clarify this procedure.

One commenter suggested a maximum bank angle of 10 degrees, rather than the proposed 20 degrees, for maneuvering the airplane after the cargo door opens. The FAA disagrees and considers that a 10 degree bank angle limit may be too conservative. The FAA has determined that, while turns to the left are more desirable than turns to the right, the maximum bank angles should be limited to 20 degrees. This limit provides added maneuvering capability, without allowing hazardous flight maneuvers.

One commenter suggested inserting a note in the proposed procedure that would inform the crew that loss of communications may result due to the full open position of the cargo door striking the upper VHF antenna. The FAA concurs and has revised the final rule to add an appropriate note in the procedures.

One commenter requested that the rule include additional procedures to be followed if a cargo door opens during climb, cruise, descent, and approach. The FAA agrees that, in order to address the actions necessary for the flight crew to follow during any flight regime, the addition of such procedures is appropriate. The final rule has been revised to include procedures for these scenarios. Additionally, the entire AFM revision has been formatted under the title of "Cargo Door Opens During Flight."

One commenter suggested that the procedure after takeoff state that the flaps must remain in the "takeoff position" until final approach, instead of specifying a certain position, since each operator uses various flap settings depending on the dispatch requirements. The FAA concurs and has changed the final rule format from requiring a specific takeoff flap setting to requiring takeoff flaps.

Paragraph B. of the final rule has been revised to specify the current procedures for submitting requests for approval of alternative methods of compliance.

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

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

There are approximately 95 Model DC–9 series airplanes of the affected design in the worldwide fleet. It is estimated that 65 airplanes of U.S. registry will be affected by this AD, that it will take approximately one (1) manhour per airplane to accomplish the required AFM revision, and that the average labor cost will be $55 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,575.

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

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

91–11–10. McDonnell Douglas: Amendment 39–7008. Docket 90–NM–249–AD.

Applicability: Model DC–9–15F, –32F, –33F, and –34F series airplanes, certified in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent loss of control following the opening of the main deck cargo door, accomplish the following:

A. Within 30 days after the effective date of this AD, add the following procedure to the FAA-approved Airplane Flight Manual (AFM) Emergency Procedures. This may be accomplished by inserting a copy of this AD in the AFM.

CARGO DOOR OPENS DURING FLIGHT

	Series 15F	Series 32F, 33F, 34F
Main Cargo Door Opens After Takeoff:		
Directional Control.	Maintain	Maintain.
Landing Gear	Up	Up.
Flaps	Takeoff	
Flaps/Slats		Takeoff.
Land as soon as practical.		

NOTE: The airplane yaw to the right may require almost full left rudder and aileron inputs to correct. Left turns may be more controllable than right turns. Return to the runway should be accomplished with coordinated turns using very little bank (less than 20 degrees), and with speed appropriate to the flap/slat position. Loss of communications may result if the cargo door strikes the upper VHF antenna (try another radio). Do not change configuration until lined up for straight-in landing.

Main Cargo Door Opens During Climb, Cruise, Descent, or Approach:		
Directional control.	Maintain	Maintain.
Rapid decompression/ emergency descent.	Accomplish (if required).	Accomplish (if required).

NOTE: Do not exceed recommended structural damage airspeed during descent.

After level-off, slow to minimum maneuvering speed.

Land as soon as practical. Accomplish "on final approach" items.

Main Cargo Door Opens on Final Approach:		
Landing Gear	Down	Down.
Flaps	30°	
Flaps/Slats		25°/Ext.
IAS	Establish*	Establish*.

*Reduce to normal approach speed using normal wind additives.

NOTE: There may be indicated airspeed and altitude variations due to disturbed airflow across the static ports.

B. 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, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Operations Inspector who may concur or comment and then sent it to the Manager, Los Angeles ACO.

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

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager, Technical Publications, C1–HCW (34–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment (39–7008, AD 91–11–10) becomes effective July 1, 1991.

Issued in Renton, Washington, on May 14, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–12089 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 91–NM–11–AD; Amendment 39–7009]

Airworthiness Directives; Short Brothers, PLC, Model SD3–60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Short Brothers, PLC, Model SD3–60 series airplanes, which requires shortening the existing ground/air lever spool spindle in the engine power controls to allow the ground/air lever to reset at a lower power lever setting. This amendment is prompted by reports which indicated that, in certain conditions, it is possible to achieve take-off power prior to the ground/air lever resetting. This condition, if not corrected, could result in the pilot inadvertently selecting propeller pitch settings below the flight idle setting while in flight, thereby adversely affecting airplane controllability.

EFFECTIVE DATE: July 1, 1991.

ADDRESSES: The applicable service information may be obtained from Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202–3719. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an airworthiness directive, applicable to certain Short Brothers, PLC, Model SD3–60 series airplanes, which requires shortening the existing ground/air lever spool spindle in the engine power controls to allow the ground/air lever to reset at a lower power lever setting, was published in the **Federal Register** on February 25, 1991 (56 FR 7615).

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

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

The economic analysis paragraph, below, has been revised to increase the specified hourly labor rate from $40 per manhour (as was cited in the preamble to the Notice) to $55 per manhour. The FAA has determined that it is necessary to increase this rate used in calculating the cost impact associated with AD activity to account for various inflationary costs in the airline industry.

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

It is estimated that 86 airplanes of U.S. registry will be affected by this AD, that it will take approximately 13 manhours per airplane to accomplish the required actions, and that the average labor cost will be $55 per manhour. The estimated cost for required parts is negligible. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $61,490.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

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

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

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

91-11-11. Short Brothers: Amendment 39-7009. Docket No. 91-NM-11-AD.

Applicability: Model SD3-60 series airplanes, equipped with PT6A-67R engines with Fuel Control Unit (FCU), Part Number (P/N) 3037319, certificated in any category.

Compliance: Required within 30 days after the effective date of this AD, unless previously accomplished.

To prevent the pilot from inadvertently selecting propeller pitch settings below the flight idle setting while in flight, thereby adversely affecting airplane controllability, accomplish the following:

A. Shorten the existing ground/air lever spool spindle P/N SD3-47-1130xA, in accordance with Shorts Service Bulletin SD360-76-11, dated October 1990.

Note: This service bulletin references Pratt and Whitney Service Bulletin No. 14017, Revision 1, dated August 16, 1989, for additional instructions.

B. 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.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Short Brothers, PLC, 2011 Crystal Drive, suite 713, Arlington, Virginia 22202-3719. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

This amendment (39-7009, AD 91-11-11) becomes effective July 1, 1991.

Issued in Renton, Washington, on May 14, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-12091 Filed 5-21-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 90-AWP-9]

Alteration of VOR Federal Airways V-208 and V-442; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of Federal Airways V-208 and V-442 located in the State of California. This amendment will delete the airspace exclusion within the Turtle Military Operations Area (MOA). This action will increase the amount of navigable airspace available when the Turtle MOA is inactive. This action will improve traffic flow in this area while reducing the flying time of overflights and reducing controller workload.

EFFECTIVE DATE: 0901 u.t.c., July 25, 1991.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

SUPPLEMENTARY INFORMATION:

History

On December 14, 1990, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to alter the descriptions of VOR Federal Airways V-208 and V-442 (55 FR 51431). This amendment will delete the airspace exclusion within the Turtle MOA. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes this amendment is the same as that proposed in the notice. Section 71.123 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations alters the descriptions of V-208 and V-442 located in the State of California. This amendment will delete the airspace exclusion within the Turtle MOA. During periods when the Turtle MOA is inactive, this route is virtually unusable and requires the issuance of preferential routes by controllers, which adds a substantial number of miles to the routes of aircraft overflying this area, thus increasing controller workload. The adjustment of this route is designed to alleviate congestion and compression of air traffic and to establish optimum use of the airspace.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

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

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

§ 71.123 [Amended]

2. § 71.123 is amended as follows:

V–208 [Amended]

By removing the words "excluding the airspace above 10,000 feet MSL between Twentynine Palms and Needles"

V–442 [Amended]

By removing the words "The airspace above 10,000 feet MSL between Parker and a point 45 miles northwest is excluded."

Issued in Washington, DC, on May 8, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91–12088 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 630

[Docket No. 86N–0027]

Additional Standards for Viral Vaccines; Poliovirus Vaccine Live Oral

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing a suspension of the effective date on portions of its regulations governing the manufacture of Poliovirus Vaccine Live Oral (56 FR 21418, May 8, 1991). For most of the new provisions of the amended regulations published on May 8, 1991, the immediate effective date is suspended; those regulations are effective June 21, 1991.

DATES: Sections 630.13(a) and 630.19(f) (21 CFR 630.13(a) and 630.19(f)) were effective May 8, 1991. The effective date on all other new provisions appearing in the final rule of May 8, 1991 is suspended May 22, 1991; those regulations are effective June 21, 1991. Additional written comments by July 8, 1991.

ADDRESSES: Written comments on the final rules may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Center for Biologics Evaluation and Research (HFB–130), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–295–8188.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 8, 1991 (56 FR 21418), FDA published a final rule amending the regulations governing the manufacture of oral poliovirus vaccine. The amended regulations were issued with an immediate effective date under the provisions of 5 U.S.C. 553(d) and 21 CFR 10.40(c)(4), which provide for exceptions to the ordinary 30-day delayed effective date for good cause. The Commissioner of Food and Drugs found good cause for an immediate effective date because of the important public health interest in being certain that it is clear that the current vaccine supply meets the requirements of the regulations.

Concerns about the legality of the vaccine had been raised by a recent judicial decision involving certain provisions of the oral poliovirus vaccine regulations. Upon further review, it appears that a waiver of the 30-day delayed effective date is essential only with respect to new §§ 630.13(a) and 630.19(f). Therefore, the Commissioner is reaffirming the finding of good cause for an immediate effective date for §§ 630.13(a) and 630.19(f). It is very important that there be no question about the legality of the current supply of vaccine, which is critically important for the protection of the public health. The current vaccine supply in the United States consists of safe and effective vaccine. In order to be certain that it is clear that existing vaccine meets the requirements of the regulations, §§ 630.13(a) and 630.19(f) were effective on May 8, 1991.

The effective date on all other new provisions appearing in the final rule published on May 8, 1991 is suspended May 22, 1991; those regulations are effective June 21, 1991. The date by which additional written comments on the final rule published on May 8, 1991, may be submitted to the Dockets Management Branch (address above) remains July 8, 1991.

Dated: May 10, 1991.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 91–11948 Filed 5–21–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Maryland Regulatory Program; Public Notice; Permitting; Fish and Wildlife; Inspection and Enforcement

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

ACTION: Final rule; approval of amendments.

SUMMARY: OSM is announcing the approval, with one exception, of proposed amendments to the Maryland regulatory program (hereinafter referred to as the Maryland program) approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed changes revise certain definitions; revise certain permit application and review procedures; require the identification in the permit application of cultural and historic resources eligible for listing on the National Register of Historic Places; provide procedures for lands unsuitable petitions; require certain fish and wildlife protection measures; require that the Maryland Bureau of Mines (MDBOM) conduct partial inspections of inactive mines; provide public participation procedures for those adversely affected by surface mining operations; and finally, revise the procedures for enforcement conferences. The amendments are intended to revise the Maryland program to be consistent with the corresponding Federal requirements.

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: James C. Blankenship, Jr., Director, Charleston Field Office, OSM, 603 Morris Street, Charleston, WV 25301; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On February 18, 1982, the Secretary of Interior approved the Maryland program. Information regarding general background on the Maryland program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Maryland program can

be found in the February 18, 1982, **Federal Register** (47 FR 7214). Actions taken subsequent to the approval of the Maryland program are identified at 30 CFR 920.12, 30 CFR 920.15 and 30 CFR 920.16.

II. Submission of Amendments

By letter dated July 8, 1986, OSM sent to Maryland a list of deficiencies OSM had determined to be less effective than the Federal requirements for surface mining and reclamation operations (Administrative Number MD–351). After informal discussions with OSM on June 20, 1988, and December 27, 1988, the Maryland Department of Natural Resources, Bureau of Mines (MDBOM) submitted on March 27, 1989, proposed amendments to Maryland's approved program (Administrative Record Number MD–382).

The program amendments modify the following rules in the Code of Maryland Administrative Regulations (COMAR): 08.13.09.01, 08.13.09.02, 08.13.09.04, 08.13.09.05, 08.13.09.08, 08.13.09.10, 08.13.09.11, 08.13.09.26, and 08.13.09.40.

OSM announced receipt of the proposed amendments in the September 22, 1989, **Federal Register** (54 FR 39003), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendments. The comment period closed on October 23, 1989.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.17, are the Director's findings concerning the proposed amendments submitted on March 27, 1989. Any revisions not specifically discussed below are found to be no less stringent than SMCRA and no less effective than the Federal regulations. Revisions that are not discussed below contain language similar to the corresponding Federal rules, concern nonsubstantive wording changes, or revise cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

1. COMAR 08.13.09.01 General—Definitions

At paragraph B(22), Maryland proposes to revise the definition of "cumulative impact area" to mean the area, including the permit area, within which impacts resulting from the proposed operation may interact with the impacts of all anticipated mining on surface and ground-water systems. Anticipated mining includes the entire projected lives through bond releases of: (a) the proposed operation, (b) existing operations, (c) any operation for which a permit application has been submitted, and (d) all operations for leased Federal coal. Since the proposed definition is identical to the Federal definition at 30 CFR 701.5, the Director finds it no less effective than the Federal rule.

2. COMAR 08.13.09.02 Permit Applications: General Requirements

(a) *Technical Analyses.* At paragraph D, Maryland is adding the requirement that technical analyses included in the mining permit application be planned by or under the direction of a professional qualified in the subject to be analyzed. As the proposed State amendment is identical to the Federal provision at 30 CFR 777.13(b), the Director finds it no less effective that its Federal counterpart.

(b) *Violation Information.* Maryland is revising paragraph I(11) to require that a mining permit application include each violation notice received by any subsidiary, affiliate, or persons controlled by or under common control with the applicant. Maryland submitted this change to correct a deficiency noted in OSM's letter of July 8, 1986. However, the Federal regulations on ownership and control at 30 CFR 778.14(c) were revised in 1989 and the requirement to list violation notices received by any subsidiary, affiliate, or persons controlled by or under the common control with the applicant was deleted (54 FR 8985, March 2, 1989). Maryland's proposed change does not degrade the effectiveness of the Maryland program. The Director finds the revised State rule no less effective than the corresponding Federal rule.

Maryland is also revising paragraph I(11) to require that the permit application contain violation information relating to administrative or judicial proceedings, the current status of any proceedings and of the notice, and actions taken to abate the violation. This change renders the State rule substantively identical to the corresponding Federal rule at 30 CFR 778.14(c) (3), (4) and (5). Therefore, the Director finds the revised State rule no less effective than the Federal rule.

(c) *Environmental Resource Description.* Maryland is revising paragraph K(2)(b) to require that the nature of cultural and historic resources eligible for listing on the National Register of Historic Places and known archeological features be described in the permit application. At paragraph K(1), which is not being amended, Maryland specifies that the description include those resources located within the proposed mine plan area and adjacent areas. The Federal rule at 30 CFR 779.12(b)(1) specifies that certain cultural and historic and archeological resources located within the proposed permit and adjacent areas be described. The Director finds that the revisions to paragraph K(2)(b) when read with paragraph K(1) render the revised State rule no less effective than its Federal counterpart.

Maryland is revising paragraph K(2)(l) to require that certain fish and wildlife resource information for the permit and adjacent area be described in the permit application. Site-specific resource information will be required when the permit or adjacent area is likely to contain: (a) listed or proposed endangered or threatened species of plants or animals listed under the Endangered Species Act of 1973, as amended; (b) eagles, migratory birds and other species identified as requiring special protection; and (c) habitats of unusually high value for fish and wildlife. As the revised State rule is substantively identical to the Federal rule at 30 CFR 780.16(a) (1) and (2), the Director finds it no less effective than its Federal counterpart.

(d) *Maps.* Maryland is revising paragraph L(1) to require that a permit application include at least one topographic quadrangle map scaled 500 feet to the inch which covers the permit area and identifies certain features. The Federal requirement at 30 CFR 777.14(a) specifies a topographic map of the permit area enlarged to a scale of 6,000 feet to the inch or larger. The Director finds the revised State rule no less effective than its Federal counterpart.

Maryland is revising paragraph L(1)(l) to require that the boundaries of any public park, forest or wildlife management area, and locations of any cultural or historic resources eligible for listing in the National Register of Historic Places be included in the permit map. As the revised State rule is substantively identical to the Federal rule at 30 CFR 779.24(i), the Director finds it no less effective than its Federal counterpart.

(e) *Pre-Application Investigation.* Maryland is revising paragraph N(1) to require that the permit applicant conduct a pre-application reconnaissance inspection of the proposed permit in accordance with COMAR section .03D to determine if prime farmland exists. As the revised State rule is substantively identical to the Federal rule at 30 CFR 785.17(b), the Director finds it no less effective than its Federal counterpart.

(f) *Description of Mining Operations.* Maryland is revising paragraph O(8) to require that the permit application

include a protection and enhancement plan for fish, wildlife and related environmental values. As the revised State rule is substantively identical to the Federal rule at 30 CFR 780.16(b), the Director finds it no less effective than its Federal counterpart.

3. COMAR 08.13.09.04 Permit Applications: Review Procedures

(a) *Submission of Application.* Maryland is revising paragraph A(2) to require that the permit applicant submit to the State a copy of the application for the National Pollutant Discharge Elimination System (NPDES) permit and any other required permits. Neither the Federal rule at 30 CFR 780.21 governing the hydrologic information to be included in a permit application nor section 507 of SMCRA makes this requirement. The Director finds the revised State rule to be not inconsistent with the requirements of SMCRA and the Federal regulations.

(b) *Initial Review.* Maryland is revising paragraph B(3) to require that the State properly notify the applicant and certain governmental agencies of receipt of an administratively complete application. The State is also required to issue by public newspaper notice of the opportunity to submit comments, objections, or request a hearing. The Federal rule at 30 CFR 773.13(a)(3) requires that upon receipt of an administratively complete application, the regulatory authority only has to properly notify certain governmental agencies. Maryland is also revising paragraph B(4) to require that the regulatory authority include in the public newspaper notice a notice to the governmental agencies of certain additional information beyond that required by 30 CFR 773.13(a)(3). On this basis, the Director finds the revised State rule no less effective than the Federal rule.

(c) *Newspaper Advertisement.* Maryland is revising paragraph C(2)(e) to require that in the newspaper advertisement, a permit applicant state that a hearing on the permit application may be requested. The current State rule provides for a public hearing on every application. As the revised State rule is substantively identical to the Federal rule at 30 CFR 773.13(a)(1)(iv), the Director finds it no less effective than its Federal counterpart.

(d) *Public Availability of Permit Applications.* Maryland is adding paragraph D(3) to provide for the submission of confidential information by the applicant and to specify the types of information that may be considered confidential. As the proposed State rule is substantively identical to the Federal rule at 30 CFR 773.13(d)(3), the Director finds it no less effective than its Federal counterpart.

(e) *Public Participation.* Maryland is revising paragraphs E (1) and (2) to clarify that the State receive, consider and process written requests for a hearing on permit applications in the same manner as written comments and objections. The revised State rule is substantively identical to the Federal rule at 30 CFR 773.13(c)(1)(iii) with respect to filing requirements. However, the Federal rule at 30 CFR 773.13(b)(3) does not require that requests for a hearing be subject to the same notification provisions as comments and objections. The Director finds the proposed State rule consistent with the corresponding Federal rules.

(f) *Inspections.* Maryland is revising paragraph F(1) to provide that any person who files a written request for a hearing may include a request for an on-site inspection. The provision authorizing any person who files a written comment or objection to request an inspection is deleted. As the proposed State rule is substantively identical to the Federal rule at 30 CFR 773.13(c)(2)(iii), the Director finds it no less effective than its Federal counterpart.

(g) *Review of Permit Applications.* Maryland is revising paragraph G(2) to clarify that the applicant for a permit or permit revision has the burden of establishing that his application complies with all requirements of the regulatory program. As the proposed State rule is identical to the Federal rule at 30 CFR 773.15(a)(2), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph G(4) to require that, if the State determines that the permit may be available under the regulatory program, it forward copies of the application to the agency responsible for issuing the NPDES permit, the Soil Conservation District, and the public representative members of the Land Reclamation Committee (LRC). The Federal rules do not have a comparable automatic forwarding provision for sending copies of permit applications to specific parties. At 30 CFR 773.13(a)(3), the Federal regulations require only that the regulatory authority issue written notification of a permit applicant's intention to mine to certain governmental agencies. This notification is already provided for in the Maryland program by paragraph B(3)(d). The Director finds the revised State rule no less effective than the Federal rules at 30 CFR 773.13.

Maryland is adding paragraph G(5) to require that the State schedule a site visit to the proposed permit area for the LRC during the permit review period. Before the site visit, the permit applicant is required to stake or flag the areas to be affected by the proposed mining operation. This visitation provision is in addition to the on-site inspection provision of paragraph F(1) discussed above. The permit application review provisions at 30 CFR 773.15 do not require the regulatory authority to visit the proposed permit areas. The Director finds that the State rule is not consistent with the provisions of 30 CFR 773.15.

(h) *Public Hearing.* Maryland is revising paragraph H(1) to require that the State schedule a joint hearing with the LRC if a request for a public hearing is received. The Federal rules at 30 CFR 773.13(c) pertaining to informal conferences do not contain this provision. The Director finds that the State rule is not inconsistent with the provisions of 30 CFR 773.13(c).

Maryland is revising paragraph H(2) to require that the State provide notice of a public hearing by: (a) notifying the applicant and any person who requested a hearing of the date, time and place of the hearing, and (b) publishing the date, time and location of the hearing in a newspaper of general circulation in the area of the proposed operation and in the "Maryland Register" subject to certain conditions and timeframes. As the proposed State rule is substantively identical to the Federal regulation at 30 CFR 773.13(c)(2)(ii), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph H(5) to authorize any party to a hearing to obtain, at his or her expense, a verbatim transcript of the proceeding. The Federal rule at 30 CFR 773.13(c)(2)(iv) provides that the record of a hearing shall be accessible to the parties of the conference. The Director finds the proposed State rule no less effective than its Federal counterpart.

(i) *Land Reclamation Committee.* Maryland is revising paragraph I(1) to permit the LRC to vote on a reclamation plan at a committee meeting.

The term "deny" is replaced with "reject" in describing the LRC's disapproval of a reclamation plan. The Federal rules at 30 CFR 773.15(c)(2) pertaining to permit application review neither contain counterparts nor conflict with these provisions. The Director finds that the revised State rule is not inconsistent with the provisions of 30 CFR 773.15(c)(2).

Maryland is revising paragraph I(2) to require that if a reclamation plan is rejected, the State transmit the reasons to the applicant including a statement

that the plan may be revised and resubmitted. While the Federal regulations at 30 CFR 773.19 (a) and (b) pertaining to notification procedures require that the regulatory authority notify the applicant of the specific reasons a permit application is disapproved, there is no specific notification requirement for the disapproval of reclamation plans. The Director finds that the revised State rule not inconsistent with the general permit issuance provisions of the Federal regulations.

(j) *Decision.* Maryland is revising paragraph J(1) to require the State to complete its review of a permit application within 10 days of the LRC's decision on a reclamation plan. The revised State rule neither has a direct counterpart nor conflicts with the Federal rules at 30 CFR 773.15 pertaining to permit review. Therefore, the Director finds the revised State rule is not inconsistent with the provisions of 30 CFR 773.15.

(k) *Permit Approval.* Maryland is revising paragraph K(1) to require the State to notify an applicant in writing, by certified mail, of its decision to approve the permit application. The notice shall include certain required findings and specify a time limit within which the applicant must submit evidence of approval for applicable permits and licenses. The Federal rule at 30 CFR 772.19(b) requires only that the regulatory authority notify the applicant, in writing, if its decision. The Director finds that the additional specificity provided in the State rule is not inconsistent with the general notice provisions of the above cited Federal regulations.

Maryland is revising paragraph K(2) to require that the State send notice of its approval of the permit to any person who filed a written comment or objection or was a party to a hearing on a permit application. The notice must contain the terms and conditions of requesting an adjudicatory hearing. The parties for whom notice is required are identical to those prescribed by the Federal rule at 30 CFR 773.19(b)(1). The Federal rule does not require that the regulatory authority include in the notice a provision for requesting an adjudicatory hearing. However, at 30 CFR 775.11(a), any person with an interest which is or may be adversely affected may request a hearing on the reasons for the decision. Therefore, the Director finds that the revised State rule is no less effective than its Federal counterparts.

Maryland is revising paragraph K(4) to require that the State notify OSM within 10 days of permit issuance that a permit has been issued. The Federal rule at 30 CFR 773.19(b)(3) requires that the local OSM office be notified but does not specify a timeframe. The Director finds that the revised State rule is no less effective than its Federal counterpart.

(l) *Permit Denial.* Maryland is revising paragraph L(2) to require that the State notify certain parties within 10 days of its decision that a permit has been denied. The revised State rule is substantively identical to the Federal rule at 30 CFR 773.19(b) (1), (2) and (3). The Federal rule, however, applies the 10 day timeframe only to the notification of local governmental officials. No timeframe is specified with regard to notification of the other parties. The Director finds the revised State rule to be no less effective than its Federal counterpart.

4. COMAR 08.13.09.05 Permit Applications: Bureau Decision

(a) *Written Findings.* Maryland is revising paragraph A to specify that a permit not be approved unless the State makes certain findings. The revised findings include: (a) That the assessment of the probable cumulative impacts of coal mining in the cumulative impact area on the hydrological balance be made, and that the operations have been designed to prevent damage to the hydrologic balance outside the permit area; (b) that the applicant has demonstrated that any existing structure will comply with the requirements of COMAR regulation .20; (c) that the applicant has satisfied the applicable requirements of COMAR regulation .03 with respect to prime farmland; and (d) that the applicant has satisfied the applicable requirements for approval of long-term agricultural postmining land use in accordance with COMAR regulation .35A(4). The Director finds that, as the revised State rule is substantively identical to the Federal rule at 30 CFR 773.15(c) (5), (6), (8), and (9), it is no less effective than these Federal counterparts.

(b) *Permit Conditions.* Maryland is adding paragraphs D (9) and (10) to require that permits contain the following terms: (9) The permittee shall pay all reclamation fees as required by OSM, and (10) the permittee shall pay all fees and reclamation surcharges as required by Maryland's Natural Resources Article. The Federal rule at 30 CFR 773.17(g) includes, as a permit condition, that the operator shall pay the Federal reclamation fee. The Director finds paragraph D(9) to be no less effective than the Federal rule in prescribing, as a permit condition, the payment of the Federal reclamation fee. This paragraph is, however, not interpreted by OSM as in any way limiting the persons liable for payment of reclamation fees under 30 CFR part 870 *et seq.* Paragraph D(10) has no Federal counterpart and is found to be not inconsistent with the previously cited Federal regulations.

5. COMAR 08.13.09.08 Permit Review and Transfer of Permit Rights.

(a) *Permit Renewals.* Maryland is adding paragraph C(5)(d) to authorize the State to issue a permit renewal unless it finds in writing that the operator has not provided evidence of having liability insurance as required by COMAR regulation .16. As the revised State rule is substantively identical to the Federal rule at 30 CFR 774.15(c)(iv), the Director finds it no less effective than its Federal counterpart.

(b) *Transfer, Assignment or Sale of Permit Rights.* Maryland is adding paragraph D(1)(b)(iii) to require that an application for approval of the proposed transfer, assignment or sale of permit rights include a brief description of the proposed action requiring the State's approval. As the revised State rule is identical to the Federal rule at 30 CFR 774.17(b)(1)(ii), the Director finds it no less effective than its Federal counterpart.

Maryland is adding paragraph D(4)(a) to authorize the State to grant written approval for the transfer, assignment or sale of rights if it finds in writing that the applicant is eligible to receive a permit in accordance with COMAR regulations .04L (2) and (3), and .05A. As the revised State rule is substantively identical to the Federal rule at 30 CFR 774.17(d)(1), the Director finds it no less effective than its Federal counterpart.

Maryland is adding paragraph D(6) to require that the State notify the transferor, transferee, commentors and OSM of its findings and decision concerning a proposed transfer, assignment or sale of permit rights. As the revised State rule is substantively identical to the Federal rule at 30 CFR 774.17(e)(1), the Director finds it no less effective than its Federal counterpart.

Maryland is adding paragraph D(7) to require that the transferee immediately notify the State of the consummation of the assignment or sale of permit rights. The Federal rule at 30 CFR 774.17(e)(2) also requires that the successor notify the State of the consummation of the transfer of permit rights. In a letter dated November 21, 1990, Maryland clarified its procedures for assumption of a permit by transfer, sale, or assignment of permit rights (Administrative Record Number MD-

483). Upon completion of its review of an application for transfer of permit rights, the State notifies the applicant of its decision. If the transfer is approved, the applicant is sent a transfer permit which must be signed by the applicant and returned to the State with the proper bond. The State signs the permit and the transfer permit is issued, thereby completing the transfer, sale, or assignment of permit rights. Because the transfer of the permit is consummated at the time the State issues the permit, no further notification is required. Therefore, the Director finds the revised State rule to be no less effective than the corresponding Federal rule.

6. COMAR 08.13.09.10 Areas Where Mining Is Prohibited or Limited

(a) *Definitions.* Maryland is revising paragraph A(4) to define "public building" as any structure that is owned or leased by a governmental agency and used principally for public business, meetings, or other group gatherings. As the revised definition is substantively identical to the Federal definition at 30 CFR 761.5, the Director finds it no less effective than its Federal counterpart.

(b) *Determination of Limits.* Maryland is revising paragraph C(2) to require that if the proposed operation is to be located on any lands where surface coal mining is prohibited, the State reject the application if the applicant has no valid existing rights for the area, or if the operation did not exist on August 3, 1977. As the revised State rule is substantively identical to the Federal rule at 30 CFR 761.12(b)(1), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph C(3) to require that, if the State is unable to determine whether the proposed operation is located on any lands where mining is prohibited, it request assistance from the appropriate governmental agency and notify that agency that it has 30 days to respond. Upon request, an additional 30 day extension may be granted. If no response is received, the State may make the necessary determination based upon available information. As the revised State rule is substantively identical to the Federal rule at 30 CFR 761.12(b)(2), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph C(4)(c) to require that for those mining operations to be conducted within 100 feet from the outside right-of-way line of any public road, the State make a written finding within 30 days after a public hearing or after any public comment period ends, if no hearing is held, as to whether the public and affected landowners will be protected from the proposed operation. Further, no mining will be allowed within 10 feet of the outside right-of-way line of a public road, nor will a public road be relocated or closed unless the State determines that the interests of the public and affected landowners will be protected. As the revised State rule is substantively identical to the Federal rule at 30 CFR 761.12(d)(4), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph C(5) to require that if the proposed mining operation is to be conducted within 300 feet from any occupied dwelling, the permit applicant submit with his application a written waiver from the owner of the dwelling stating that the owner and the signator had a legal right to deny mining and knowingly waived that right. Further, a subsequent purchaser is deemed to have record knowledge if the waiver has been properly filed or if the mining has proceeded to within the 300 feet limit prior to the date of purchase. As the revised State rule is substantively identical to the Federal rules at 30 CFR 761.12(e)(1) and (e)(3)(ii), the Director finds it no less effective than its Federal counterparts.

Maryland is revising paragraph C(7) to require that if the State determines that the proposed mining operation will adversely affect any public park or any publicly owned places included on the National Register of Historic Places, it transmit to the appropriate governmental agencies a copy of the applicable parts of the permit application with a request for the agency's approval or disapproval of the operation. The State must also notify the agency that it has 30 days to respond with a 30 day extension possible. Failure to respond will constitute approval of the permit. As the revised State rule is substantively identical to the Federal rule at 30 CFR 761.12(f)(1), the Director finds it no less effective than its Federal counterpart.

7. COMAR 08.13.09.11 Areas Unsuitable for Mining

(a) *Right to Petition.* Maryland is revising paragraph B to provide any person having an interest which is or might be adversely affected by a proposed mining operation the right to petition the State to have an area designated as unsuitable for surface coal mining operations, or to have an existing designation terminated. The petitioner must demonstrate how he or she meets an "injury in fact" test. As the revised State rule is substantively identical to the corresponding rule at 30 CFR 764.13(a), the Director finds it no less effective than its Federal counterpart.

(b) *Petition Information.* Maryland is revising paragraph C to authorize the State to determine what information must be provided by the petitioner to have an area designated as unsuitable for mining, or to terminate an existing designation. A petition for designation must include certain identifying information, a description of the potential adverse effects of the proposed operation, allegations of fact, and other supplementary information as required by the State. A petition for termination shall include certain identifying information, allegations of fact, and other supplementary information as required by the State. The revised State rule is substantively identical to the Federal rules at 30 CFR 764.13(b)(1) with respect to petitions for designation, 30 CFR 764.13(b)(2) with respect to allowing the Bureau to request the petitioner to provide other supplementary information which is readily available, and 30 CFR 764.13(c)(1) with respect to petitions for termination except that the State rule does not detail the bases upon which a designation might be terminated listed at (c)(1)(iv)(A)–(C). The revised State rule does, however, contain the general requirement also found at (c)(1)(iv) that the petition include specific allegations and supporting evidence as to the basis for which the designation was made which tend to establish that the designation should be terminated. On the understanding that the bases for terminating a designation would have to correspond to and directly negate the specific bases for which the original designation was made, the Director finds the revised State rule no less effective than the Federal rules.

(c) *Petition Processing Procedures.* Maryland is revising paragraph G(1) to allow the State 60 days from receipt of a petition to notify the petitioner of its completeness. The current State rules requires a 30 day response period. Maryland also defines "complete" to mean that information required by paragraphs C(1) or C(2), discussed above. The Federal rule at 30 CFR 764.15(a)(1) requires a 30 day response period. In the preamble to that rule (December 30, 1987, 52 FR 49322), OSM stated that the 30 day review period is not an administrative burden to States. Further, OSM agreed with commenters who felt allowing a 60 day review period would restrict the ability of a petitioner to protect eligible lands by allowing added time for a permit application to be deemed complete by the regulatory

authority thereby allowing those lands included in the permit to be excluded from the petition area. For these reasons, the Director finds the revised State rule less effective than the Federal rule and he is not approving the revision.

Maryland is revising paragraph G(2) to authorize the State to return a petition to the petitioner if the State determines that the petitioner does not have an interest which is or may be adversely affected. As the revised State rule is substantively identical to portions of the Federal rule at 30 CFR 764.15(a)(3), the Director finds it no less effective than this Federal counterpart.

Maryland is revising paragraph G(4) to define a frivolous petition as one in which the allegations of harm lack serious merit. As this definition is identical to the Federal definition at 30 CFR 764.15(a)(3), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph G(5) to require that the State determine if a new petition for determination presents significant new allegations of facts with evidence which tends to establish the allegations. As the revised State rule is identical to the Federal rule at 30 CFR 764.15(a)(4), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph G(8) to require that the State meet certain notification requirements and make copies of the petition available to the public and to other interested parties promptly after a petition is received. As the revised State rule is substantively identical to the Federal rule at 30 CFR 764.15(b)(1), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph G(9) to require that promptly after a determination is made that a petition is complete, the State request submissions from the general public of relevant information by means of a newspaper advertisement. As the revised State rule is identical to the Federal rule at 30 CFR 764.15(b)(2), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph G(11) to require that the State maintain certain information at or near the area in which the petitioned area is located and make this information available to the public for inspection and copying. At a minimum, this information will include a copy of the petition. As the revised State rule is substantively identical to the Federal rule at 30 CFR 764.15(d), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph G(12) to authorize the State to subpoena witnesses if a public hearing is held on the petition. The hearing may be conducted with cross-examination of expert witnesses only and no person will bear the burden of proof or persuasion. A record of the hearing is required and will include all relevant parts of the data base and inventory system as well as public comments. As the revised State rule is substantively identical to the Federal rule at 30 CFR 764.17(a), the Director finds it no less effective than its Federal counterpart.

(d) *Petition Decision.* Maryland is revising paragraph H(2) to require that the State send its decision regarding the petition by certified mail to intervenors and by regular mail to all other persons involved in the proceeding. As the revised State rule is identical to the Federal rule at 30 CFR 764.19(b), the Director finds it no less effective than its Federal counterpart.

8. COMAR 08.13.09.26 Fish and Wildlife Protection

Maryland is revising paragraph A to require that any person conducting surface mining operations, to the extent possible, minimize disturbances and adverse impacts on fish, wildlife and related environmental values and achieve enhancement of such resources where practicable. As the revised State rule is substantively identical to the Federal rule at 30 CFR 816.97(a), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraphs B, C and D to provide procedures for protecting endangered and threatened species and bald and golden eagles. Paragraph B is revised to prohibit any surface coal mining activity which is likely to jeopardize the continued existence of certain endangered or threatened species or which is likely to result in destruction or adverse modification of certain designated critical habitats or which would result in the unlawful taking of a bald or golden eagle, its nest, or eggs.

Paragraph C is revised to require that any person conducting mining operations who becomes aware of any State or Federally listed endangered or threatened species within the permit area, or designated critical habitats, or any golden or bald eagles nest, promptly notify the State.

Paragraph D is added to require that upon notification, the State consult with appropriate State and Federal fish and wildlife agencies to determine in what manner the operator may proceed.

As the revised State rules at paragraphs B, C and D are substantively identical to the Federal rules at 30 CFR 816.97 (b) and (c), the Director finds them no less effective than their Federal counterparts.

Maryland is adding paragraph E to clarify nothing provided in this chapter of the State regulations authorizes the taking of an endangered or threatened species or a bald or golden eagle, its nest or eggs in violation of the Endangered Species Act of 1973, as amended. As the revised State rule is identical to the Federal rule at 30 CFR 816.97(d), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph F to require that each person who conducts surface coal mining activities use the best technology available to: (a) Ensure that the design and construction of transmission facilities used for or incidental to the mining activities conform to certain published guidelines, and (b) design fences, overland conveyors, and other potential barriers to permit passage for large mammals, except where the State determines such requirements are unnecessary. As the revised State rule is substantively identical to the Federal rule at 30 CFR 816.97(e) (1) and (3), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph H to require that if cropland is to be the postmining land use and where appropriate for wildlife and crop-management practices, certain types of vegetation must be planted by the operator. As the revised State rule is substantively identical to the Federal rule at 30 CFR 816.97(h), the Director finds it no less effective than its Federal counterpart.

Maryland is adding paragraph J to require that the operator avoid disturbance to, enhance where practicable, restore or replace, wetlands, certain riparian vegetation, and habitats of unusually high value for fish and wildlife. As the revised State rule is substantively identical to the Federal rule at 30 CFR 816.97(f), the Director finds it no less effective than its Federal counterpart.

9. COMAR 08.13.09.40 Inspection and Enforcement

(a) *Inspections.* Maryland is revising paragraph B(1) to require that the State conduct an average of one partial inspection per month of each active surface mining and reclamation operation and conduct partial inspections of inactive operations as necessary. A partial inspection is defined as an on-site or aerial review for compliance with some of the permit conditions and regulatory program requirements. As the revised State rule

is substantively identical to the Federal rule at 30 CFR 840.11(a), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph B(2) to require that the State conduct an average of at least one complete inspection per calendar quarter of each active or inactive surface mining and reclamation operation. A complete inspection is defined as an on-site compliance review of all permit conditions and regulatory program requirements. The Federal rule at 30 CFR 840.11(b) also requires that a complete inspection include the entire area disturbed or affected by the operation. Although paragraph (B)(2) does not expressly contain such an entire area provision, Maryland stated on February 6, 1990, that the (B)(2) provision requiring a complete review of all the Maryland program requirements incorporates a review of the areas disturbed or affected by the operation (Administrative Record No. MD–458–A). On this basis, the Director finds the revised State rule to be substantively identical to and therefore no less effective than its Federal counterpart.

Maryland is revising paragraph B(4) to require that aerial inspections be conducted so as to reasonably ensure the identification and documentation of conditions of each operation. As the revised State rule is identical to the Federal rule at 30 CFR 840.11(d)(1), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph B(5) to require that any potential violation observed during an aerial inspection be investigated on site within 3 days, provided that any indication of a condition constituting cause for issuance of a show cause order be investigated on site within 1 day. The on-site investigation is not to be considered an additional partial or complete investigation. As the revised State rule is substantively identical to the Federal rule at 30 CFR 840.11(d)(2), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph B(6) to change the term "Violation Notice or Order" to "notice of violation or cessation order." As the revised language is identical to the Federal language at 30 CFR part 840, the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph B(7) to define an inactive surface mining and reclamation operation as one in which the State has received from the permittee written notice that a temporary cessation of mining activities has occurred as provided in COMAR section .05D; or that Reclamation Phase II has been completed. As the revised State rule is substantively identical to the Federal rule at 30 CFR 840.11(f) (1) and (2), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph B(8) to require that the State continue to inspect all surface mining and reclamation operations until Reclamation Phase III has been completed. The revised State rule neither has a direct counterpart nor conflicts with the general inspection rules at 30 CFR 840.11. The Director finds the revised State rule is not inconsistent with the above-cited Federal rules.

(b) *Availability of Records.* Maryland is revising paragraph D(1) to add the requirement that all enforcement information and conditions of permits be open to public inspection for at least 5 years after expiration of the period during which a surface mining and reclamation operation is active or is covered by any portion of a performance bond. As the revised State rule is substantively identical to the Federal rule at 30 CFR 840.14(b), the Director finds it no less effective than its Federal counterpart.

(c) *Public Participation.* Maryland is revising paragraph E(6) to provide notification procedures by which any person who is or may be adversely affected by a surface mining and reclamation or prospecting operation may notify the State Director of the Bureau of Mines, in writing, of any alleged failure on the part of the State to make adequate inspections of the operation. The Director is required to make a determination within 15 days of receipt of the notification and notify the complainant, in writing, of the determination. The Federal regulations contain no comparable provisions. 30 CFR 840.15 requires broadly that States provide for public participation in the enforcement of the State programs consistent with the Federal regulations. The Director finds the provisions of the revised State rule to be consistent with the general public participation provisions of this Federal rule.

(d) *Cessation Orders.* Maryland is revising paragraph G and subsequent sections to change the term "cease and desist order" to "cessation order." As the revised language is identical to the Federal language at 30 CFR parts 842, 843 and 845, the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph G(1) to require the State to issue a cessation order if it is determined that an operation is not in compliance with the requirements of the regulatory program and the noncompliance creates an imminent danger to the health and safety of the public. The current State rule refers to "health or safety of the public" which is identical to the Federal rule at 30 CFR 843.11(a)(1)(ii). While the Federal rule provides for the issuance of a cessation order if either the health or safety of the public is threatened, the proposed State revision requires that both conditions exist prior to the initiation of enforcement action, thereby limiting the number of qualifying situations. By letter dated November 21, 1990, Maryland stated it will eliminate the proposed change prior to promulgating the amendments and retain the present language of "health or safety" (Administrative Record Number MD–483).

(e) *Service of Notices and Orders.* Maryland is revising paragraph H to permit service of a notice or order by mailing a copy by certified mail to the last address the permittee has filed, in writing, with the State. Service on a person conducting an unpermitted operation may also be effected by certified mail. The Federal rule at 30 CFR 843.14(a)(2) provides that services of a notice or order can be made by sending a copy by certified mail to the permittee. It does not specifically address mail service on a person conducting an unpermitted operation(s). The Director finds the Maryland revision not inconsistent with the Federal rule.

(f) *Informal Review.* Maryland is revising paragraph I(1) to require that an informal enforcement conference, if requested, be held within 30 days of receipt of request. While the Maryland rule and Federal rules at 30 CFR 845.15 provide for different time periods between the service of the notice or order, the requesting of an informal conference and the holding of the informal conference, the maximum amount of time allowed under both rules between the service of the notice or order and the holding of the requested conference is approximately the same. On this basis, the Director finds the revised State rule to be no less effective than its Federal counterpart.

Maryland is revising paragraph I(3) to change the phrase "automatically schedule" to "hold." As the revised language is identical to that of the Federal rule at 30 CFR 843.15(a), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph I(4) to require that the State notify the operator, in writing, that an enforcement conference will be held within 30 days of the service of the notice or order to cease mining. The notice must inform

the operator that: (a) The conference will be deemed to be waived unless the operator notifies the State within 30 days after service that he will attend the conference, and (b) he shall be deemed to have consented to an extension of time for holding the conference if the notification is received by the State on or after the 21 day after service. As the revised State rule is substantively identical to the Federal rule at 30 CFR 843.15(b) (1), (2), and (3), the Director finds it no less effective than its Federal counterpart.

Maryland is revising paragraph I(7) to require that the State notify the operator and any person who filed a report which led to the notice or order, in writing, of its decision to affirm, modify, or vacate the notice or order. As the revised State rule is substantively identical to the Federal rule at 30 CFR 843.15(f), the Director finds it no less effective than its Federal counterpart.

Maryland is adding paragraph I(8) to require that the granting or waiver of an enforcement conference not affect the right of any person to formal review. As the proposed State rule is substantively identical to the corresponding Federal rule at 30 CFR 843.15(g), the Director finds it no less effective than its Federal counterpart.

Maryland is adding paragraph I(9) to require that the person conducting the conference determine whether or not the mine site should be viewed during the conference. As the revised State rule is substantively identical to the Federal rule at 30 CFR 843.15(h), the Director finds it no less effective than its Federal counterpart.

(g) *Formal Review.* Maryland is revising paragraph J(3) to specify the procedures for requesting temporary relief from a notice or order. The hearing officer is required to grant or deny the request as expeditiously as possible. As the revised State rule is substantively identical to 43 CFR 4.1265 and 4.1266(a), the Director finds it no less effective than these Federal rules.

IV. Summary and Disposition of Comments

Public Comments

The public comment period and opportunity to request a public hearing announced in the September 22, 1989, **Federal Register** ended on October 23, 1989. No public comments were received and the scheduled public hearing was not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Maryland program. The Department of the Interior, Fish and Wildlife Service, and the Department of Labor, Mine Safety and Health Administration, concurred without comment.

V. Director's Decision

Based on the above findings, the Director is approving the program amendments submitted by Maryland on March 27, 1989.

The Federal rules at 30 CFR part 920 concerning the Maryland program are being amended to implement the Director's decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage states to conform their programs to the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

EPA Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to any provisions of a State program amendment that related to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et. seq.*). The EPA concurred without comment.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from the preparation of regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 7, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 920—MARYLAND

1. The authority citation for part 920 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 920.15, a new paragraph (k) is added to read as follows:

§ 920.15 Approval of amendments to State regulatory program.

* * * * *

(k) The following amendments submitted to OSM on March 27, 1989, are approved as set forth in paragraph (k)(1) of this section effective May 22, 1991, with the exceptions identified in paragraph (k)(2) of this section.

(1) Revisions of the following rules of Code of Maryland Administrative Regulations:

08.13.09.01 General.
08.13.09.02 Permit Applications.
08.13.09.04 Permit Applications: Review Procedures.
08.13.09.05 Permit Applications: Bureau Decision.
08.13.09.08 Permit Review and Transfer of Rights.
08.13.09.10 Areas Where Mining is Prohibited or Limited.
08.13.09.11 Designation of Areas as Unsuitable for Mining (with the exception noted in paragraph (k)(2) of this section).
08.13.09.26 Fish and Wildlife Protection.
08.13.09.40 Inspection and Enforcement.

(2) The following rule of Code of Maryland Administrative Regulations is not being approved:

08.13.09.11G(1) Areas Unsuitable for Mining—to the extent that Maryland allows 60 days from the receipt of a petition to notify the petitioner of its completeness.

[FR Doc. 91–11993 Filed 5–21–91; 8:45 am]
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DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 507

Manufacture, Sale, Wear, and Quality Control of Heraldic Items

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: This rule revises the Department of the Army (Army Regulation 672–8) and Department of the Air Force policy (Air Force Regulation 900–7) governing the manufacture, sale, reproduction, possession, and wearing of military decorations, medals, badges, and insignia. This revision establishes responsibility for authorizing the incorporation of insignia designs in commercial articles; adds procedures for processing a request to use Army insignia in advertisement or promotional materials; clarifies insignia items that are controlled heraldic items; and defines the certification process for heraldic items. It also revises information currently contained in 32 CFR part 507. This revision has a direct effect on Department of the Army and Air Force personnel who design, procure from private industry and who wear military insignia.

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas B. Proffitt, Chief, Technical Division, Institute of Heraldry, Cameron Station, Building 15, Alexandria, VA 22304–5050, 202–274–6636.

SUPPLEMENTARY INFORMATION: The wear, manufacture, and sale of decorations, badges, and insignia is restricted by 18 U.S.C. 701 and 704. The Institute of Heraldry, U.S. Army has been designated to act in behalf of the Department of Defense, Department of the Army and Department of the Air Force in establishing regulations governing control in manufacture and quality.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and the Secretary of the Army has classified this action as nonmajor. The effect of the final rule on the economy will be less than $100 million.

Regulatory Flexibility Act

This final rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 and the Secretary of the Army has certified that this action does not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

This final rule does not contain reporting or recordkeeping requirements subject to approval of the Office of Management and Budget under the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

List of Subjects in 32 CFR Part 507

Military personnel, Decorations, Medals, Awards.

Accordingly, 32 CFR part 507 is revised to read as follows:

PART 507—MANUFACTURE OF DECORATIONS

Subpart A—Introduction

Subpart B—Manufacture and Sale of Decorations, Badges, and Insignia

Subpart C—Heraldic Quality Control System

Authority: 10 U.S.C. 3012, 18 U.S.C. 701, 18 U.S.C. 702

Subpart A—Introduction

§ 507.1 Purpose.

This part prescribes the Department of the Army and the Air Force policy governing the manufacture, sale, reproduction, possession, and wearing of military decorations, medals, badges, and insignia. It also establishes the Heraldic Item Quality Control System to improve the appearance of the Army and Air Force by controlling the quality of heraldic items purchased from commercial sources.

§ 507.2 References.

Related publications are listed in paragraphs (a) through (e) of this section. (A related publication is merely a source of additional information. The user does not have to read it to understand this part). Copies of referenced publications may be reviewed at any Army or Air Force Library or may be purchased from the National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

(a) AFR 35–10, Dress and Personal Appearance of Air Force Personnel.

(b) AR 360–5, Public Information.

(c) AR 670–1, Wear and Appearance of Army Uniforms and Insignia.

(d) AR 840–10, Heraldic Activities, Flags, Guidons, Streamers, Tabards and Automobile Plates.

(e) AFR 900–3, Department of the Air Force Seal, Organizational Emblems, Use and Display of Flags, Guidons, Streamers, and Automobile and Aircraft Plates.

§ 507.3 Explanation of abbreviations and terms.

(a) *Abbreviations.* (1) AFB—Air Force Base.

(2) DA—Department of the Army.

(3) DCSPER—Deputy Chief of Staff for Personnel.

(4) DPSC—Defense Personnel Support Center.

(5) DUI—distinctive unit insignia.

(6) ROTC—Reserve Officers' Training Corps.

(7) SSI—shoulder sleeve insignia.

(8) TIOH—The Institute of Heraldry.

(9) USAF—United States Air Force.

(b) *Terms*—(1) *Cartoon.* A drawing, six times actual size, showing placement of stitches, color of yarn and number of stitches.

(2) *Certificate of Authority to Manufacture.* A certificate assigning manufacturers a hallmark and authorizing manufacture of heraldic items.

(3) *Hallmark.* A distinguishing mark consisting of a letter and numbers assigned to certified manufacturers for use in identifying manufacturers of insignia.

(4) *Heraldic items.* All items worn on the uniform to indicate unit, skill, branch, award or identification and a design has been established by TIOH on an official drawing.

(5) *Letter of Agreement.* A form signed by manufacturers before certification, stating that the manufacturer agrees to produce heraldic items in accordance with specific requirements.

(6) *Letter of Authorization.* A letter issued by TIOH that authorizes the manufacture of a specific heraldic item after quality assurance inspection of a preproduction sample.

(7) *Tools.* Hubs, dies, cartoons, and drawings used in the manufacture of heraldic items.

§ 507.4 Responsibilities.

(a) *Deputy Chief of Staff for Personnel (DCSPER), Army.* The SCSPER has staff responsibility for heraldic activities in the Army.

(b) *The Director, The Institute of Heraldry (TIOH).* The Director, TIOH. will—

(1) Monitor the overall operation of the Heraldic Control Program.

(2) Authorize the use of insignia designs in commercial items.

(3) Certify insignia manufacturers.

(4) Inspect the quality of heraldic items.

(c) *The Director, Headquarters, Air Force Military Personnel Center, Recognition Programs Branch (HQ, AFMPC/DPMASA), Randolph Air Force Base, Texas 78150–6001.* The Director has staff responsibility for heraldic activities in the Air Force.

(d) *Commander, Air Force Military Personnel Center.* The Commander, Air Force Military Personnel Center, Randolph Air Force Base, TX, is responsible for granting permission for the incorporation of certain Air Force designs in commercial items.

(e) *Commander, USAF Historical Research Center (USAFRC/RI).* The Commander, USAFRC/RI, Maxwell, AFB, AL, is responsible for granting permission for use of the Air Force seal, coat of arms, and crest.

(f) *Commanders.* Commanders are responsible for purchasing heraldic items that have been produced by manufacturers certified by TIOH. Commanders will ensure that only those heraldic items that are of quality and design covered in the specifications and that have been produced by certified manufacturers are worn by personnel under their command.

§ 507.5 Statutory authority.

(a) The wear, manufacture, and sale of military decorations, medals, badges, their components and appurtenances, or colorable imitations of them, are governed by section 704, title 18, United States Code (18 U.S.C. 704).

(b) The manufacture, sale, possession, and reproduction of badges, identification cards, insignia, or other designs, prescribed by the head of a U.S. department or agency, or colorable imitations of them, are governed by 18 U.S.C. 701.

(c) This part incorporates the statutory provisions

Subpart B—Manufacture and Sale of Decorations, Badges, and Insignia

§ 507.6 Authority to manufacture.

(a) A certificate of authority to manufacture heraldic articles may be granted by the Institute of Heraldry.

(1) Certificates of authority will be issued only to those manufacturers who have the manufacturing capability and who have agreed to manufacture heraldic items according to applicable specifications or purchase descriptions.

(2) The certificate of authority is valid only for the individual, firm, or corporation indicated.

(3) A hallmark will be assigned to each certified manufacturer. All insignia manufactured will bear the manufacturer's hallmark.

(b) A certificate of authority may be revoked or suspended under the procedures prescribed in subpart C of this part.

(c) Manufacturers will submit a preproduction sample to TIOH of each item under the Heraldic Quality Control Program before production. A letter of authorization to manufacture specific items will be issued to the manufacturer if the "sample" meets quality assurance standards.

(d) A list of certified manufacturers will be furnished to the Army and Air Force Exchange Service and, upon request, to Army and Air Force commanders.

§ 507.7 Authority to sell.

No certificate of authority is required to sell articles listed in § 507.8 of this part; however, sellers are responsible to sell only those articles that have been manufactured in conformance with Government specifications by certified manufacturers with the use of Government-loaned tools and that bear hallmarks assigned by TIOH.

§ 507.8 Articles authorized for manufacture and sale.

(a) The articles listed in paragraphs (a) (1) through (10) of this section are authorized for manufacture and sale when made in accordance with approved specifications or drawings.

(1) All authorized insignia (AR 670–1 and AFR 35–10).

(2) Appurtenances and devices for decorations, medals, and ribbons such as oak leaf clusters, service stars, arrowheads, V-devices, and clasps.

(3) Combat, special skill, and qualification badges and bars.

(4) Identification badges.

(5) Fourrageres and lanyards.

(6) Lapel buttons.

(7) Miniature replicas as decorations, service medals, and ribbons, except for the Medal of Honor.

(8) Replicas of decorations and service medals for grave markers. Replicas are to be at least twice the size prescribed for decorations and service medals.

(9) Service ribbons for decorations, service medals, and unit awards.

(10) Rosettes.

(b) Variations from the prescribed specifications for the items listed in paragraph (a) of this section are not permitted without prior approval, in writing, by TIOH.

§ 507.9 Articles not authorized for manufacture or sale.

The following articles are not authorized for manufacture and sale, except under contract with DPSC:

(a) Manufacture and/or sale of decorations and service medals other than miniatures.

(b) Service flags (prescribed in AR 840–10 or AFR 900–3).

(c) Service ribbon for the Medal of Honor.

(d) Articles for public sale that incorporate designs or likenesses of decorations, service medals, and service ribbons.

(e) Articles for public sale that incorporate designs or likenesses of designs of insignia listed in § 507.8 of this part, except when authorized by the Service concerned.

§ 507.10 Incorporation of designs or likenesses of approved designs in commercial articles.

The policy of the DA and the Department of the Air Force is to restrict the use of military designs for the needs or the benefit of personnel of their Services.

(a) Except as authorized in writing by the DA or the Department of the Air Force, as applicable, the manufacture of commercial articles incorporating designs or likenesses of official Army/Air Force heraldic items is prohibited. However, certain designs or likenesses of insignia such as badges or organizational insignia may be incorporated in articles manufactured for sale provided that permission has been granted as specified in paragraphs (a) (1) and (2) of this section.

(1) *Designs approved for use of the Army.* The Institute of Heraldry, Building 15, Cameron Station, Alexandria, VA 22304–5050, is responsible for granting permission for the incorporation of certain Army designs in articles manufactured for sale. Commanders of units authorized

an SSI or a DUI may authorize the reproduction of the SSI or DUI on commercial articles such as shirts, tie tacks, cups, or plaques. Such permission will be in writing. Authorization for incorporation of designs or likenesses in commercial items will be granted only to those manufacturers who agree to offer these items for sale only to Army and Air Force Exchange Service and outlets that sell primarily to military personnel and their dependents.

(2) *Designs approved for use of the Air Force.* Headquarters, Air Force Military Personnel Center, Recognition Programs Branch (HQ AFMPC/DPMASC), Randolph AFB, TX 78150–6001, is responsible for granting permission for the incorporation of certain Air Force designs for articles manufactured for sale. The Commander, Air Force Historical Research Center, AFHRC/RI, Maxwell AFB, AL 36112–6678, is responsible for granting permission for the incorporation of the coat of arms, crest, and seal when use is not specified in AFR 900–3, chapter 1. Use of organizational emblems will be in accordance with AFR 900–3, chapter 2. Such permission will be in writing. Authorization for incorporation of designs or likenesses in commercial items will be granted only to those manufacturers who agree to offer these items for sale only to the Army and Air Force Exchange Service, or to those outlets that sell primarily to military personnel and their dependents.

(b) In the case of the Honorable Service Lapel Button, a general exception is made to permit the incorporation of that design in articles manufactured for public sale provided that such articles are not suitable for wear as lapel buttons or pins.

§ 507.11 Reproduction of designs.

(a) The photographing, printing, or, in any manner making or executing any engraving, photograph, print, or impression in the likeness of any decoration, service medal, service ribbon, badge, lapel button, insignia, or other device, or the colorable imitation thereof, of a design prescribed by the Secretary of the Army or the Secretary of the Air Force for use by members of the Army or the Air Force is authorized provided that such reproduction does not bring discredit upon the military service and is not used to defraud or to misrepresent the identification or status of an individual, organization, society, or other group of persons.

(b) The use for advertising purposes of any engraving, photograph, print, or impression of the likeness of any DA or Department of the Air Force decoration, service medal, service ribbon, badge, lapel button, insignia, or other device (except the Honorable Service Lapel Button) is prohibited without prior approval, in writing, by the Secretary of the Army or the Secretary of the Air Force except when used to illustrate a particular article that is offered for sale. Request for use of Army insignia in advertisements or promotional materials will be processed through public affairs channels in accordance with AR 360–5, paragraph 3–37.

(c) The reproduction in any manner of the likeness of any identification card prescribed by DA or Department of the Air Force is prohibited without prior approval in writing by the Secretary of the Army or Secretary of the Air Force.

§ 507.12 Possession and wearing.

(a) The wearing of any decoration, service medal, badge, service ribbon, lapel button, or insignia prescribed or authorized by the DA and the Department of the Air Force by any person not properly authorized to wear such device, or the use of any decoration, service medal, badge, service ribbon, lapel button, or insignia to misrepresent the identification or status of the person by whom such is worn is prohibited. Any person who violates this provision is subject to punishment as prescribed in the statutes referred to in § 507.3 of this part.

(b) Mere possession by a person of any of the articles prescribed in § 507.6 of this part (except identification cards) is authorized provided that such possession is not used to defraud or misrepresent the identification or status of the individual concerned.

(c) Articles specified in § 507.6 of this part, or any distinctive parts including suspension ribbons and service ribbons) or colorable imitations thereof, will not be used by any organization, society, or other group of persons without prior approval in writing by the Secretary of the Army or the Secretary of the Air Force.

Subpart C—Heraldic Quality Control System

§ 507.13 General.

The heraldic quality control program provides a method of ensuring that insignia items are manufactured with tools and specifications provided by TIOH.

§ 507.14 Controlled heraldic items.

The articles listed in § 507.8 of this part are controlled heraldic items and will be manufactured in accordance with Government specifications using Government-furnished tools or cartoons. Tools and cartoons are not provided to manufacturers for the items in paragraphs (a) through (e) of this section. However, manufacture will be in accordance with the Government-furnished drawing.

(a) Shoulder loop insignia, ROTC, U.S. Army.

(b) Institutional SSI, ROTC, U.S. Army.

(c) Background trimming/flashes, U.S. Army.

(d) U.S. Air Force organizational emblems for other than major commands.

(e) Hand-embroidered bullion insignia.

§ 507.15 Certification of heraldic items.

A letter of certification to manufacture each heraldic item except those listed in § 507.14 (b) through (e) of this part will be provided to the manufacturer upon submission of a preproduction sample. Manufacture and sale of these items is not authorized until the manufacturer receives a certification letter from TIOH.

§ 507.16 Violations and penalties.

A certificate of authority to manufacture will be revoked by TIOH upon intentional violation by the holder thereof of any of the provisions of this regulation, or as a result of not complying with the agreement signed by the manufacturer in order to receive a certificate. Such violations are also subject to penalties prescribed in the Acts of Congress (§ 507.5 of this part). A repetition or continuation of violations after official notice thereof will be deemed prima facie evidence of intentional violation.

§ 507.17 Procurement and wear of heraldic items.

(a) The provisions of this part do not apply to contracts awarded by the Defense Personnel Support Center for manufacture and sale to the U.S. Government.

(b) All Army and Air Force service personnel who wear quality controlled heraldic items that were purchased from commercial sources will be responsible for ensuring that the item was produced by a certified manufacturer. Items manufactured by certified manufacturers will be identified by a hallmark and/or a certificate label certifying the item was produced in accordance with specifications.

(c) Commanders will ensure that only those heraldic items that are of quality and design covered in the specifications and that have been produced by certified manufacturers are worn by personnel under their command. Controlled heraldic items will be

procured only from manufacturers certified by TIOH. Commanders procuring controlled heraldic items, when authorized by local procurement procedures, may forward a sample insignia to TIOH for quality assurance inspection if the commander feels the quality does not meet standards.

§ 507.18 Processing complaints of alleged breach of policies.

The Institute of Heraldry may revoke or suspend the certificate of authority to manufacture if there are breaches of quality control policies by the manufacturers. As used in this paragraph, the term quality control policies include the obligation of a manufacturer under his or her "Agreement to Manufacture," the quality control provisions of this part, and other applicable instructions provided by TIOH.

(a) *Initial processing.* (1) Complaints and reports of an alleged breach of quality control policies will be forwarded to the director, The Institute of Heraldry, Bldg. 15, Cameron Station, Alexandria, VA 22304–5050 (hereinafter referred to as Director).

(2) The Director may direct that an informal investigation of the complaint or report be conducted.

(3) If such investigation is initiated, it will be the duty of the investigator to ascertain the facts in an impartial manner. Upon conclusion of the investigation, the investigator will submit a report to the appointing authority containing a summarized record of the investigation together with such findings and recommendations as may be appropriate and warranted by the facts.

(4) The report of investigation will be forwarded to the Director for review. If it is determined that a possible breach of quality control policies has occurred, the Director will follow the procedures outlined in paragraphs (b) through (g) of this section.

(b) *Voluntary performance.* The Director will transmit a registered letter to the manufacturer advising of the detailed allegations of breach and requesting assurances of voluntary compliance with quality control policies. No further action is taken if the manufacturer voluntarily complies with the quality control policies; however, any further reoccurrence of the same breach will be considered refusal to perform.

(c) *Refusal to perform.* (1) If the manufacturer fails to reply within a reasonable time to the letter authorized by paragraph (b) of this section, or refuses to give adequate assurances that future performance will conform to quality control policies, or indicates by subsequent conduct that the breach is continuous or repetitive, or disputes the allegations of breach, the Director will direct that a public hearing be conducted on the allegations.

(2) A hearing examiner will be appointed by appropriate orders. The examiner may be either a commissioned officer or a civilian employee above the grade of GS–7.

(3) The specific written allegations, together with other pertinent material, will be transmitted to the hearing examiner for introduction as evidence at the hearing.

(4) Manufacturers may be suspended for failure to return a loaned tool without referral to a hearing specified above; however, the manufacturer will be advised, in writing, that tools are overdue and suspension will take effect if not returned within the specified time.

(d) *Notification to the manufacturer by examiner.* Within a 7-day period following the receipt by the examiner of the allegations and other pertinent material, the examiner will transmit a registered letter of notification to the manufacturer informing him or her of the following:

(1) Specific allegations.

(2) Directive of the Director requiring the holding of a public hearing on the allegations.

(3) Examiner's decision to hold the public hearing at a specific time, date, and place that will be not earlier than 30 days from the date of the letter of notification.

(4) Ultimate authority of the Director to suspend or revoke the certificate of authority should the record developed at the hearing so warrant.

(5) Right to—

(i) A full and fair public hearing.

(ii) Be represented by counsel at the hearing.

(iii) Request a change in the date, time, or place of the hearing for purposes of having reasonable time in which to prepare the case.

(iv) Submit evidence and present witnesses in his or her own behalf.

(v) Obtain, upon written request filed before the commencement of the hearing, at no cost, a verbatim transcript of the proceedings.

(e) *Public hearing by examiner.* (1) At the time, date, and place designated in accordance with paragraph (d)(3) of this section, the examiner will conduct the public hearing.

(i) A verbatim record of the proceeding will be maintained.

(ii) All previous material received by the examiner will be introduced into evidence and made part of the record.

(iii) The Government may be represented by counsel at the hearing.

(2) Subsequent to the conclusion of the hearing, the examiner will make specific findings on the record before him or her concerning each allegation.

(3) The complete record of the case will be forwarded to the Director.

(f) *Action by the Director.* (1) The Director will review the record of the hearing and either approve or disapprove the findings.

(2) Upon arrival of a finding of breach of quality control policies, the manufacturer will be so advised.

(3) After review of the findings, the certificate of authority may be revoked or suspended. If the certificate of authority is revoked or suspended, the Director will—

(i) Notify the manufacturer of the revocation or suspension.

(ii) Remove the manufacturer from the list of certified manufacturers.

(iii) Inform the Army and Air Force Exchange Service of the action.

(g) *Reinstatement of certificate of authority.* The Director may, upon receipt of adequate assurance that the manufacturer will comply with quality control policies, reinstate a certificate of authority that has been suspended or revoked.

Kenneth L. Denton,

Alternate Army Liaison Officer With the Federal Register.

[FR Doc. 91–11619 Filed 5–21–91; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–91–15]

Special Local Regulations for Marine Events; Blue Angels Airshow; Approaches to Annapolis Harbor, and Severn River, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Final temporary rule.

SUMMARY: Special Local Regulations are being adopted for the Blue Angels airshow and practice sessions to be held on May 25, 26, and 27, 1991, over the Severn River and the approaches to Annapolis Harbor. The effect of these regulations will be to restrict general navigation in the regulated area for the safety of spectators and participants. These regulations are needed to provide for the safety of life, limb, and property on the navigable waters during the event.

EFFECTIVE DATES: The regulations are effective for the following periods: 1:30 p.m. to 7 p.m., May 25, 1991, 11:30 a.m. to 5 p.m., May 26, 1991, 12:30 p.m. to 5 p.m., May 27, 1991.

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

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are QM1 Kevin R. Connors, project officer, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Monica L. Lombardi, project attorney, Fifth Coast Guard District Legal Staff.

Background and Purpose

The U.S. Naval Academy submitted an application to hold the Blue Angels Airshow on May 25, 26, and 27, 1991. As part of the application, the Naval Academy requested that the Coast Guard provide control of spectator and commercial traffic within the regulated area.

Discussion of Proposed Regulations

The U.S. Naval Academy is sponsoring this event, which will consist of six high performance jet aircraft flying at low altitudes in various formations over the Severn River. Federal Aviation Administration regulations require closing the waterway to vessel traffic as a prerequisite to issuing a permit for this event. A meeting at the Naval Academy was held on April 18, 1991, and was attended by several organizations directly involved in the Airshow. The Federal Aviation Administration (FAA) meticulously reviewed all aspects of the Airshow for safety purposes and concluded that the regulated area used in past Airshows allowed small boats to approach to close to center point and the flight part of maneuvering aircraft. Therefore, the westward boundary of the regulated area was moved upriver from Horseshoe Point and Manresa Point to the U.S. route 50/301 fixed highway bridge (New Severn River Bridge) to ensure the safety of spectator craft. Accordingly, the Commander, Fifth Coast Guard District, is issuing these regulations to close a portion of the Severn River to vessel traffic during the airshow and practice sessions. Closure of the waterway for any extended period is not anticipated, and commercial traffic should not be severely disrupted.

Regulatory Evaluation

This final rule is not considered major under Executive Order 12291 and not significant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. This regulation will only be in effect for several hours each day, and the impacts on routine navigation are expected to be minimal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this regulation 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). Since the impact of this regulation on non-participating small entities is expected to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b), that this regulation, will not have a significant economic impact on a substantial number of small entities.

Federalism Assessment

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

Environmental Assessment

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

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

PART 100—[AMENDED]

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

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

2. A temporary § 100.35–T0515 is added to read as follows:

§ 100.35–T0515 Approaches to Annapolis Harbor, and Severn River, Annapolis, Maryland.

(a) *Definitions*—(1) *Regulated area.* The approaches to Annapolis Harbor, and the Severn River, shore to shore, bounded on the southeast by a line drawn from the quick flashing privately maintained light on the U.S. naval Academy in position latitude 38°58′40.0″ North, longitude 76°28′49.0″ West, east to latitude 38°58′33.0″ North, longitude 76°28′05.0″ West, thence northeast to Carr Point, and bounded on the northwest by the U.S. route 50/301 fixed highway bridge (New Severn River Bridge) centerpoint at latitude 39°00′23.0″ North, longitude 76°30′15.0″ West.

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

(b) *Special local regulations.* (1) Except for vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area without the permission of the Patrol Commander.

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

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

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

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

(c) *Effective periods.* The regulations are effective for the following periods: 1:30 p.m. to 7 p.m., May 25, 1991; 11:30 a.m. to 5 p.m., May 26, 1991; 12:30 p.m. to 5 p.m., May 27, 1991.

Dated: May 16, 1991.

P.A. Welling,

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

[FR Doc. 91–12186 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD5-91-014]

Drawbridge Operation Regulations; Kent Island Narrows, MD; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard is correcting the temporary deviation from the regulations with request for comments document 91-014 regarding the operation of the Old Kent Island Narrows drawbridge published in the issue of Friday, May 3, 1991.

EFFECTIVE DATE: The temporary deviation as corrected is effective from May 1, 1991, through June 30, 1991. Comments must be received on or before June 15, 1991.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at 804-398-6222.

SUPPLEMENTARY INFORMATION: Section 117.561 of 33 CFR part 117 which was temporarily revised at 56 FR 20351, May 3, 1991 is corrected by revising paragraphs (a) through (c) on p. 20351 in the first and second columns and by adding introductory text to the section to read as follows: §§ 117.561 Kent Island Narrows.

The draw of the State Route 18 bridge, mile 1.0, Kent Island Narrows, operates as follows:

(a) From November 1 through April 30 the drawbridge shall open on signal from 6 a.m. to 6 p.m., but need not open at any other time.

(b) From May 1 through October 31 the drawbridge shall open on the hour for the passage of any waiting vessels from 7 a.m. to 9 p.m., and shall remain open for a period sufficient to allow passage of all waiting vessels. From 9 p.m. to 7 a.m., the drawbridge need not open.

(c) Shall open at any time with a one-hour advance notice for the passage of public vessels of the United States, state or local vessels on public safety missions or vessels in distress.

* * * * *

Dated: May 3, 1991.

H.B. Gehring,

Captain, U.S. Coast Guard Commander, Fifth Coast Guard District Acting.

[FR Doc. 91-12187 Filed 5-21-91; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD13 91-01]

Drawbridge Operation Regulations; Cowlitz River, WA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the City of Kelso, Washington the Coast Guard is changing the regulations governing the Allen Street Bridge across the Cowlitz River, mile 5.5, at Kelso, to provide that the draw need not be opened for the passage of vessels. This change is being made because no requests have been made to open the draw since at least 1983. This action will relieve the bridge owner of the burden of maintaining the machinery and having a person available to open the draw and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on: June 21, 1991.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch, (Telephone: (206) 553-5864).

SUPPLEMENTARY INFORMATION: On March 8, 1991, the Coast Guard published a proposed rule (56 FR 9916) concerning this change. The Commander, Thirteenth Coast Guard District also published the proposal as a Public Notice dated March 8, 1991. Interested parties were given until April 22, 1991 to submit comments.

Drafting Information

The drafters of this notice are: John E. Mikesell, project officer, and Lieutenant Deborah K. Schram, project attorney.

Discussion of Comments

Two comments were received in response to the proposed change. Both were from federal governmental agencies. Neither had any objection to the proposed action.

Federalism

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

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this action is expected to be so minimal that a full regulatory evaluation is unnecessary. Because of its present silted-in condition, the waterway is not being used for commercial navigation. When the waterway is restored, either through natural flushing or dredging, low profile tugs could easily pass under the bridge. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.1037 is revised to read as follows:

§ 117.1037 Cowlitz River.

(a) The draw of the Burlington Northern railroad bridge, mile 1.5, shall operate as follows:

(1) The draw shall open on signal if at least 24 hours notice is given.

(2) In the event of an emergency declared by the Cowlitz County Department of Emergency Services, the bridge shall be capable of opening upon two hours notice. Notification of emergencies and requests for openings during emergencies are initiated through the Cowlitz County Department of Emergency Services.

(3) The operating machinery of the draw shall be maintained in a serviceable condition and the draw shall be opened and closed at intervals frequent enough to make certain that the machinery is in proper order for satisfactory operation.

(4) During periods of fog or similar periods of reduced visibility, the drawtender, after acknowledging the signal to open, shall toll a bell continuously during the approach and passage of the vessel.

(b) The draw of the Allen Street Bridge, mile 5.5, need not open for the passage of vessels.

Dated: May 8, 1991.

J.E. Vorbach,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 91-12185 Filed 5-21-91; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 2

RIN 2900-AF21

Delegation of Authority to Inspector General

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its information law regulations to delegate authority to the Inspector General to request records from other agencies under the provisions of the Privacy Act (5 U.S.C. 552a). The Privacy Act requires that the head of an agency authorize each and every request for law enforcement records from other agencies. This delegation of authority from the Secretary to the Inspector General allows these requests to be authorized by the Inspector General. The subsequent delegation of authority by the Inspector General to certain other employees within the Office of Inspector General ensures an efficient and timely processing of these requests, while ensuring an appropriate review and determination within the Office of Inspector General concerning the need for the records.

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia Gormley, Counsel to the Inspector General, Office of Inspector General (50C), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-5640.

SUPPLEMENTARY INFORMATION: VA finds that advance publication for notice and public comment is not required. The regulatory amendment here involved is consistent with the Secretary's lawful ability to request records from other agencies under the provisions of the Privacy Act (5 U.S.C. 552a). This amendment merely reflects a general change in Departmental policy regarding who may request certain records, and neither imposes new obligations nor has a substantial impact on those individuals dealing with the Department. This amendment affects only existing Departmental procedures and practices and is not substantive in its effect. Thus, in accordance with the provisions of 38 CFR 1.12, advance publication in the **Federal Register** is not necessary. Accordingly, the amendment in the foregoing regulation is now published as final.

This final regulatory amendment does not meet the criteria for a major rule as that term is defined by Executive Order 12291, Federal Regulation. This regulatory amendment will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices and will not have any other significant adverse effects on the economy.

The Secretary hereby certifies that this regulation will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this regulation is therefore exempt from the regulatory analysis requirements of 5 U.S.C. 603 and 604. The reason for this certification is that the involved regulation applies only to delegations of authority specifying who can request certain records from other agencies under the provisions of the Privacy Act (5 U.S.C. 552a) and imposes no regulatory burden on small entities.

There are no applicable Catalog of Federal Domestic Assistance Numbers.

List of Subjects in 38 CFR Part 2

Authority delegation (Government agencies).

Approved: May 7, 1991.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 2—[AMENDED]

38 CFR part 2, Delegation of Authority, is amended as follows:

1. In § 2.6, paragraph (g) and its authority citation are added to read as follows:

§ 2.6 Secretary's delegation of authority to certain officials (38 U.S.C. 212(a)).

* * * * *

(g) *Inspector General.* (1) The Secretary delegates to the Inspector General, the authority, as head of the Department of Veterans Affairs, to make written requests under the Privacy Act of 1974, 5 U.S.C. 552a(b)(7), for the transfer of records or copies of records maintained by other agencies which are necessary to carry out an authorized law enforcement activity of the Office of Inspector General. This delegation is made pursuant to 38 U.S.C. 212. The Inspector General may redelegate the foregoing authority within the Office of Inspector General, but the delegation may only be to an official of sufficient rank to ensure that the request for the records has been the subject of a high level evaluation of the need for the information.

(2) The Inspector General delegates the authority under the Inspector General Act of 1978, and redelegates the authority under paragraph (a) of this section, to request Privacy Act-protected records from Federal agencies pursuant to subsection (b)(7) of the Privacy Act to each of the following Office of Inspector General officials: (i) Deputy Inspector General, (ii) Assistant Inspector General for Investigations, (iii) Deputy Assistant Inspector General for Investigations, (iv) Chief of Operations, and (v) Special Agents in Charge of Field Offices of Investigations. These officials may not redelegate this authority.

(Authority: 5 U.S.C. 552(a))

[FR Doc. 91-12085 Filed 5-12-91; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL-3958-3]

National Emission Standards for Hazardous Air Pollutants; Radon Emissions From Phosphogypsum Stacks

AGENCY: Environmental Protection Agency.

ACTION: Notice of compliance waiver.

SUMMARY: Today EPA announces that it is issuing a compliance waiver under Clean Air Act 112(c)(1)(B)(ii) for subpart R of 40 CFR part 61 ("subpart R"), National Emission Standards for Radon Emissions from Phosphogypsum Stacks. This action extends the compliance waiver which was issued by the Administrator on March 22, 1990 (55 FR 13480, April 10, 1990), and previously extended on September 28, 1990 (55 FR 40834, October 5, 1990). The compliance waiver is presently in effect and authorizes distribution and use of phosphogypsum for agricultural purposes until June 1, 1991. Today's extension of that compliance waiver authorizes further distribution and use of phosphogypsum for agriculture purposes until October 1, 1991. Unless subpart R is modified pursuant to the pending reconsideration proceeding, all persons holding stocks of phosphogypsum on October 1, 1991 will be subject to the work practice requirements in subpart R.

EFFECTIVE DATE: Effective June 1, 1991, this compliance waiver bars enforcement of the work practice requirements in subpart R of 40 CFR part 61 until October 1, 1991, for those persons holding stocks of phosphogypsum to distribute or to use for agricultural purposes.

FOR FURTHER INFORMATION CONTACT: Craig Conklin, Environmental Standards Branch, Criteria and Standards Division (ANR–460W), Office of Radiation Programs, Environmental Protection Agency, Washington, DC 20460, (703) 308–8755.

SUPPLEMENTARY INFORMATION:

A. Background

On October 31, 1989, EPA promulgated a final rule controlling radionuclide air emissions from several source categories, including phosphogypsum stacks (to be codified at 40 CFR part 61, subpart R). 54 FR 51653 (December 15, 1989). The standard limits emissions from phosphogypsum stacks to 20 pCi/m^2-s and requires disposal of phosphogypsum in stacks or mines, thereby precluding alternative uses of the material. EPA received petitions from several parties, including The Fertilizer Institute (TFI), Consolidated Minerals, Inc. (CMI), and U.S. Gypsum Co. (USG) to reconsider the portion of the phosphogypsum NESHAP which requires disposal into stacks or mines of all phosphogypsum. On March 22, 1990, EPA issued a notice of limited reconsideration of subpart R, a proposed rule which included several alternatives to modify or maintain subpart R, and a compliance waiver which waived the requirements of subpart R for those owners or operators engaged in the distribution or use of phosphogypsum for agricultural purposes during the 1990 growing season (not to extend beyond October 1, 1990). 55 FR 13480, April 10, 1990. The waiver was based in part upon a finding of the Administrator that the immediate prohibition of such use would cause great injury to many small farmers who rely upon phosphogypsum, that such activity would present no imminent endangerment to public health, and that it would be burdensome and impracticable to issue limited waivers to each affected owner or operator. In addition, it was issued in light of the scope of the simultaneously granted limited reconsideration of subpart R and in recognition that such waiver was necessary to allow time for implementation of alternative means of soil conditioning. This waiver was subsequently extended until June 1, 1991 on September 28, 1990. Today's action further extends the presently effective waiver until October 1, 1991.

EPA is presently evaluating approximately 200 comments on the proposed rule. EPA, in conjunction with researchers at the University of Georgia, is preparing a report on the radiological impact on soil that has been treated with phosphogypsum. Also, EPA's Office of Solid Waste is currently scheduled to make its final regulatory determination regarding whether phosphogypsum should be regulated as a hazardous waste under subtitle C of the Resource Conservation and Recovery Act on May 20, 1991. Finally, the EPA Office of Radiation Programs is scheduled to release a report on naturally occurring radioactive materials in May, 1991. Each of these events could have a direct affect on the outcome of the pending rulemaking. Accordingly, it is not practicable to conclude the pending rulemaking by June 1, 1991, the date that the original compliance waiver is scheduled to expire. However, EPA intends to take action concerning the pending rulemaking later this year.

B. Issuance of Compliance Waiver

Pursuant to the Agency's authority under section 112(c)(1)(B)(ii) of the Clean Air Act and 40 CFR 61.10–61.11, EPA hereby grants a waiver from compliance with the work practice requirements in subpart R of 40 CFR part 61 until October 1, 1991, for those persons holding stocks of phosphogypsum to distribute or to use for agricultural purposes. This action continues for the remainder of the 1991 use season the compliance waiver for subpart R issued by the Administrator on March 22, 1990, and subsequently extended on September 28, 1990. Today's action bars enforcement on subpart R until October 1, 1991 against all persons holding stocks of phosphogypsum to distribute or to use for agricultural purposes. Today's action does not bar or otherwise constrain enforcement of subpart R for persons holding stocks of phosphogypsum on October 1, 1991, regardless of whether or not the stocks in question were acquired for agricultural distribution or use.

As noted above, EPA will not be able to complete the pending rulemaking on reconsideration of subpart R until later this year. EPA considers it appropriate to extend the terms of the present compliance waiver while it is concluding its deliberations on this rulemaking. Permitting the compliance waiver to expire in the middle of the 1991 use season would result in unnecessary disruption and economic injury. Extension of the compliance waiver will also permit the orderly disposition of stocks of phosphogypsum which are currently in channels of trade or in the hands of agricultural users.

The Agency's decision to extend the compliance waiver until October 1, 1991 does not, and should by no means be construed to, indicate any Agency predisposition on the merits of the pending rulemaking on reconsideration of subpart R. EPA has not concluded its rulemaking and cannot advise the public whether agricultural uses of phosphogypsum will be allowed after expiration of this waiver. People with stocks of phosphogypsum after conclusion of the rulemaking may be subject to specific regulatory requirements.

Dated: May 16, 1991.

William K. Reilly,

Administrator.

[FR Doc. 91–12155 Filed 5–21–91; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 0F3861 /R1117; FRL–3925–8]

RIN 2070–AB78

Pesticide Tolerances for Imazethapyr

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes tolerances for residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt, and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid both free and conjugated in or on peanuts and peanut hulls, both at 0.1 part per million (ppm). The regulation was requested by the American Cyanamid Co.

EFFECTIVE DATE: This regulation becomes effective May 22, 1991.

ADDRESSES: Written objections, identified by the document control number, [PP 0F3861/R1117], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (H-7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 245,

CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1800.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of July 18, 1990 (55 FR 29267), which announced that the American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, had submitted pesticide petition (PP) 0F3861 to EPA proposing to amend 40 CFR part 180 by establishing a tolerance under section 408 of the Federal Food, Drug, and Cosmetic Act for residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt, and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid both free and conjugated in or on peanuts and peanut hulls, both at 0.1 ppm.

There were no comments or requests for referral to an advisory committee received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of the tolerances.

1. Several acute toxicology studies placing technical-grade imazethapyr in Toxicity Category III and IV.

2. An 18-month feeding/oncogenic study with mice fed dosages of 1, 150, 750, and 1,500 milligrams/kilogram,day (mg/kg/day) with no carcinogenic effects observed under the conditions of the study at dose levels up to and including 1,500 mg/kg/day (highest dose tested [HDT]) and a systemic no-observed-effect level (NOEL) of 750 mg/kg/day.

3. A 2-year feeding/oncogenic study in rats fed dosages of 0, 50, 250, and 500 mg/kg/day with no carcinogenic effects observed under the conditions of the study at dose levels up to and including 500 mg/kg/day (HDT) and a systemic NOEL of 500 mg/kg/day (HDT).

4. A 1-year feeding study in dogs fed dosage levels of 0, 25, 125, and 250 mg/kg/day with a NOEL of 25 mg/kg/day based on hemotological effects at 125 mg/kg/day in females.

5. A developmental toxicity study in rats fed dosage levels of 0, 125, 375, and 1,125 mg/kg/day, with a maternal toxicity NOEL of 375 mg/kg/day and a developmental toxicity NOEL of 1,125 mg/kg/day.

6. A developmental toxicity study in rabbits fed dosage levels of 0, 100, 300, and 1,000 mg/kg/day with a maternal toxicity NOEL of 300 mg/kg/day and a developmental toxicity NOEL of 1,000 mg/kg/day.

7. A two-generation reproduction study in rats fed dosage levels of 0, 50, 250, and 500 mg/kg/day with a NOEL for systemic and reproductive effects of 500 mg/kg/day.

8. A mutagenic test with *Salmonella typhimurium* (negative); an *in vitro* chromosomal aberration test in Chinese hamster ovary cells (positive without metabolic activation but at dose levels that were toxic to the cells and negative with metabolic activation); an *in vivo* chromosomal aberration test in rat bone marrow cells (negative); and an unscheduled DNA synthesis study in rat hepatocytes (negative).

Based on the NOEL of 25 mg/kg body weight (bwt)/day in the 1-year dog feeding study, and using a hundredfold uncertainty factor, the acceptable daily intake (ADI) for imazethapyr is calculated to be 0.25 mg/kg bwt/day. The theoretical maximum residue contribution (TMRC) is 0.000034 mg/kg bwt/day for existing tolerances for the overall U.S. population. The current action will increase the TMRC by .000008 mg/kg bwt/day (.003 percent of the ADI). These tolerances and previously established tolerances utilize a total of 0.017 (or < 1.0) percent of the ADI, for the overall U.S. population. For U.S. subgroup populations, nonnursing infants and children aged 1 to 6, the current action and previously established tolerances utilize, respectively, a total of .066 percent and 0.35 (or < 1.0) percent of the ADI, assuming that residue levels are at the established tolerances and that 100 percent of the crop is treated.

The nature of the residue is adequately understood. An adequate analytical method (gas chromatography with a thermionic nitrogen-phosphorous detector) is available for enforcement. No secondary residues are expected to occur in meat, milk, poultry, and eggs from this use.

Based on the information cited above, the Agency has determined that the establishment of the tolerances by amending 40 CFR part 180 will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections and/or a request for a hearing with the Hearing Clerk, at the address given above. The objections submitted must specify the provisions of the rgulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested and the requestor's contentions on each such issue. A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: May 8, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. By revising § 180.447, to read as follows:

§ 180.447 Imazethapyr, ammonium salt; tolerance for residues.

(a) Tolerances are established for residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as the ammonium salt, in or on the following raw agricultural commodities:

Commodity	Parts per million
Legume vegetables	0.1
Soybeans	0.1

(b) Tolerances are established for the sum of the residues of the herbicide imazethapyr, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-ethyl-3-pyridine carboxylic acid, as its ammonium salt, and its metabolite, 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-5-(1-hydroxyethyl)-3-pyridine carboxylic acid both free and conjugated in or on the following commodities:

Commodity	Parts per million
Peanuts	0.1
Peanuts, hulls	0.1

[FR Doc. 91–11881 Filed 5–21–91; 8:45 am]
BILLING CODE 6560–50–F

40 CFR Part 180

[PP 9F3814/R1107; FRL–3879–5]

Isomate-C (Pheromone Dispensers); Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the insect pheromone Isomate-C (Pheromone Dispensers) containing the active ingredients E,E-8,10-dodecenyl alcohol, dodecanol, and tetradecanol when used in or on all food and feed crops when formulated in polyethylene pheromone dispensers. This regulation eliminates the need to establish a maximum permissible level for residues of this biochemical pesticide. This request for an exemption from the requirement of a tolerance was requested by John W. Kennedy Consultants, Inc., acting as the registered U. S. agent for Biocontrol, Ltd., of Warwick, Queensland 4370, Australia.

EFFECTIVE DATE: This regulation becomes effective on May 22, 1991.

ADDRESSES: Written objections, identified with the docket control number [PP 9F3814/R1107], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Phillip O. Hutton, Product Manager (PM) 17, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of January 9, 1990 (55 FR 779), announcing receipt of pesticide petition 9F3814 from Biocontrol, Ltd., 148 Palermin St., Warwick, Queensland 4370, Australia (U.S. Agent: John W. Kennedy Consultants, Inc., American Bank Building, Suite 406, Laurel, MD 20707), proposing that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the insect pheromone Isomate-C E,E-8,10-dodecenyl alcohol, dodecanol, and tetradecanol in or on all raw agricultural commodities (RAC's) when formulated in polyethylene pheromone dispensers.

No comments were received in response to this notice of filing.

This exemption is for codling moth (*Cydia pomonella*) pheromone which acts to control the codling moth by mating disruption.

The pheromone is a synthetic replica of the naturally occurring pheromone. This pheromone product is impregnated in a 6-inch flexible polyethylene tube which has an aluminum wire that runs along the length of the tube to allow the tube to be tied to the lateral branches of the trees.

The pheromone permeates the surrounding area giving off an olfactory stimulant which disrupts the mating pattern of the codling moth and diminishes its ability to reproduce, by reportedly causing a false trail in the orchard air so as to interrupt the reproductive cycle.

Isomate-C is selective for the codling moth. It appears to have no influence on other insects, which means that beneficial insects, such as those that prey on mites, are not affected.

The recommended application rates are: Two to four hundred dispensers per acre in mature orchards with a plant spacing of 30 by 30 ft. Normally two applications per season will suffice; the first application should be prior to the emergence of the moths (in late February), and the second application should be 90 days later, preferably in late May.

The data submitted in support of the petition and other relevant material have been evaluated. The toxicology data considered in support of the exemption from the requirements of a tolerance included: an acute oral LD_{50}, rat, with a no observed-effect level (NOEL) = > 5,000 mg/kg; acute dermal LD_{50}, rat, NOEL = > 2,000 mg/kg; primary dermal irritation, rabbit, P.I. score = 2.5, a mildly irritating agent and 3.3 moderate irritating; primary eye irritation, rabbit, waived based on the results of the primary dermal irritation study; and acute inhalation LC_{50} NOEL = 5.26 mg/l; dermal sensitization in the guinea pig following dermal exposure, none of the animals demonstrated irritation scores of 1 or greater. The Mutagenicity-Ames Test. Isomate-C was evaluated for the potential to cause gene mutations in two independently performed *Salmonella typhimurium* assays. Based on the results, the Agency has determined that the appropriate range of material doses were evaluated and that Isomate-C was not mutagenic in this test system. The data were classified as acceptable.

The exemption from the requirements for a tolerance on RAC's and registration of Isomate-C on a conditional basis is toxicologically supported.

1. It is a synthetic replica of the naturally occurring codling moth pheromone which already exists in nature.

2. The polyethylene synthetic tube used in the Isomate-C formulation is cleared for use in pesticides.

3. Isomate-C will be released at treatment sites at the rate of 75 mg of active ingredient at a constant rate over a 3–month interval. On average 8.4 mg of pheromone will be released per acre per day, or 0.21 mg of pheromone per dispenser per day. The dispensation is done through the walls of the polyethylene tubing. Because the product is encapsulated in plastic tubing, it is highly unlikely that humans or animals would be exposed to Isomate-C.

A lack of demonstrable toxicity and near non-existent potential for exposure to Isomate-C indicates that its use to aid in codling moth control would not result in hazards to public health.

Due to the small quantity of product being used, and its rather rapid dissipation into the environment, the acceptable daily intake and maximum permissible intake considerations are not relevant to this petition.

The data submitted or referenced in this petition and other relevant material have been evaluated. The toxicological data considered in support of the exemption from the requirements of a tolerance did not show any deleterious

effects that would indicate a cause for concern from the use of this product.

Isomate-C is considered useful for the purpose for which the exemption from the requirements of a tolerance is sought. It is concluded that a tolerance for Isomate-C is not necessary to protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–12), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels, or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Terms in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirement.

Dated: May 10, 1991.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended to read as follows:

PART 180—[AMENDED]

1. The authority section for part 180 continues to read as follows:

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

2. By adding § 180.1103 to read as follows:

§ 180.1103 Isomate-C; exemption from the requirement of a tolerance.

The codling moth pheromone (Isomate-C) E,E-8,10-dodecenyl alcohol, dodecanol, tetradecanol is exempt from the requirements of a tolerance in or on all RAC's when formulated in polyethylene pheromone dispensers for use in orchards with encapsulated polyethylene tubing to control codling moth.

[FR Doc. 91–11882 Filed 5–21–91; 8:45 am]

BILLING CODE 6560–50–F

Proposed Rules

Federal Register
Vol. 56, No. 99
Wednesday, May 22, 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.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

Loans to State and Local Development Companies; Miscellaneous Subjects

AGENCY: Small Business Administration (SBA).

ACTION: Notice of proposed rulemaking.

SUMMARY: SBA proposes to amend part 108 to (1) permit lease purchase arrangements for development projects; (2) substitute estimates instead of actual figures for the reporting of job opportunities during the first two years of a 503 company project; (3) provide for a minimum service charge (0.5%); (4) permit weighted blendings of maturities for multiple third party loans for 503 projects; and (5) clarify several existing regulations. This proposal, if adopted, would reflect recent developments in the subject programs more accurately than is now the case, and facilitate the operation of the programs and of the development companies.

DATES: Comments must be received on or before June 21, 1991.

ADDRESSES: Written comments may be sent to the Office of Economic Development, Small Business Administration, 409 3rd Street, SW., 8th Floor, Washington, DC. 20416.

FOR FURTHER INFORMATION CONTACT: LeAnn M. Oliver, Deputy Director for Program Development, Office of Economic Development, (202) 205–6485.

SUPPLEMENTARY INFORMATION: The proposed rule changes are designed to accomplish a variety of purposes. The first proposed change makes clear that unemployment caused by the relocation of small business operations is of concern not only in the State and local development company programs, but equally so in the section 503 and 504 programs. A certification in this regard is to be filed with the district office for the relocation area (§ 108.3(a)(1) and (c)).

The second proposed change provides a cross-reference from the selfdealing prohibition in all development company programs, to the special selfdealing provisions for the 503 program (§ 108.4(d)(3)(i)).

The next change adds lease purchase to the permissible forms of financing the acquisition of property for development projects. Under this form of lease the lessee acquires ownership of the leased property by means of the lease payments over the lease period (§ 108.8(e)).

Under the present regulation the achievement of job opportunities by a 503 company is measured by the average of job opportunities actually provided within 2 years after completion of a project. SBA proposes to base the average on estimated job opportunities until a project has been completed for two years; and thereafter to substitute the number of actual job opportunities provided (§ 108.503(c)). In order to facilitate monitoring of these achievements, 503 companies would be required to include in their annual reports relevant figures, computed in the manner described above. The reporting and record-keeping requirements herein set forth have been approved by the Office of Management and Budget under control number 3245–0074 (§ 108.503(d)).

SBA is concerned about the ability of 503 companies to cover their operating expenses and to service their portfolio adequately. Also, there is the possibility that a loan portfolio may be transferred from a 503 Company not in good standing to one that is in good standing. In that event the transferee company should be adequately compensated. We therefore propose a minimum periodic service charge of 0.5% of the outstanding balance of the 503 loan, while a charge in excess of 1.5% in rural areas, as defined, and of 1% in other areas will require SBA approval (§ 108.503–6(a)(3)).

The present regulation does not contemplate more than one loan as third-party financing of a given project, and requires minimum maturities for such loans. In actuality the third-party financing sometimes consists of more than one loan from the same or separate lenders. The proposed regulation therefore would treat multiple third-party loans as one, and allow for a blending of their maturities so that overall the desired maturity is achieved, while the component loans do not each reflect such maturity (§ 108.503–8(b)(1)).

Another amendment would make clear that the subordination of seller financing to the 503 loan is required only within the context of permanent financing, and not also for interim financing (§ 108.503–8(b)(2)).

The present regulation permits the assumption of a 503 loan by another small concern with SBA's approval. Experience has shown, however, that the limitation to assumption by a small concern is too narrow where a distress situation is involved. Since SBA approval is required in any event, a proposed amendment would permit assumptions by anyone acceptable to all parties and to SBA (§ 108.503–13(g)).

Finally, we propose to permit deferments of up to an aggregate of five years, even where the small concern is unable to bring its loan current within five years, by reamortizing the loan over the remaining maturity but no extension of the maturity is permitted. The present regulation requires that the small concern bring the loan current in five years. Experience has shown that greater flexibility in such work-out situations is desirable (§ 108.503–13(h)).

Compliance with Executive Orders 12291 and 12612, the Regulatory Flexibility Act and the Paperwork Reduction Act.

For purposes of Executive Order 12291, SBA has determined that this proposed rule is not a major one, since the total impact on the National economy cannot amount to $100 million. In this regard, the amendments to the Policy, Procedure and Operations sections are editorial and have no significant economic impact. We estimate that the leasehold-improvement and lease-purchase regulation would at most stimulate $7.5 million in additional projects. The job opportunity regulation and the related monitoring rule would merely change the computation method for program evaluation purposes without economic impact. The service charge regulation also would have little impact, as almost all certified development companies now charge at least 0.5% of the outstanding loan balance each year; the impact would be well below $50,000. The third-party financing proposal would not affect the overall maturity of such financings and is incapable of impacting the economy. The subordination requirement is a

clarification of the present provision, without economic impact, as is the assumption provision. Lastly, the deferment provision, by permitting a stretch-out of more than 5 years, may have an impact of $2 million. Thus, the maximum total impact is less than $10 million.

For the purposes of Executive Order 12612, SBA certifies that this regulatory proposal does not have Federalism implications warranting the preparation of a Federalism Assessment.

For purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, SBA has determined that this proposed rule may have a significant economic impact on a substantial number of small entities. The following initial regulatory flexibility analysis is provided within the context of the review required under 5 U.S.C. 603:

These rules are proposed to update certain sections in conformity to legislative changes, to introduce the lease-purchase as an acceptable financing method, to improve the method by which the section 503 program participants are evaluated, and to introduce several clarifications deemed useful.

The legal bases for these rules are sections 5(b)(6) of the Small Business Act, 15 U.S.C.634(b)(6) and 308(c) of the Small Business Investment Act, 15 U.S.C. 687(c).

It is not possible to estimate the number of small entities to which these proposed rules may apply, but we estimate that they would affect less than 50% of the (approximately) 1400 development company loans annually except for the procedural rules which may affect most such loans, either at the development company or the borrower level.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this proposed rule does not impose any reporting or recordkeeping requirements not already approved by the Office of Management and Budget. There are no relevant Federal rules which might duplicate, overlap or conflict with these proposed rules. There are no significant alternatives to the proposed rules which would accomplish their objectives, while minimizing their already minimal impact on small entities.

List of Subjects in 13 CFR Part 108

Loan programs/business, Small business.

For the reasons set out above, part 108 of title 13, Code of Federal Regulations, is proposed to be amended as follows:

PART 108—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

1. The authority citation for part 108 continues to read as follows:

Authority. 15 U.S.C. 687(c), 695, 696, 697, 697a, 697b, 697c 102 Stat. 2989 (1988).

2. Section 108.3(a)(1) is revised to read as follows:

§ 108.3 Procedures for loan applications.

(a) *Relocation.* * * *

(1) In cases where the small business concern to be assisted by a development company is relocating its operations, said concern shall certify, at the time of filing an application with the development company for a section 502, 503 or 504 loan, or before disbursement by a State development company of the proceeds of a section 501 loan previously granted, that its relocation will not result in a substantial increase of unemployment in the area from which it is moving. Said certification shall be submitted by the development company to the SBA field office serving the area to which applicant is moving (see § 101.3–1 of this chapter), and within 30 days SBA shall notify the development company whether it may file a section 502, 503 or 504 loan application or disburse section 501 loan proceeds.

* * * * *

3. Section 108.4(d)(3)(i) is amended by adding at the end a parenthetical as follows:

§ 108.4 Operational requirements.

* * * * *

(d) *Prohibition of self-dealing.* * * *

(3) * * *

(i) * * * (See also § 108.503–3(g).)

4. Section 108.8(e) is revised to read as follows:

§ 108.8 Borrower requirements and prohibitions.

* * * * *

(e) *Third-party leases*—(1) *Leasehold improvements.* A development company may make a loan to acquire, construct or modify a plant on leased land owned by an unrelated lessor (i.e. other than under paragraph (d) of this section or under § 108.503–9(a)(9) of this part) to be leased to the borrower, if:

(i) The remaining term of the lease (including options to renew, exercisable exclusively by the lessee) equals or exceeds the greater of the useful life of such property or the term of the debenture; and,

(ii) Such loan is secured by a mortgage on such property sufficient to secure SBA's exposure; or

(iii) Sufficient other collateral is offered to protect SBA's exposure fully.

(2) *Lease-purchase.* A development company may make a loan to acquire, construct or modify a plant, owned by an unrelated lessor (i.e., other than under paragraph (d) of this section or under § 108.503–9(a)(9) of this part), to be leased to the borrower pursuant to a plan under which the aggregate lease payments pay for such property and the lessee has the option to acquire such property at the end of the lease for the outstanding balance, if any, plus a nominal amount (not to exceed one percent (%) of the agreed value of the plant at the inception of the lease), if:

(i) The term of the lease (including options to renew, exercisable exclusively by the lessee) equals the maturity of the related debenture; and

(ii) The development company loan is secured by a mortgage on such property sufficient to secure SBA's exposure; or

(iii) Sufficient other collateral is offered to protect SBA's exposure fully.

* * * * *

5. The last sentence of § 108.503(c) is revised to read as follows:

§ 108.503 Program objectives.

* * * * *

(c) *Job opportunity average*

* * * Such average shall be based on the estimated job opportunities to be provided pursuant to § 108.503(b)(1) for projects on which SBA has issued an Authorization and Debenture Guarantee, SBA Form 1248, until two years after the completion of such projects, at which time the actual job opportunities provided shall be substituted for the estimated job opportunities. The job opportunity average will be measured at the end of the 503 company's fiscal year and job opportunities associated with canceled Forms 1248 shall be eliminated from such average.

* * * * *

6. Section 108.503(d) is revised to read as follows:

§ 108.503 Program objectives.

* * * * *

(d) *Monitoring.* Each 503 company shall monitor the job opportunities provided by its 503 loans. Each 503 company shall report in its annual report the job opportunities actually provided or estimated to be provided by each project, as the case may be, computed in accordance with paragraph (c) of this section, and shall justify a dollar investment average in excess of that permitted by paragraph (c) of this section, setting forth measures to reduce such average (See § 108.503–3(f)(2)). Unless SBA permits otherwise in writing, the 503 company shall obtain, and have available in its records for

SBA inspection, a certification from the small business concern(s) assisted, based on its (their) employment data or job opportunity estimates, computed in accordance with paragraph (c) of this section, which support the 503 company's job opportunity figures.

* * * * *

7. Section 108.503–6(a)(3) is revised to read as follows:

§ 108.503–6 Costs which may be charged to the small concern by the 503 company.

(a) *Charges and fees* * * *

(3) A periodic service charge of not less than one-half of one percent (0.5%) nor more than two percent (2%) per annum on the outstanding balance of the 503 loan measured at 5-year anniversary intervals: *Provided, however*, That a service charge in excess of one and one-half percent (1½%) in a rural area (see definition in § 108.2–55 FR 9111) and a service charge of one percent (1%) in other areas shall require the prior written approval of SBA, based on evidence of substantial need, satisfactory to SBA.

* * * * *

8. Section 108.503–8(b)(1) is amended by adding after the second sentence a new sentence to read as follows:

§ 108.503–8 Third-party financing.

* * * * *

(b) *Terms of third-party financing.* (1) * * * Where third-party financing includes more than one loan, the required maturity may be achieved by a weighted blending of the maturities of such loans, taking into account both the respective maturities and amounts of such loans. * * *

* * * * *

9. Section 108.503–8(b)(2) is revised to read as follows:

§ 108.503–8 Third party financing.

* * * * *

(b) * * *

(2) Where any part of the permanent financing of a project is supplied by the seller of property for such project, such financing shall be subordinate to the 503 loan.

* * * * *

10. Section 108.503–13(g) is revised to read as follows:

§ 108.503–13 Servicing loans and debentures.

* * * * *

(g) *Assumption of a 503 loan.* A 503 loan may be assumed by another person or concern with SBA's prior written approval, such approval not to be unreasonably withheld.

* * * * *

11. Section 108.503–13(h) is amended by revising the third sentence and adding a new sentence after the existing third sentence to read as follows:

§ 108.503–13 Servicing loans and debentures.

* * * * *

(h) *Deferments.* * * * Such deferment periods shall not exceed five years in the aggregate: *Provided*, That the final maturity of the loan may not be extended. If the small concern is unable to make payments sufficient to bring the loan current within five years, the loan may be reamortized over the remaining maturity but no balloon payments shall be permitted. * * *

* * * * *

(Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans))

Dated: April 24, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91–12078 Filed 5–21–91; 8:45 am]

BILLING CODE 8025–01–M

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13 CFR Part 121

Small Business Size Regulations; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to waive the "Nonmanufacturer Rule" for multiple products.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is considering a waiver of the "Nonmanufacturer Rule" for the products listed below. These products are being considered for waiver of the Rule because our initial survey could not identify a small business supplying them to the Federal government. The effect of a waiver would be to allow an otherwise qualified regular dealer to supply the product of any domestic manufacturer on a Federal contract set aside for small business or awarded through the SBA 8(a) program.

PSC	Product line
5014	Tires, pneumatic, QPL–ZZ–T–381–4, Group 1–Passenger car, pursuit and high speed; Group 2, light truck tires; Group 3, medium and heavy truck
7025	Laser printers
3405	Hack saw blades
7025	Disk drives, computer

After performing an initial survey of these product lines, SBA proposes a waiver of the Nonmanufacturer Rule for each product line listed above. The basis for a waiver is that no small business manufacturer or processor is supplying the specific product line to the Federal Government. This notice is to solicit comments of additional information from interested parties.

DATES: Comments must be submitted on or before June 6, 1991. If granted, the waivers will be effective immediately upon publication of the Final Notice.

ADDRESS: Comments should be addressed to: Mr. Robert J. Moffitt, Chairman, Size Policy Board, Small Business Administration, 409 Third St., SW, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: James Fairbairn, Industrial Specialist, phone (202) 205–6465.

SUPPLEMENTARY INFORMATION: On November 15, 1988, Public Law 100–656 incorporated into the Small Business Act the existing SBA policy that recipients of contracts set aside for small business or the SBA 8(a) Program shall provide the products of small business manufacturers or processors. This requirement is commonly known as the "Nonmanufacturer Rule". The SBA regulations imposing this requirement are found in 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. A class of products is considered to be a particular Product and Service Code (PSC) under the Federal Procurement Data System or an SBA recognized product line within a PSC. To be considered in the Federal market, a small business must have been awarded a contract by the Federal government to supply that particular class of products within the past twelve months from the date of request for waiver. SBA has been requested to issue a waiver for each of the products listed above because of an apparent lack of any small business manufacturers or processors for them within the Federal market. SBA searched its Procurement Automated Source System (PASS) for small business manufacturers or processors that have sold to the Federal government. Because no small business manufacturers or processors were identified within the Federal market by the PASS search, we state by this notice to the public in the Federal Register our proposed intention to grant waivers for these products unless new information is found.

The SBA published a proposed notice to issue a waiver of the nonmanufacturer rule for mainframe computers on June 4, 1990 (55 FR 22799,

No. 107). That notice also notified the public that waivers were denied for all product lines of ADP product lines within several Product Service Codes. Among them were printers and disk drives. A recent re-survey of the Federal market failed to locate any active small business manufacturers or processors for these two classes of products.

This notice proposes to waive the Nonmanufacturer Rule for the subject product lines. The public is invited to submit comments or supply information which would identify any small business manufacturers or processors within these product lines.

Dated: May 7, 1991

Patricia Saiki,

Administrator.

[FR Doc. 91-12077 Filed 5-21-91; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-57; Notice No. SC-91-5-NM]

Special Conditions: Fokker Model F27 Mark 500 Airplane; Lightning and High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Fokker Model F27 Mark 500 airplane modified by Flight Dynamics, Inc. This airplane is equipped with a high-technology digital avionics system, the Head-up Guidance System (HGS), that performs critical and essential functions. The applicable regulations do not contain adequate or appropriate safety standards for the protection of this system from the effects of lightning and high-intensity radiated fields (HIRF). This notice proposes additional safety standards which the Administrator considers necessary to ensure that the critical and essential functions that this system performs are maintained when the airplane is exposed to lightning and HIRF.

DATES: Comments must be received on or before July 8, 1991.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-57, 1601 Lind Avenue SW., Renton, Washington, 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-57. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Gene Vandermolen, FAA, Flight Test and Systems Branch, ANM-111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055-4046; telephone (206) 227-2135.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on this proposal. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-57." The postcard will be date/time stamped and returned to the commenter.

Background

On December 12, 1990, Flight Dynamics, Inc., 16600 SW 72nd Ave., Portland, Oregon 97224, applied for a supplemental type certificate to modify a Fokker Model F27 Mark 500 airplane. The Fokker Model F27 Mark 500 is a two-crew, two-engine, turbopropeller airplane with a maximum takeoff weight of approximately 45,000 lbs. The proposed modification incorporates the installation of a Head-up Guidance System (HGS) for manually flown Category IIIa operations. The HGS originally installed in this airplane was certified for Category I and II operations. The HGS performs both critical and essential functions which may be vulnerable to lightning and high-intensity radiated fields external to the airplane.

Supplemental Type Certification Basis

Under the provisions of § 21.115, subpart C, of the FAR, Flight Dynamics, Inc. must show that the modified Fokker Model F27 Mark 500 meets the regulations incorporated by reference in Type Certificate No. 817, as specified in § 21.101(a), unless: (1) Otherwise specified by the Administrator; (2) compliance with later effective amendments is elected or required under §§ 21.101(a) or (b); or (3) special conditions are prescribed by the Administrator.

The regulations incorporated by reference in Type Certificate Data Sheet No. 817 for the Fokker Model F27 Mark 500 are: Part 4b of the Civil Air Regulations (CAR), as amended by Amendment 4b-1, Amendment 4b-2 (items 1 and 48), Amendment 4b-3 (items 21 through 33 and 39), Amendment 4b-7, and Amendment 4b-8 (items 9, 21, and 22). In addition, the certification basis includes certain portions of Special Regulation (SR) 422B and special conditions, none of which are pertinent to the present installation.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 4b plus applicable part 25 requirements) do not contain adequate or appropriate safety standards for the Model F27 Mark 500 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101.

Discussion

The existing lightning protection airworthiness certification requirements are insufficient to provide an acceptable level of safety with the new technology avionic systems. There are two regulations that specifically pertain to lightning protection; one for the airframe in general (§ 25.581), and the other for fuel system protection (§ 25.954). There are, however, no regulations that deal specifically with protection of electrical and electronic systems from lightning. The loss of a critical function of these systems due to lightning would prevent continued safe flight and landing of the airplane. Although the loss of an essential function would not prevent

continued safe flight and landing, it would significantly impact the safety level of the airplane.

There is also no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are proposed for the Fokker Model F27 Mark 500 that would require that the HGS be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of lightning and HIRF.

Lightning

To provide a means of compliance with the proposed special conditions, clarification of the threat definition for lightning is needed. The following "threat definition," based on FAA Advisory Circular 20–136, Protection of Aircraft Electrical/Electronic Systems Against the Indirect Effects of Lightning, dated March 5, 1990, is proposed as a basis to use in demonstrating compliance with the proposed lightning protection special condition.

The lightning current waveforms (Components A, D, and H) defined below, along with the voltage waveforms in Advisory Circular (AC) 20–53A, will provide a consistent and reasonable standard which is acceptable for use in evaluating the effects of lightning on the airplane. These waveforms depict threats that are external to the airplane. How these threats affect the airplane and its systems depend upon their installation configuration, materials, shielding, airplane geometry, etc. Therefore, tests (including tests on the completed airplane or an adequate simulation) and/or verified analyses need to be conducted in order to obtain the resultant internal threat to the installed systems. The electronic systems may then be evaluated with this internal threat in order to determine their susceptibility to upset and/or malfunction.

To evaluate the induced effects to these systems, three considerations are required:

1. First Return Stroke: (Severe Strike—Component A, or Restrike—Component D). This external threat needs to be evaluated to obtain the resultant internal threat and to verify that the level of the induced currents and voltages is sufficiently below the equipment "hardness" level.

2. Multiple Stroke Flash: (½ Component D). A lightning strike is often composed of a number of successive strokes, referred to as multiple strokes. Although multiple strokes are not necessarily a salient factor in a damage assessment, they can be the primary factor in a system upset analysis. Multiple strokes can induce a sequence of transients over an extended period of time. While a single event upset of input/output signals may not affect system performance, multiple signal upsets over an extended period of time (2 seconds) may affect the systems under consideration. Repetitive pulse testing and/or analysis needs to be carried out in response to the multiple stroke environment to demonstrate that the system response meets the safety objective. This external multiple stroke environment consists of 24 pulses and is described as a single Component A followed by 23 randomly spaced restrikes of ½ magnitude of Component D (peak amplitude of 50,000 amps). The 23 restrikes are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. An analysis or test needs to be accomplished in order to obtain the resultant internal threat environment for the system under evaluation.

3. Multiple Burst: (Component H). In-flight data-gathering projects have shown bursts of multiple, low amplitude, fast rates of rise, short duration pulses accompanying the airplane lightning strike process. While insufficient energy exists in these pulses to cause physical damage, it is possible that transients resulting from this environment may cause upset to some digital processing systems.

The representation of this interference environment is a repetition of short duration, low amplitude, high peak rate of rise, double exponential pulses which represent the multiple bursts of current pulses observed in these flight data gathering projects. This component is intended for an analytical (or test) assessment of functional upset of the system. Again, it is necessary that this component be translated into an internal environmental threat in order to be used. This "Multiple Burst" consists of 24 random sets of 20 strokes each, distributed over a period of 2 seconds. Each set of 20 strokes is made up of 20 repetitive Component H waveforms distributed within a period of one millisecond. The minimum time between individual Component H pulses within a burst is 10μs, the maximum is 50μs. The 24 bursts are distributed over a period of up to 2 seconds according to the following constraints: (1) The minimum time between subsequent strokes is 10 ms, and (2) the maximum time between subsequent strokes is 200 ms. The individual "Multiple Burst" Component H waveform is defined below.

The following current waveforms constitute the "Severe Strike" (Component A), "Restrike" (Component D), "Multiple Stroke" (½ Component D), and the "Multiple Burst" (Component H).

These components are defined by the following double exponential equation:

$i(t) = I_0 (e^{-at} - e^{-bt})$

where:

t = time in seconds,
i = current in amperes, and

	Severe strike (component A)	Restrike (component D)	Multiple stroke ½ component D)	Multiple burst (component H)
I_0 amp =	218,810	109,405	54,703	10,572
a, sec^{-1} =	11,354	22,708	22,708	187,191
b, sec^{-1} =	647,265	1,294,530	1,294,530	19,105,100

This equation produces the following characteristics:

	200 KA	100 KA	50 KA	10 KA
i_{peak}, and $(di/dt)_{max}$ (amp/sec) =	1.4×10^{11} @t=0+sec	1.4×10^{11} @t=0+sec	0.7×10^{11} @t=0+sec	2.0×10^{11} @t=0+sec
di/dt, (amp/sec) =	1.0×10^{11} @t=.5μs	1.0×10^{11} @t=.25μs	0.5×10^{11} @t=.25μs	
Action Integral (amp^2 sec) =	2.0×10^{6}	0.25×10^{6}	$.0625\times10^{6}$	

High-Intensity Radiated Fields

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems, such as the HGS, to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling to cockpit installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–500 KHz	80	80
500 KHz–2 MHz	80	80
2 MHz–30 MHz	200	200
30 MHz–100 MHz	33	33
100 MHz–200 MHz	33	33
200 MHz–400 MHz	150	33
400 MHz–1 GHz	8,300	2,000
1 GHz–2 GHz	9,000	1,500
2 GHz–4 GHz	17,000	1,200
4 GHz–6 GHz	14,500	800
6 GHz–8 GHz	4,000	666
8 GHz–12 GHz	9,000	2,000
12 GHz–20 GHz	4,000	509
20 GHz–40 GHz	4,000	1,000

The envelope given in paragraph 2 above is a revision to the envelope used in previously issued special conditions in other certification projects. It is based on new data and SAE AE4R subcommittee recommendations. This revised envelope includes data from Western Europe and the U.S. It will also be adopted by the European Joint Airworthiness Authorities.

Conclusion

This action affects only certain unusual or novel design features on one model series of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Parts 21 and 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the supplemental type certification basis for the modified Fokker Model F27 Mark 500 airplane:

1. Lightning Protection

a. Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to lightning.

b. Each essential function of electrical or electronic systems or installations must be protected to ensure that the function can be recovered in a timely manner after the airplane has been exposed to lightning.

2. Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF)

Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to externally radiated electromagnetic energy.

3. The following definitions apply with respect to these special conditions:

Critical Function. Functions whose failure could contribute to or cause a failure condition that could prevent the continued safe flight and landing of the airplane.

Essential Functions. Functions whose failer could contribute to or cause a failure condition that could significantly impact the safety of the airplane or the ability of the flightcrew to cope with adverse operating conditions.

Issued in Renton, Washington, on May 7, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–12094 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 91–NM–95–AD]

Airworthiness Directives; Boeing Model 747–400 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 747–400 series airplanes, which would require modification to the cargo compartment and engine fire detection and extinguishing systems. This proposal is prompted by reports of crossed wiring in the cargo compartment smoke detection system, and reports of crossed plumbing and wiring in the cargo compartment and engine fire extinguishing systems on Boeing airplanes of similar design. These conditions, if not corrected, could result in loss of the ability of the forward cargo compartment smoke detection system to generate a warning on the flight deck in the event of a cargo compartment fire, or loss of the ability to discharge fire extinguishing agent into the correct cargo compartment or to the correct engine in the event of a fire.

DATES: Comments must be received no later than July 15, 1991.

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–95–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. Jon A. Regimbal, Seattle Aircraft Certification Office, Propulsion Branch, ANM–140S; telephone (206) 227–2687. 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–95–AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On May 1, 1989, the FAA issued AD 89–03–51, Amendment 39–6213 (54 FR 20118, May 10, 1989), to require inspections and/or functional checks for improperly installed plumbing and wiring in the cargo compartment and engine fire protection systems on various Boeing airplane models. The checks and inspections are also required to be performed following any maintenance action which could cause mis-plumbing or mis-wiring. That action was prompted by numerous reports of improperly installed plumbing or wiring on several different Boeing airplane models. This condition, if not corrected, could result in severe damage to the airplane in the event of a cargo compartment or engine fire. The inspection/check procedures required by AD 89–03–51 were considered to be interim action until final action was identified.

The Model 747–400 series airplanes had not been certified at the time that AD 89–03–51 was issued, and the cargo compartment and engine fire detection and extinguishing systems for this model were not included in the aforementioned AD action.

Since the issuance of AD 89–03–51, the FAA has determined that the crossed plumbing and wiring were caused by the close physical location of similar connections. A review of the Model 747–400 series airplane's cargo compartment and engine fire protection systems has revealed that there are several areas in these systems where the design does not preclude the crossing of plumbing or wiring connections during system maintenance.

The FAA has reviewed and approved Boeing Service Bulletin 747–26–2143, dated December 20, 1990, which describes the re-routing of cargo compartment fire extinguishing system plumbing and wiring to ensure that the connections will be re-installed correctly during system maintenance.

The FAA has also reviewed and approved Boeing Service Bulletin 747–26–2164, dated February 14, 1991, which describes the replacement of the existing engine fire control module on the flight deck overhead panel with a new module which has unique positional clocking for the engine discharge switches. This positional clocking is designed to prevent the inadvertent interchanging of the engine discharge switches during system maintenance.

The FAA has also reviewed and approved Boeing Service Bulletin 747–26–2168, dated March 28, 1991, which describes the installation of new connector brackets and wire bundles for portions of the cargo compartment smoke detection system. These changes will prevent incorrect connections between the cargo compartment smoke detectors during maintenance.

The crossed wiring and plumbing that has occurred on other Boeing airplane models having similar system designs is likely to exist or develop on airplanes of the Model 747–400 type design; therefore, an AD is proposed which would require the modification of the cargo compartment fire detection system and the cargo compartment and engine fire extinguishing systems in accordance with the service bulletins previously described.

There are approximately 101 Model 747–400 series airplanes of the affected design in the worldwide fleet. It is estimated that 18 airplanes of U.S. registry would be affected by this AD. For 16 of these airplanes, it is estimated that it would take approximately 185 manhours per airplane to accomplish the required actions, and that the average labor cost would be $55 per manhour. The parts cost for each of these airplanes would be $11,263, bringing the total cost per airplane to $21,438. For the remaining two airplanes, it is estimated that it would take 37 manhours to accomplish the required actions, and that the average labor cost would be $55 per manhour. The parts cost for these airplanes would be $4,092, bringing the total cost per airplane to $6,127. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $355,262.

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) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Boeing: Docket No. 91–NM–95–AD.

Applicability: Model 747–400 series airplanes up to and including line position 839, certificated in any category.

Compliance: Required within the next 12 months after the effective date of this AD, unless previously accomplished.

To preclude cross connection of cargo compartment and engine fire protection wiring and plumbing during maintenance, accomplish the following:

(a) For airplanes identified in Boeing Service Bulletin 747–26–2143, dated December 20, 1990: Modify the cargo compartment fire extinguishing system plumbing and wiring in accordance with that service bulletin.

(b) For airplanes identified in Boeing Service Bulletin 747–26–2164, dated February 14, 1991: Modify the engine fire control module in accordance with that service bulletin.

(c) For airplanes identified in Boeing Service Bulletin 747–26–2168, dated March 28, 1991: Modify the cargo compartment smoke detection system wiring in accordance with that service bulletin.

(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 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 May 15, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–12093 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Ohio Permanent Regulatory Program; Revision of Administrative Rules and the Ohio Revised Code

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

ACTION: Proposed rule; reopening of public comment period.

SUMMARY: OSM is reopening the public comment period on Revised Program Amendment Number 46 to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment is intended to revise four Ohio administrative rules and one section of the Ohio Revised Code to be consistent with the corresponding Federal regulations regarding the extraction of coal incidental to the extraction of other minerals.

This notice sets forth the times and locations that the Ohio program and proposed amendments to that program will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on June 21, 1991. If requested, a public hearing on the proposed amendments will be held at 1 p.m. on June 17, 1991. Requests to present oral testimony at the hearing must be received on or before 4 p.m. on June 6, 1991.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand-delivered to Mr. Richard J. Seibel, Director, Columbus Field Office, at the address listed below. Copies of the Ohio program, the proposed amendments, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive, free of charge, one copy of the proposed amendments by contacting OSM's Columbus Field Office.

Office of Surface Mining Reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232, Telephone: (614) 866–0578.

Ohio Department of Natural Resources, Division of Reclamation, 1855 Fountain Square Court, Building H–3, Columbus, Ohio 43224, Telephone (614) 265–6675.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Seibel, Director, Columbus Field Office, (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program, can be found in the August 10, 1982 **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 935.16.

II. Discussion of the Proposed Amendments

By letter dated February 7, 1990 (Administrative Record No. OH–1383), the Director of OSM notified the Ohio Department of Natural Resources, Division of Reclamation (Ohio) that OSM had recently promulgated new Federal regulations concerning exemptions for coal extraction incidental to the extraction of other minerals. The Director required Ohio to modify its regulatory program to remain consistent with the new Federal requirements.

By letter dated April 5, 1990 (Administrative Record No. OH–1384), Ohio responded with questions concerning the Director's February 7, 1990 letter. OSM provided responses to Ohio's questions by letter dated May 1, 1990 (Administrative Record No. OH–1385).

By letter dated May 31, 1990 (Administrative Record No. OH–1386), Ohio requested an extension until August 1, 1990 to submit an amendment to the Ohio program concerning incidental coal extraction. By letter dated August 2, 1990 (Administrative

Record No. OH–1387), Ohio submitted additional questions concerning OSM's new regulations on incidental coal extraction. OSM responded to Ohio's second set of questions by letter dated September 6, 1990 (Administrative Record No. OH–1390).

By letter dated October 12, 1990 (Administrative Record No. OH–1393), Ohio submitted formal Program Amendment Number 46. The amendment proposed changes to three Ohio administrative rules and one section of the Ohio Revised Code regarding the extraction of coal incidental to the extraction of other minerals.

On October 31, 1990, OSM published a notice in the **Federal Register** (55 FR 45809) announcing receipt of Ohio's Program Amendment Number 46 and inviting public comment on its adequacy. The public comment period ended on November 30, 1990. The public hearing scheduled for November 26, 1990, was not held because no one requested an opportunity to testify.

By letter dated March 13, 1991 (Administrative Record No. OH–1478), OSM provided Ohio with its questions and comments about the proposed amendment. On April 4, 1991, representatives of Ohio and OSM discussed this letter in a telephone conversation (Administrative Record No. OH–1500).

By letter dated April 15, 1991 (Administrative Record No. OH–1507), Ohio provided its responses to OSM's March 13, 1991, letter and submitted Revised Program Amendment Number 46. In the revised amendment, Ohio reiterated many of the revisions proposed in the initial version of Program Amendment Number 46. OSM's **Federal Register** notice of October 31, 1990, discussed those revisions proposed by Ohio in the initial amendment. New substantive changes proposed by Ohio in the revised amendment are discussed briefly below. Numerous nonsubstantive changes are proposed throughout the revised rules to correct paragraph letter notations and to make other minor revisions.

1. Definition of Coal Mining Operation

Ohio is revising the definition of "coal mining operation" at Ohio Administrative Code (OAC) section 1501:13–1–02 paragraph (S)(1)(a) and Ohio Revised Code (ORC) section 1513.01 paragraph (G)(1)(a) to delete the phrase "during the year" and to delete language regarding the use of minerals extracted for fill material.

2. Requirements for Exemptions for Incidental Coal Extraction

Ohio is adding an unlettered introductory paragraph to OAC section 1501:13–4–16. This introductory paragraph discusses the purpose of the rule and the general nature of the restrictions on exemptions granted under the rule for extraction of coal incidental to the extraction of other minerals.

Ohio is revising the proposed definition of "mining area" at OAC section 1501:13–4–16 paragraph (B)(4) to delete the phrase "or a series of pits among which the geologic column is consistent."

Ohio is revising OAC section 1501:13–4–16 paragraph (J)(1) (formerly paragraph (E)(1)) to delete the phrase "within a reasonable period of time." Ohio will make information submitted to the Chief of the Ohio Department of Natural Resources, Division of Reclamation (the Chief) immediately available to the public in accordance with ORC section 149.43 paragraph (B) and OAC section 1501:13–1–10 paragraph (B).

Ohio is revising OAC section 1501:13–4–16 paragraph (G)(2)(a) (formerly paragraph (F)(2)(a)) to add the statement "A legally binding agreement for the future sale of other minerals is sufficient to demonstrate the above standard" in place of the statement "The operator must provide documentation of the claim to a future market for the other minerals to demonstrate the above standard." Ohio is also adding paragraph (G)(2)(a)(i) which states that "The request for exemption may be approved by the Chief conditioned upon receipt, prior to the commencement of mining, of a legally binding agreement for the future sale of other minerals."

Ohio is adding new paragraphs (K)(5) and (6) to OAC section 1501:13–4–16 to specify that annual reports submitted by exempted mine operators shall include projections for each mining area of the anticipated production of coal and of other minerals in the upcoming twelve-month period. The report shall be accompanied by documentation that a market will exist in the upcoming twelve-month period for each mineral other than coal on which the exemption is based. Ohio will consider a legally binding agreement for the future sale of other minerals to be sufficient documentation of a future market.

3. Revocation of an Exemption for Incidental Coal Extraction

Ohio is revising OAC section 1501:13–5–03 paragraph (C)(1) to add a statement that the Chief shall also immediately notify any person who submitted written comments, regarding a request for an exemption, of the Chief's decision to revoke or not to revoke the exemption.

Ohio is also revising OAC section 1501:13–5–03 paragraph (D) regarding direct enforcement. The revised paragraph contains expanded provisions for:

(1) Protection from enforcement of coal mining and reclamation standards for operators mining in accordance with an approved exemption;

(2) Enforcement against operators in violation of an approved exemption; and

(3) Operator responsibilities upon revocation of an exemption or denial of an exemption.

4. Access by Representatives of the Secretary of the Interior

Ohio is revising OAC section 1501:13–4–16 paragraph (H)(1) (formerly paragraph (G)(1)) to make the specified information available to representatives of the U.S. Secretary of the Interior.

Ohio is also revising OAC section 1501:13–14–01 paragraphs (H) (1) and (2) to specify that representatives of the U.S. Secretary of the Interior shall have the right to conduct inspections of operations claiming an exemption for incidental coal extraction, to have access to and to copy documents relevant to the exemption, and to gather physical and photographic evidence to document site conditions.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Ohio satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Ohio program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "**DATES**" or at locations other than the Columbus Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "**FOR FURTHER INFORMATION CONTACT**" by 4 p.m. on June 6, 1991. If no one requests an opportunity to comment

at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and who wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Columbus Field Office by contacting the person listed under "**FOR FURTHER INFORMATION CONTACT.**" All such meetings shall be open to the public and, if possible, notices of the meetings will be posted at the locations listed under "**ADDRESSES.**" A written summary of each public meeting will be made a part of the Administrative Record.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 8, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91–11996 Filed 5–21–91; 8:45 am]

BILLING CODE 4310–05–M

30 CFR Part 935

Ohio Regulatory Program; Revision of Administrative Rule

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

ACTION: Proposed rule; withdrawal.

SUMMARY: By a letter dated April 3, 1991, Ohio withdrew an amendment to the Ohio regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) concerning excess spoil fills. OSM is announcing the suspension of formal processing of the amendment.

DATES: The proposed rule is withdrawn May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Richard J. Seibel, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, 2242 South Hamilton Road, room 202, Columbus, Ohio 43232; (614) 866–0578.

SUPPLEMENTARY INFORMATION:

I. Background

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982, **Federal Register** (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11, 935.12, 935.15, and 936.16.

II. Submission and Discussion of Amendment

On February 19, 1991 (Administrative Record No. OH–1461), OSM published a notice in the **Federal Register** (56 FR 6596) announcing receipt and soliciting public comment on the program amendment for excess spoil fills. The public comment period closed on March 21, 1991.

By a letter dated April 3, 1991 (Administrative Record No. OH–1502), Ohio notified OSM that it was withdrawing the proposed program amendment on excess spoil fills. Ohio stated that it will pursue the goals of the successful experimental practice on Peabody Coal Company Permit No. C–1393 through Federal rulemaking. The Director is announcing the withdrawal of the proposed program amendment and the suspension of the amendment by OSM.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 6, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91–11997 Filed 5–21–91; 8:45 am]

BILLING CODE 4310–05–M

Office of Surfacing Mining Reclamation and Enforcement

30 CFR Part 946

Virginia Regulatory Program; Coal Surface Mining Reclamation Fund

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Virginia permanent regulatory program (hereinafter, the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to changes in Virginia's Coal Surface Mining Reclamation Fund (hereinafter, Pool Bond Fund or Fund). The goal of the amendment is to update the Virginia Coal Surface Mining Reclamation Regulations to make them consistent with recent statutory changes to the Code of Virginia.

This notice sets forth the times and locations that the Virginia program and proposed amendment to the program are available for public inspection, the comment period during which interested parties may submit written comments on the proposed amendment, and the procedures that will be followed regarding the public hearing, if one is required.

DATES: Written comments must be received on or before 4 p.m. on June 21, 1991. If requested, a public hearing on the proposed amendment will be held on June 17, 1991; requests to present testimony at the hearing must be received on or before 4 p.m. June 6, 1991.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the first address listed below. If a hearing is requested, it will be held at the same address.

Copies of the Virginia program, proposed amendments and all written comments received in response to this notice will be available for review at the locations listed below during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, P.O. Drawer 1216, Powell Valley Square Shopping Center, room 220, Route 23, Big Stone Gap, Virginia 24219, Telephone (703) 523–4303.

Virginia Division of Mined Land Reclamation, P.O. Drawer U, 622 Powell Avenue, Big Stone Gap, Virginia 24219, Telephone (703) 523–8100.

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Virginia program on December 15, 1981. Information pertinent to the general background and revisions to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the December 15, 1981 **Federal Register** (46 FR 61085–61115). Subsequent actions concerning the conditions of approval and proposed amendments are identified at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of Amendments

By letter dated May 1, 1991 (Administrative Record No. VA–795), Virginia submitted a proposed amendment to its program pursuant to SMCRA. The proposed amendment will update the Virginia Coal Surface Mining Reclamation Regulations for consistency with recent statutory changes to the Code of Virginia. The proposed changes are discussed briefly below.

Virginia proposes to amend section VR 480–03–19.801.11(a) to require all applicants to demonstrate a history of compliance of three consecutive years to qualify for participation in the Fund.

Virginia proposes to amend VR 480–03–19.801.12(a) to increase the entrance fee from $1,000 to $5,000 whenever the Fund balance falls below $1.75 million. This new rate applies until the Fund balance exceeds $2 million. This section also requires a permit renewal fee of $1,000.

Proposed changes to VR 480–03–19.801.12(b)(1–4) include increasing the minimum amount of bond that must be posted by the participants. The per-acre bond rates increase to $3,000 with a required minimum bond of $40,000 for underground operations and $100,000 for all other operations. The applicability of the new rates is determined by the status of a permit of July 1, 1991.

Virginia proposes to amend VR 480–03–19.801.12(g) to require any mining operation participating in the Fund that has been in temporary cessation for more than 6 months as of July 1, 1991, to post within 90 days, bond equal to the total estimated cost of reclamation for all portions of the permitted site which are in temporary cessation. This provision will become applicable to any site that is in temporary cessation for 6 months or longer after July 1, 1991.

Proposed VR 480–03–801.14(a) changes the trigger for paying reclamation taxes from $750,000 to any fund balances less than $1.75 million. The reclamation taxes are applicable until the Fund balance reaches $2 million (480–03–19.801.14(b)). The per ton tax rates found at VR 480–03–19.801.14(a)(1–3) have increased to four cents per clean ton of coal mined by surface methods, three cents per clean ton of coal mined by underground methods, and one and one-half cents per clean ton of coal processed or loaded at an associated facility.

Proposed VR 480–03–19.801.14(c) clarifies that the maximum reclamation tax per calender year is not applicable until one year after coal production commences on a new permit participating in the Fund.

Proposed VR 480–03–19.801.14(d)(1&2) increase the maximum reclamation tax rates for participants holding more than one type of permit. Surface mined coal processed by the permittee will be subject to a maximum reclamation tax of five and one-half cents per clean ton. Coal produced by underground operation and processed by the same permittee will be subject to a maximum reclamation tax of four and one-half cents per clean ton. However, coal processed by the permittee that originates from other permits is subject to a reclamation tax of one and one-half cents. These maximum tax rates apply only after fulfillment of the requirements of 480–03–19.801.14(e).

Virginia proposes to amend VR 480–03–19.801.15(a) to change the due date for reclamation tax reporting from the 15th day of the month to no later than 30 days after the end of each calendar quarter. Fee payments and the tax reporting requirements will be consistent.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comment on whether the amendments proposed by Virginia satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Virginia program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Big Stone Gap Field Office will not necessary be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by close of business on June 6, 1991. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a pubic hearing, may be held.

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Big Stone Gap Field Office by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT"**. All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under **"ADDRESSES"**. A written summary of each public meeting will be made part of the Administrative Record.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, and Underground mining.

Dated: May 8, 1991.

Carl C. Close,

Assistant Director, Eastern Support Center.

[FR Doc. 91–11998 Filed 5–21–91; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[OPTS–211022A; FRL–3890–2]

Polychlorinated Biphenyls; Denial of Citizen's Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of denial of petition.

SUMMARY: Pursuant to section 21 of the Toxic Substances Control Act (TSCA), Mr. David G. Walker, of Walker Chemists, has submitted a petition asking EPA to amend its regulations under 40 CFR 761.3 to exclude mono-, di-, and trichlorobiphenyls (except 2,4,4'-trichlorobiphenyl) from the definition of polychlorinated biphenyls (PCBs) regulated under section 6(e) of TSCA. EPA is denying the petition because Congress directed EPA through section 6(e) of TSCA to eliminate all PCBs from the environment. EPA has already addressed the issue of excluding lower chlorinated biphenyls in response to three other petitions. The present petitioner did not provide sufficient evidence to show that the chemicals in question would not present an unreasonable risk of injury to humans and the environment; the petitioner has failed to provide any evidence that there are no equally satisfactory substitutes for the uses identified in the petition; and EPA does not believe it is otherwise appropriate to exempt these lower chlorinated biphenyls from its regulations across the board.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Toxic Substances, Rm. EB–44, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, 202–554–1404, TDD: 202–554–0557.

SUPPLEMENTARY INFORMATION: PCBs are the only chemicals singled out by name for regulation in the Toxic Substances Control Act (TSCA). Section 6(e), 15 U.S.C. 2605(e), of that Act generally directed the EPA to promulgate regulations prohibiting the manufacture, use, processing, or distribution in commerce, with certain exceptions, of any PCB. EPA has authority to exclude, through rulemaking, the manufacture of PCBs from this prohibition if certain findings are made. To support any such rulemaking activity, EPA must find that there is a reasonable basis to conclude that the proposed activity involving an excluded chemical substance will not present an unreasonable risk. Under section 21 of TSCA, petitioners need to provide sufficient data to support the no unreasonable risk finding in their request to amend the PCB regulations.

In the remainder of this document, Unit I.A discusses the statutory and regulatory framework of section 21, Unit II discusses the history of the regulatory definition of PCBs, discusses and responds to the petitioner's claim of low risk, and discusses and responds to the petitioner's claims of benefits of the requested change, and Unit III summarizes the decision to deny the petition. Unit IV lists the material found in the public docket.

I. Background

A. Statutory and Regulatory Framework

Section 21 of TSCA provides that any person may petition the Administrator of EPA to initiate a proceeding for the issuance, amendment, or repeal of rules under section 4 (rules requiring chemical testing), section 6 (rules imposing substantive controls on chemicals), or section 8 (information-gathering rules). Section 21(b)(3) requires that EPA grant or deny a citizen's petition within 90 days of the filing of the petition (15 U.S.C. 2620(b)(3)). The petition must set forth the facts which establish the need for the relief requested. See the discussion in the **Federal Register** of November 13, 1985 (50 FR 46825), for guidance on preparing citizen's petitions under section 21 of TSCA.

If the Administrator grants a section 21 petition, the Agency must promptly commence an appropriate proceeding. If the Administrator denies the petition, the reasons for denial must be published in the **Federal Register**.

If EPA denies the petition, or fails to grant or deny the petition within 90 days of the filing date, the petitioner may commence a civil action in a Federal district court to compel the Agency to initiate the requested action. This suit must be filed within 60 days of the denial, or within 60 days of the expiration of the 90–day period if the Agency fails to grant or deny the petition within that period (15 U.S.C. 2620(b)(4)).

Section 21 does not specifically state the criteria under which EPA should decide whether to grant or deny a citizen's petition. However, there are standards under sections 4, 6, and 8 for issuing regulations, and there are standards imposed on the court for deciding whether to order EPA to initiate rulemaking in the event of a lawsuit filed by the petitioner after denial of a section 21 petition.

PCBs are the only chemical singled out by name for regulation in TSCA. Section 6(e) generally directed the EPA to promulgate regulations prohibiting the manufacture, use, processing, or distribution in commerce, with certain exceptions, of any PCB. EPA has authority to exempt, through rulemaking, the manufacture of PCBs from this prohibition if certain findings expressly provided in the statute are made. To support any such rulemaking activity, EPA must find that there is a reasonable basis to conclude that the proposed activity involving the PCB will not present an unreasonable risk and that good faith efforts have been made to develop substitutes for the PCB which do not present an unreasonable risk of injury to health or the environment.

Aside from the explicit statutory authority to exempt activities from the statutory prohibitions, EPA believes it also may, within its discretion, take other appropriate regulatory actions consistent with the Congress' purposes in implementing section 6(e).

B. Summary of the Petition

David G. Walker, of Walker Chemists, submitted a petition to EPA on February 6, 1991, under section 21 of TSCA, 15 U.S.C. 2620, asking that the definition of PCBs under 40 CFR 761.3 be amended to exclude mono-, di-, and trichlorobiphenyls (except for 2,4,4'-trichlorobiphenyl). A similar petition was submitted to EPA by Mr. Walker in March 1987 which EPA denied (52 FR 25068, July 2, 1987). The petitioner again seeks a change in the definition of PCBs so that Walker Chemists can manufacture, purify, and use monochlorobiphenyl (MCB) containing small amounts of di- and trichlorobiphenyls. The petitioner has stated that his product would not contain more than 50 parts per million (ppm) of tetrachloro- or higher chlorinated biphenyl compounds. The MCB would be used to make a new solvent, "Walker Solvent," for use in a new technology to separate carbon monoxide (CO), hydrogen sulfide (H_2S), and olefins from gases such as coal-produced gas and nitrogen.

The petitioner claims that this product/technology would bring about energy independence for the United States, the clean burning of coal to make electricity, the efficient manufacture of ethylene and propylene, the production of oil from Western oil shales, and increased efficiency in pig iron production.

The petitioner also claims that low health and ecological risks make mono-, di-, and trichlorobiphenyls (except 2,4,4'-trichlorobiphenyl) environmentally acceptable; that they are readily biodegradable by common bacteria in the environment; that they have a low order of toxicity to humans and other life forms; that they are not environmentally persistent; and that they would never have become regulated on their own use history and merits but were instead included by rulemaking with PCB compounds which do have the properties to merit regulation and ban.

II. EPA Analysis of the Petition

In evaluating Walker's request to amend the definition of PCBs which was promulgated under TSCA section 6(e), EPA assessed Walker's petition in the context of the statutory standard discussed in Unit I.A for exempting PCBs from the section 6(e) prohibitions. EPA also considered whether it would be appropriate to otherwise exercise its discretion to exclude lower chlorinated biphenyls from the regulatory definition of PCBs.

A. History of the PCB Definition

In enacting section 6(e) of TSCA, Congress intended to eliminate the risks of injury to human health and the environment from all PCBs. There is no evidence to suggest that Congress did not intend to include all chlorinated biphenyls in its definition of polychlorinated biphenyls. Congress has not changed that definition over the years. EPA, consistent with this congressional intent, uses the all-inclusive term "polychlorinated biphenyls." The Agency is concerned with the risks inherent in all of the chlorinated biphenyls.

EPA recognizes that mono- and dichlorobiphenyls are less persistent and degrade more rapidly in some environments than do more highly chlorinated biphenyls and that mono- and dichlorobiphenyls are less persistent than trichlorobiphenyls. In its denial of the Dow Chemical Company's petition (Dow Petition) to change the definition of PCBs to exclude mono- and dichlorobiphenyls, published in the Federal Register of August 25, 1982 (47 FR 37259), EPA acknowledged the technical merits of Dow's claim about the relative risks of certain monochlorobiphenyls. However, the Agency decided not to change the definition to exclude monochlorobiphenyls because of the congressional intent to include all chlorinated biphenyls. The Agency addressed the request for relief in the Dow Petition in a subsequent rulemaking concerning PCBs produced as byproducts or impurities of various chemical processes. This change in definition is discussed in the final rule published in the Federal Register of July 10, 1984 (49 FR 28172). Under "PCB and PCBs," in 40 CFR 761.3, "inadvertently generated non-Aroclor PCBs" are defined "as the total PCBs calculated following division of the quantity of monochlorinated biphenyls by 50 and the dichlorinated biphenyls by 5," as referred to under the definition of "[e]xcluded manufacturing process" in the same section. While EPA discounted concentrations of mono- and dichlorobiphenyls where they are generated inadvertently as low level byproducts, the Agency decided not to discount trichlorobiphenyls, nor to exclude any chlorinated biphenyl from the general ban on the intentional manufacture of PCBs. The bases for these decisions were concern for toxicity and amount of PCBs that could potentially be released into the environment. Very small amounts of monochlorinated and dichlorinated biphenyls are generated and released into the environment when inadvertently generated as opposed to a process which intentionally generates PCBs as that proposed by the petitioner here.

B. Analysis of Petitioner's Claims

1. *Claimed Low Risks and Response.* EPA must consider all sources of PCBs and all environments where they will ultimately be found in judging the merits of the petition since the effect of the petition, if granted, would be to essentially deregulate the manufacture, processing, and distribution in commerce of all these lower chlorinated biphenyls. The petitioner claims that mono-, di-, and trichlorobiphenyls (except 2,4,4'-trichlorobiphenyl) are readily biodegradable and are not environmentally persistent. EPA has found that these PCBs sorb very strongly to soils and sediments and are quite immobile in those media. Also, they do not degrade rapidly under anaerobic conditions. Anaerobic conditions are common in wetlands, aquatic sediments, and some saturated terrestrial soils and when in those media, these PCB congeners will biodegrade very slowly and will be persistent. In addition, since these PCB congeners biodegrade slowly under aerobic conditions in oceans (the ultimate sink), they will tend to be persistent in this environmental compartment. The petitioner claims that ecological magnification is not an important risk when the substance is readily biodegradable. However, these PCB congeners will reside in sediments at the bottom of aquatic media under anaerobic conditions, and in oceans under aerobic conditions, will biodegrade slowly, and will be persistent. Bottom-feeding fish, as well as fish in the oceans, will bioconcentrate the PCBs. Predators feed on these species and bioaccumulate the PCBs, and in this way PCBs are transported up the food chain. Ecological magnification could, therefore, be large, and man and the environment would be potentially at risk. These findings are discussed in "Environmental Transport and Transformation of Polychlorinated Biphenyls" (December 1983), which is part of item (1) of the record listed under Unit IV. Even if there were no possibility of small amounts of low concentrations of these PCB congeners reaching other environments, their persistence in terrestrial soil and sediment because of anaerobic conditions poses a risk to humans and the environment.

The petitioner states that mono-, di-, and trichlorobiphenyls (except 2,4,4'-trichlorobiphenyl) have a low order of toxicity to humans and other life forms. The data presented by the petitioner supporting this conclusion deal exclusively with acute toxicity for mammals; they do not address toxicity data for aquatic organisms. Toxicity data for these PCB congeners have been collected in the document entitled "Environmental Risk and Hazard Assessments for Various Isomers of Polychlorinated Biphenyls (Monochlorobiphenyl through Hexachlorobiphenyl and Decachlorobiphenyl)" (April 1984), which is part of item (1) of the record in Unit IV. These data indicate that mono-, di-, and trichlorobiphenyls are highly toxic to aquatic organisms. Further, there are data indicating cause for concern for chronic toxicity of lower chlorinated biphenyls. Chronic toxicity data show variations among different Aroclors when administered to different species of mammals. For example, Aroclor 1254 which contains only very small amounts of mono-, di-, and trichlorobiphenyls is generally found to be more toxic to rabbits and mice than Aroclor 1242 which contains more of these congeners--over 46 percent mono-, di-, and trichlorobiphenyls. However, Aroclor 1242 has been shown to cause moderate hepatotoxicity and reproductive effects in laboratory animals. Aroclor 1248, which contains 2 percent dichlorobiphenyl and 18 percent trichlorobiphenyl, had no excessive mortality on Sprague-Dawley rats when they were given 100 parts per million (ppm) dietary levels for 65 weeks; however, rhesus monkeys fed diets containing 25, 5, and 2.5 ppm showed morbidity after 2 months and mortality after 18 or fewer months. These findings are discussed in item (1) of the record under Unit IV. These findings were presented to Mr. Walker in EPA's response to his 1987 petition (52 FR 25071, July 2, 1987). In the current petition, Mr. Walker fails to present sufficient new scientific data which adequately supports his assertion that there are no adverse health or ecological effects from exposure to the lower

chlorinated biphenyls. The hazard potential has not been addressed, no risk benefit analysis has been presented, and no test data were provided to show that mono-, di-, and trichlorinated biphenyls were tested and found to be non-toxic. See item (6) in Unit IV for further discussion. Due to the fact that the petitioner has not submitted this information, he has not provided an adequate basis for EPA to determine that excluding mono-, di-, and trichlorinated biphenyls from the definition of PCBs would not present an unreasonable risk. Accordingly, his petition is inadequate to support his request for an amendment.

2. *Claimed Benefits and Response.* Mr. Walker's current petition does not address EPA's previous findings regarding the claimed benefits of changing the definition of PCBs. In his 1987 petition, the petitioner claimed that five benefits would come from the granting of his petition. They all derive from the use of monochlorobiphenyl and a small percentage of dichlorobiphenyl, and a small amount of trichlorobiphenyl in the petitioner's process and do not address any benefits from a general deregulation of lower chlorinated biphenyls. According to that petition, the Walker separation solvents are indispensable in the technology to make Boudouard carbon, a mobile motor fuel, from coal; in the technology to use high sulfur coal to make electricity without high sulfur pollution; to manufacture ethylene and propylene in an efficient low-cost manner that would improve the United States petrochemical industry's world position in olefin manufacturing; to make oil and Boudouard carbon from Western oil shales and tar sands; and to cut the use of coke and increase the capacity of blast furnaces in the production of pig iron.

EPA reasserts that theoretically all of these outcomes of the use of mono-, di, and trichlorobiphenyls are useful. However, all of the benefits the petitioner mentioned are relative to the results of other existing processes that make comparable products without the use of any PCBs. For example, as the petitioner has previously stated, there are other methods of preventing sulfur pollution of the air in the production of electricity from coal. The petitioner claimed that his method/technology is considerably more effective and considerably less expensive. However, the petition did not contain any data which allow comparison of either the cost or technical feasibility of the proposed Walker technology. In fact, no experimental evidence was provided to show that Walker Solvents are necessary or have any advantages over other solvents which are not presently banned under TSCA. Insufficient experimental evidence was provided to prove that Walker Solvents form advantageous complexes with cuprous aluminum chloride catalysts. Mr. Walker has conducted no tests to demonstrate the claimed advantages of Walker Solvents. Further, no synthetic or analytical data or methods were submitted to show that the desired Walker Solvent compositions could be manufactured economically without producing significant amounts of prohibited PCBs. As mentioned previously, the current petition offers no new evidence which convince EPA to grant his requested action. Without any comparative data, EPA cannot find that the petition offers unique, cost-effective solutions to the energy and industrial problems the petitioner claims.

Changing the definition would allow the manufacture and use of lower chlorinated biphenyls which EPA finds unacceptable on the bases of available data. Further, excluding mono-, di-, and trichlorobiphenyls (except 2,4,4'-trichlorobiphenyl) from regulation by definition would have not only the consequence of allowing the petitioner to use the Walker Solvent/technology, but would also open the door for all other uses of these biphenyls. In addition, no evidence has been submitted that shows that processes involving these biphenyls, including the petitioner's, can guarantee no generation of yet higher chlorinations of biphenyls.

III. Decision

EPA has reviewed the petition and has concluded that the definition of PCBs should not be amended for the following reasons:

1. The petitioner has failed to provide the Agency with sufficient evidence (as discussed above) to show that mono-, di-, and trichlorobiphenyls (except 2,4,4'-trichlorobiphenyl) should be excluded from the definition of PCBs.

2. EPA determined at the time the PCB regulations (42 FR 26564, May 24, 1977 and 43 FR 24802, June 7, 1978) were promulgated that sufficient evidence existed to support including all PCBs within the definition; no new developments, discoveries, or data have been presented to the Agency to support amending that position.

3. Based on the information currently available to the Agency, EPA continues to believe that mono-, di-, and trichlorobiphenyls present unreasonable risks to humans and the environment, and there are alternative products and technology to those proposed by the petitioner.

4. For the reasons discussed above, EPA does not believe that it is otherwise appropriate to exclude all intentionally manufactured lower chlorinated biphenyls from EPA regulation. Accordingly, the petition is denied.

IV. Public Record

EPA has established a public record for this notice (docket control number OPTS–211022A). A public version of this record containing nonconfidential materials is available in the TSCA Public Docket Office for viewing and copying from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday except legal holidays. The TSCA Public Docket Office is located in Rm. NE–G004, 401 M St., SW., Washington, DC. The public record for this petition includes:

1. Record from "Polychlorinated Biphenyls; Denials of Citizen's Petition," published in the **Federal Register** of July 2, 1987 (52 FR 25068). Docket number OPTS–211022.

2. Record from "Polychlorinated Biphenyls (PCBs); Denial of Citizen's Petition," published in the **Federal Register** of August 25, 1982 (47 FR 37258). Docket number OPTS–211006.

3. Record from "Toxic Substances Control Act; Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Exclusions, Exemptions, and Use Authorizations," published in the **Federal Register** of July 10, 1984 (49 FR 28172). Docket number OPTS–62032A.

4. Mr. Walker's petition to the Environmental Protection Agency, dated February 6, 1991.

5. USEPA, Environmental Criteria and Assessment Office, Office of Health and Environmental Assessment. "Drinking Water Criteria Document for Polychlorinated Biphenyls (PCBs)." May 1987. ECAO–CIN–414.

6. USEPA, OPTS, HERD, Memorandum from Joseph A. Cotruvo (HERD) to Elizabeth F. Bryan (EED), "Walker Section 21 Petition to Redefine PCBs, HERD, WATS #3–150" (March 29, 1991).

7. Correspondence between EPA and Mr. Walker:

a. Response to Mr. Walker denying his petition dated July 31, 1987, to exclude mono-, di-, and trichlorinated biphenyls from the definition of PCBs. September 11, 1987.

b. Response to Mr. Walker denying his petition dated August 14, 1987, which requests an exemption to do research and development with monochlorinated biphenyl. September 28, 1987.

8. Parkinson, A. and Safe, S. Mammalian Biologic and Toxic Effects

of PCBs. Environmental Toxin Series, Vol. 1, Springer-Verlag, Berlin, Heidelberg, 1987, pages 49–75.

9. Hansen, L.G. Environmental Toxicology of Polychlorinated Biphenyls. Environmental Toxin Series, Vol. 1, Springer-Verlag, Berlin, Heidelberg, 1987, pages 15–48.

10. Lilienthal, H., et al. Behavioral Effects of Pre- and Postnatal Exposure to a Mixture of Low Chlorinated PCBs in Rats. Fundamental and Applied Toxicology. 15, 457–467 (1990).

Dated: May 13, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 91–12013 Filed 5–21–91; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–117, Notice 2]

Transportation of a Hazardous Liquid in Pipelines Operating at 20 Percent or Less of Specified Minimum Yield Strength

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of meeting.

SUMMARY: In Notice 1 of this proceeding, RSPA requested public comment on the need to regulate the safety of hazardous liquid pipelines operated at 20 percent or less of specified minimum yield strength (SMYS). Now the Associate Administrator for Pipeline Safety announces that he will invite representatives of industry and government who have expressed a strong interest in this proceeding to discuss relevant issues or questions raised by Notice 1. The meeting will be open to the public and a transcript of the meeting will be placed in the docket.

DATES: The meeting will be held on June 17, 1991, from 2 p.m. to 5 p.m.

ADDRESSES: The meeting will be held in the Russell Senate Office Building, Room 253, Delaware Avenue and Constitution Avenue, NE., Washington, DC. The transcript of the meeting will be available for inspection and copying in Room 8419, NASSIF Building, 400 Seventh Street, SW., Washington, DC 20590. (Office hours are 8:30 to 5 p.m., Monday through Friday, except public holidays.)

FOR FURTHER INFORMATION CONTACT: G. Joseph Wolf, (202) 366–4560.

SUPPLEMENTARY INFORMATION: The federal pipeline safety standards in part 195 governing the transportation of hazardous liquids by pipeline do not apply to pipelines operating at 20 percent or less of specified minimum yield strength of the pipe (§ 195.1(b)(3)). Following a serious accident involving one of these low-stress pipelines, RSPA published an advance notice of proposed rulemaking on the need to apply the part 195 regulations to these lines (Notice 1; 55 FR 45822; October 31, 1990).

The comments we received on Notice 1 show a divergence of opinion about the extent to which pipelines operated at 20 percent or less of SMYS should be regulated. To help clarify and narrow the issues involved, the Associate Administrator for Pipeline Safety will invite representatives of industry and government who have expressed a strong interest in this proceeding to meet to discuss Notice 1. The meeting will be conducted as a roundtable forum.

Anticipated participants will be representatives of the petroleum and chemical industries, including the American Petroleum Institute, the Association of Oil Pipelines, the Independent Liquid Terminals Association, and the Chemical Manufacturers Association. Other invitees will include the National Resources Defense Council and representatives of state agencies, including the National Association of Pipeline Safety Representatives. Also, Congressional staff having an interest in this rulemaking will be invited to participate in the meeting.

Anticipated items to be discussed at this meeting include, but are not limited to, the following:

—Description of pipelines affected.
—Operating characteristics of pipelines operated at 20 percent or less of SMYS.
—Description of the current oversight of affected pipelines unregulated by OPS.
—Other federal or state regulations applicable to affected pipelines.
—Accident history of affected pipelines.
—Cost to bring affected pipelines into compliance with part 195.
—Additional cost to operate pipelines in compliance with part 195.
—General comments.

Interested persons who do not receive an invitation to participate in the meeting may be seated or stand in the audience to the extent space is available. Such persons will have an opportunity to participate in the discussion only upon approval of the chair. Additional procedures for the conduct of the meeting may be established at the meeting.

(49 App. U.S.C. 2002; 49 CFR 1.53 and App. A to part 106)

Issued in Washington, DC, on May 17, 1991.

Richard L. Beam,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 91–12178 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–60–M

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–121; Notice 1]

RIN 2137–AB 46

Hydrostatic Testing of Certain Hazardous Liquid and Carbon Dioxide Pipelines

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this notice RSPA proposes to extend hydrostatic testing or the alternative reduction in maximum operating pressure to all hazardous liquid steel pipelines where maximum operating pressure has not been established in accordance with the requirements of 49 CFR part 195. The proposal would establish an adequate margin of safety for all untested and all inadequately tested interstate hazardous liquid pipelines constructed prior to January 8, 1971, and intrastate hazardous liquid pipelines constructed prior to October 21, 1985. Accidents have occurred on these pipelines that might have been avoided had an adequate safety margin been established between the maximum operating pressure and a test pressure. Requiring an adequate margin of safety by hydrostatic testing or reduction in maximum operating pressure would minimize future failures on these currently untested or inadequately tested pipelines. Additionally, this notice proposes to extend the same requirements for an adequate margin of safety to carbon dioxide pipelines that are required for hazardous liquid pipelines. This is consistent with section 211 of the Pipeline Safety Reauthorization Act of 1988.

DATES: Interested persons are invited to submit written comments in duplicate by July 22, 1991. Late filed comments will be considered to the extent practicable. Interested persons should submit as part of their written comments all the material that is considered

relevant to any statement of fact or argument made.

ADDRESSES: Send comments to the Dockets Unit, room 8417, Office of Pipeline Safety (OPS), Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Identify the docket and notice numbers stated in the heading of this notice. All comments and materials cited in this document will be available in the docket for inspection and copying in room 8419 between 8 a.m. and 4 p.m. each working day. Non-Federal employee visitors are admitted to the DOT headquarters building through the southwest quadrant at Seventh and E Streets.

FOR FURTHER INFORMATION CONTACT: Albert C. Garnett, (202) 366–2036, regarding the subject matter of this notice, or Dockets Unit (202) 366–4453, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION:

Background

Hydrostatic testing is a generally recognized method of demonstrating the integrity of newly constructed and existing pipelines. The purpose of the hydrostatic test required by the pipeline safety regulations is to ensure that the pipeline has the necessary strength to function as designed and is free of critical size imperfections (defects), which will cause the line to leak or rupture under service conditions. Those defects have their origin in manufacturing, or in conditions subsequently initiated during transportation of the pipe, or during construction or operation of the pipeline. Notwithstanding, the pipeline safety regulations do not permit hydrostatic testing to replace the nondestructive testing requirements for welds in subpart D of part 195.

If no failure occurs during the hydrostatic test, it shows that the pipeline contains no defects that are critical within the pressure range and duration of the test. Moreover, testing to a level above a pipeline's maximum operating pressure (MOP) establishes a proven margin of safety against future failures resulting from the growth of defects. Part 195, subpart E requires that the minimum pressure for testing a pipeline be 125 percent of the MOP. This 125 percent relationship of test pressure to MOP was initially established in the pipeline safety regulations for interstate pipelines effective January 8, 1971. The 125 percent relationship of test pressure to maximum operating pressure originated in the American Society of Mechanical Engineers Code B31.4 for "Liquid Petroleum Transportation Piping Systems" (1966 edition). Line pipe research reported by the American Gas Association/Battelle (Columbus) contained in "Study Of Feasibility Of Basing Natural Gas Pipeline Operating Pressure On Hydrostatic Test Pressure," page 3 (February 1968); "5th Symposium On Line Pipe Research," page M–25 (November 1974); and "7th Symposium on Line Pipe Research," page 15–3 (October 1986) demonstrated that a minimum relationship (margin of safety) of hydrostatic test pressure to MOP of 125 percent is adequate to protect against future failures. The permanence of the margin of safety depends on the properties of the pipe, the operating conditions, the maintenance procedures, the protective coatings, and the environmental conditions.

At the same time that the hydrostatic test verifies the integrity of the pipeline by causing critical defects to fail, it may cause subcritical size imperfections to grow. When such defect growth occurs, it may cause failures during subsequent hydrostatic testing cycles at lower pressures than previously attained. However, such failures, termed pressure reversals, are infrequent. Therefore, it should not be presumed that repeated hydrostatic testing and subsequent defect growth reduce the safety of the pipeline. Although defect growth leading to failure can occur during hydrostatic testing, research reported by Battelle (Columbus) in the January 7, 1985, edition of "Oil & Gas Journal," page 94, states that the pressure reversal phenomenon is not of great concern provided that the minimum margin of safety between test pressure and MOP required by the current regulations is maintained.

The origination of defects and their growth in service are a much greater concern than defect growth during hydrostatic testing. Because untested or inadequately tested pipelines may contain defects that have not been detected by hydrostatic testing, these pipelines are more vulnerable to defect growth in service than properly tested pipelines. The origination or growth of defects while a pipeline is in operation may be caused by corrosion, creep, fatigue and external damage and may result in a leak or rupture. Therefore, these untested or inadequately tested pipelines are also more vulnerable to failures in service.

Untested pipelines and pipelines tested to lower pressures than required by the regulations have no proven margin of safety or a lower margin of safety than pipelines tested in compliance with the current regulations.

Because the proven margin of safety is less for pipelines that have not been tested in compliance with § 195.302(c), there is a greater possibility, than for properly tested pipelines, that pre-existing defects that have not grown will be stressed to a level that will cause failure during certain permitted overpressuring of the pipeline. This potential for failure is prevalent in older pipelines made of electric resistance welded (ERW) pipe. Hydrostatic testing in compliance with § 195.302(c) will eliminate such defects from causing failure within the limits of the MOP (§ 195.406(a)) and of overpressure from surges or other variations (§ 195.406(b)).

Additionally, the regulations in part 195, subpart E require that each new steel pipeline system and each part of an existing steel pipeline system that is replaced or relocated (not including certain pipe movement under § 195.424) must be qualified for use by hydrostatic testing. Section 195.302(c) requires testing to at least 1.25 times the intended MOP for not less than 4 continuous hours, and if the pipeline is not visually inspected for leakage during test, further testing to at least 1.10 times MOP for at least an additional 4 continuous hours. These regulations became effective January 8, 1971 and September 8, 1980, for new interstate pipelines, and October 21, 1985, for new intrastate pipelines.

Except for the onshore highly volatile liquid (HVL) pipelines discussed below, part 195 does not require that the MOP of hazardous liquid pipelines constructed before the above effective dates (and not subsequently replaced or relocated) be based on a prior hydrostatic test. For these pipelines, there may be little or no proven margin of safety to offset potential defect growth in service.

On September 8, 1980, DOT published regulations requiring untested or inadequately tested onshore interstate HVL pipelines constructed before January 8, 1971, and in HVL service before September 8, 1980, to be either qualified by hydrostatic testing during a 5-year period concluding September 14, 1985, in accordance with § 195.302(c), or not operated at more than 80 percent of any documented prior hydrostatic test or highest operating pressure held for 4 or more continuous hours in accordance with § 195.406(a)(5). Reducing MOP to 80 percent or less of a prior documented test or operating pressure held for at least 4 continuous hours provides a minimum 25 percent safety margin between MOP and test pressure which is equivalent to the margin provided by hydrostatic testing under § 195.302(c)

(Amendment 195–17; 45 FR 59161, September 8, 1980) (§ 195.302(b)).

A similar requirement to hydrostatically test or reduce the MOP of existing onshore intrastate HVL pipelines has been implemented during a 5-year period concluding April 22, 1990 (Amdt. 195–33; 50 FR 15895, April 23, 1985) (§ 195.302(b)).

Accident Record of HVL Pipelines

Of all the untested or inadequately tested hazardous liquid pipelines, DOT initially required testing or reduction in MOP of onshore HVL pipelines (§ 195.302(b)) because these pipelines posed higher risks of severe accidents than other pipelines due primarily to the nature of the product they transport. Operators were required to either reduce the MOP within 1 year following publication of the final rule or complete the hydrostatic testing within 5 years. During the 52-month period following the completion of the hydrostatic testing program for onshore interstate HAL pipelines, the reported accident data show a marked improvement in operational safety.

For the period from January 1, 1968 (the earliest data available) until the start of the test period on September 8, 1980, the average accident rate for onshore interstate HVL pipelines (tested, untested and inadequately tested) due to defective pipe, defective welds and corrosion was 10.9 a year. The mandatory test period concluded September 14, 1985, and for the subsequent period from September 15, 1985, through December 31, 1989, the average failure rate for this category of HVL interstate pipelines (now all assumed to be in compliance with § 195.302(b) by testing or reduction in MOP) due to the same causes was only 3.5 failures per year. Thus the statistics developed after the 5-year testing period show a 68 percent drop in the corresponding failure rate. OPS believes that such a dramatic drop after the required testing period represents the benefits of the rule requiring either hydrostatic testing or reduction in MOP to current requirements.

Need to Hydrostatically Test or Reduce the MOP of Other Hazardous Liquid Pipelines

In view of the positive results of the rule requiring hydrostatic testing or reduction of MOP of untested or inadequately tested onshore interstate HVL pipelines, OPS has examined the accident data available for non-HVL hazardous liquid pipelines. These include both interstate and intrastate, onshore and offshore pipelines carrying petroleum and petroleum products that are not HVL. Because the accident reporting requirements for intrastate hazardous liquid pipelines did not take effect until October 21, 1985, data for these pipelines are not available prior to that date.

OPS's statistics for the period October 21, 1985, through December 31, 1989, for all untested non-HVL steel pipelines show that 149 accidents were reported to have been caused by failed welds, failed pipe, and corrosion during this 4.2-year period. For accident reports submitted with incomplete hydrostatic test data (part H of DOT Form 7000–1), OPS assumes that a hydrostatic test meeting part 195 requirements had not been performed. It should be noted that a report of an accident on a non-HVL pipeline is only required where there is an explosion or unintentional fire, injuries or deaths, where the property damage exceeds $5,000, or where the spillage is 50 or more barrels of liquid. Therefore, the above statistics do not represent all the non-HVL accidents caused by defective pipe, defective welds and corrosion which occurred during this period, just those that met the minimum reporting requirements.

OPS has completed a technical report titled "Electric Resistance Weld Pipe Failures on Hazardous Liquid and Gas Transmission Pipelines" addressing the safety and reliability of electric resistance weld (ERW) pipe. The report indicates that there have been 172 failures on hazardous liquid pipelines during 1968–1988 involving longitudinal seam splits. About 98 percent of these failures were on pre-1970 ERW pipe. These were caused by seam defects, such as lack of fusion, low toughness, hook cracks, stitching, excessive hardness, and selective seam corrosion.

Because of the unique problem presented by ERW seams on many older pipelines, RSPA is proposing that ERW pipe manufactured prior to 1970 be given priority in scheduling hydrostatic tests that are conducted as a result of this rulemaking. Under this proposal, testing of pipelines known to have more than 50 percent by mileage of pre-1970 ERW pipe would have to be completed within 4.5 years after a final rule is published.

The following are accounts of a few significant reported accidents involving non-HVL pipelines that were not hydrostatically tested or not tested in the manner set forth in § 195.302(c):

On May 19, 1986, an 8-inch ERW interstate fuel oil pipeline, which was constructed in 1957, failed in Minnesota. The operator reported that the pipeline's operating pressure at the time of the failure was about 89 percent of the MOP. It was also reported that 628 barrels (26,376 gallons) of fuel oil were spilled, with 596 barrels (25,032 gallons) lost into the environment. The operator attributed the failure to a defect in an ERW longitudinal seam, and reported that the pipeline had not been qualified for service by a hydrostatic test.

On December 24, 1988, a 22-inch ERW interstate crude oil pipeline, which was constructed in 1949, ruptured in Maries (Vienna County), Missouri, leaving a 49"–5" opening in the longitudinal seam. The operator reported that the pressure at the location of the pipe failure at the time of the rupture was about 88 percent of the MOP and 91 percent of the maximum test pressure. It was also reported that 20,554 barrels (863,268 gallons) of crude oil were spilled from the rupture, with 9,054 barrels (380,268 gallons) lost into the environment. The operator attributed the pipe rupture to an operational error in switching to a connecting pipeline resulting in a pressure surge of about 88 percent of the MOP, which initiated the ERW seam split at a manufacturing defect known as a hook crack. Most of the crude oil flowed into a tributary of the Gasconade River, and much of that oil eventually flowed into the Missouri and Mississippi rivers. Although there were no deaths or injuries reported, the operator estimated property damage (including cost of unrecovered crude oil, damage to other parties, and cost of cleanup) to be approximately $14,000,000. It is to be noted that during the subsequent hydrostatic testing to establish an MOP according to current requirements of part 195, there have been numerous failures in the longitudinal seams of the ERW pipe.

On January 24, 1989, a 20-inch ERW interstate crude oil pipeline, which was constructed in 1948, ruptured in Winkler County, Texas, leaving a 13½-foot long opening in the longitudinal seam. The operator reported that the pipeline's operating pressure at the time of the rupture was about 96 percent of the reported MOP. It was also reported that 23,534 barrels (988,428 gallons) of crude oil were spilled from the rupture, with 17,685 barrels (742,770 gallons) lost into the environment. The operator attributed the rupture to a hook crack in the longitudinal seam, and reported that the pipeline had not been hydrostatically tested in the manner part 195 requires. Although there were no deaths or injuries reported, the operator estimated property damage (including cost of unrecovered crude oil, damage to other parties, and cost of cleanup) to be approximately $312,000. In this accident, the pipeline pumps reportedly were shut down in about 8 minutes, but crude oil continued to drain

from the rupture because approximately 19 miles of the pipeline were at a higher elevation. The pipeline will be operated at a reduced MOP until it is hydrostatically tested, after which a new MOP will be established at 80 percent of the hydrostatic test pressure.

In addition to the estimated damages reported by the operator, there may be other costs. The cost of environmental damage is not specifically required to be reported, and thus may not have been included in the estimates of property damage.

Furthermore, there is the potential for serious consequences to persons in the proximity of hazardous liquid pipeline failures. For example, on October 7, 1986, a failure occurred in a 14-inch non-HVL hazardous liquid interstate pipeline near King of Prussia, Pennsylvania. A spill of approximately 5,250 barrels (220,500 gallons) of gasoline resulted in evacuation of a major shopping center and closing a section of the Pennsylvania Turnpike. This failure was attributed to an improper welding procedure (probably exacerbated by bending stresses) on a repair sleeve that had been installed less than a month earlier. Fortunately, there were no deaths or injuries. However, the resulting evacuation, the closing of a major highway, and the reported unrecovered loss of 1,942 barrels (81,564 gallons) of gasoline into the environment, illustrate the potential harm that can occur from a failure in a non-HVL hazardous liquid pipeline.

The four pipeline failures discussed above that occurred within a 32-month time interval have resulted in the non-HVL spillage of 49,966 barrels (2,098,572 gallons) of which 29,277 barrels (1,229,634 gallons), or about 59 percent, were never recovered. Those significant spills occurred in four widely separated regions of the country and in the pipeline systems of four major operators. Thus, these failures were not confined to conditions occurring only in a limited geographic area or restricted to a specific pipeline system. Hazardous liquid spills of such magnitude have the potential to cause an accident of calamitous consequences to persons and property. Additionally, spillage of these large quantities of petroleum liquids can create major environmental problems for land surfaces and waterways.

Additional Benefits

Besides protecting against failures over the long term due to latent material and construction defects, hydrostatic testing of existing pipelines can have more immediate safety benefits. For example, flaws that may have occurred from excavation damage ("dig-ins") to in-service pipelines might be detected. In addition, some pipelines may have developed wall thinning from undetected corrosion during their years of service. For the 4.2-year period from October 21, 1985, through December 31, 1989, there were 116 failures reported to have been caused by corrosion in these untested or inadequately tested non-HVL pipelines. Similar corroded areas would be likely to rupture during hydrostatic testing, thus preventing potential in-service accidents. Moreover, OPS anticipates that when sections of pipeline are removed from service and prepared for hydrostatic testing, operators will use the opportunity to inspect the exposed pipe for evidence of deteriorated coating and external corrosion. Further, operators may perform other work to update their pipelines such as the replacement of obstructions to the passage of instrumented inspection devices ("smart pigs"). These opportunities for inspecting and updating those older pipelines will further contribute to their safe operations.

Extending the Existing Rule

For the foregoing reasons, RSPA is proposing to extend hydrostatic testing or reduction in MOP to all untested or inadequately tested steel pipelines where the MOP has not been established by the requirements of § 195.406(a). Operators electing to alternatively establish an MOP based on a previous hydrostatic test or a previous (not limited to the highest) operating pressure would be required to document that pressure by recording charts or logs made at the time the test or the operations were conducted, as was similarly required for onshore HVL pipelines in § 195.406(a)(5). The pipelines predominately affected by this notice are interstate non-HVL pipelines constructed before January 8, 1971, and intrastate non-HVL pipelines constructed before October 21, 1985, both onshore and offshore, that are subject to part 195.

This notice proposes to apply the minimum 25 percent margin of safety to untested or inadequately tested offshore HVL pipelines that were excluded from the hydrostatic test requirements of § 195.302(b) or the alternative reduction in MOP requirements of § 195.406(a)(5). Information from industry and Federal regulatory sources indicates that there are very few, if any, offshore pipelines covered by part 195 that transport HVL. Nonetheless, RSPA sees the need to close this regulatory gap by requiring the same minimum 25 percent margin of safety for older offshore HVL pipelines that is required for all other pipelines subject to part 195.

In response to section 211 of the Pipeline Safety Reauthorization Act of 1988 (Pub. L. 100–561; October 31, 1988) which requires the Secretary of Transportation to extend part 195 regulations to cover pipelines used in the transportation of carbon dioxide (CO_2), OPS issued a notice of proposed rulemaking entitled "Transportation of Carbon Dioxide by Pipeline" (Docket No. PS–112, Notice 1; 54 FR 41912; October 12, 1989). The period for public comment on that notice ended December 11, 1989. This notice proposes new or amended part 195 regulations for hydrostatic testing or alternative reduction in MOP to the CO_2 pipelines in Docket PS–112. The proposals in this notice are in addition to, and do not alter, the proposals made in Docket PS–112.

The regulations of part 195 currently apply to the pipeline transportation of hazardous liquids. A hazardous liquid defined by § 195.2 "means petroleum, petroleum products, or anhydrous ammonia" which are often categorized as HVL or non-HVL. Docket PS–112, draft final rule, amends the definitions in § 195.2 by the addition of "Carbon dioxide means a fluid consisting of more than 90 percent carbon dioxide molecules compressed to a supercritical state." Now, the regulations in this notice propose to revise part 195 to establish an adequate margin of safety for CO_2 pipelines in addition to certain hazardous liquid pipelines. At normal temperatures and atmospheric pressure, CO_2 is an odorless and colorless gas, not flammable, with a density 1.5 times the density of air. It will not support combustion nor will it sustain life if inhaled. As a gas, CO_2 is considered to be inert and does not easily react with other gases in the atmosphere. But, CO_2 chemically reacts with water to form carbonic acid which is corrosive to metals including steel pipe, valves and other pipeline components. Because of this chemical reaction, it is essential that a CO_2 pipeline be dried out completely after hydrostatic testing with water as a test medium. Although § 195.306 requires water as the test medium (with an exception for offshore pipelines under certain circumstances), Docket No. 112, (above), would revise § 195.306 to permit the alternative use of inert gas or CO_2 as a test medium under specified conditions.

Proposal

RSPA proposes to extend the current rule because hydrostatic testing is the only practicable means to protect the

public and the environment from the effects of preventable accidents, based on proven technology and accident data as discussed above OPS has been following with increased interest, the development and use of in-line inspection tools to obtain diverse information on hazardous liquid pipelines. Advances in the state-of-the-art by various manufacturers have made significant improvements in the data gathering and recording capacities of "smart pigs" and the subsequent interpretation of that information. But, at this time, no "smart pigs" are available that will reliably detect longitudinally oriented defects, especially those in and near line pipe welds. OPS encourages the use of these inspection devices where the technology is able to provide continuously reliable information on specific conditions and properties of the underground pipe. However, OPS recognizes that hydrostatic testing to the requirement of part 195 is the currently proven method for demonstrating the integrity of newly constructed and existing pipelines

If these proposed rules are adopted, operators will have to complete extensive planning, scheduling, budgeting, and engineering work before beginning actual hydrostatic testing. In addition, field construction will be necessary to prepare pipeline sections for hydrostatic testing. At the conclusion of hydrostatic testing, a substantial amount of work may be necessary to return the tested pipeline sections to service. Also, test water will have to be disposed of in an environmentally acceptable manner, although this problem can be minimized by planning to reuse water in consecutive test sections. In recognition of the time needed to complete hydrostatic testing, the proposed rule provides a 7.5–year period for compliance. But, the testing of pipelines known to have more than 50 percent by mileage of pre–1970 ERW pipe would have to be completed within 4.5 years after a final rule is published. Moreover, to assure completion within 7.5 years, operators would be required to meet certain interim milestones for planning, scheduling, and completion of hydrostatic testing or reduction of MOP

This proposal would amend the hydrostatic test requirements of §§ 195.300 and 195.302 as set forth hereafter. Section 195.302(c), dealing with test pressure, would be separately set forth as a new § 195.303. Section 195.406(a)(5), dealing with maximum operating pressure, would be modified to include certain pipelines under the amended § 195.302.

In commenting on these proposals, operators are requested to (1) estimate their mileage of non-HVL pipelines, offshore HVL pipelines and CO ² pipelines (categorized as non-HVL, offshore HVL or CO ²) that are subject to or proposed to be subject to part 195 but have not been hydrostatically tested in the manner set forth in subpart E of part 195; (2) estimate the percentage of the mileage given in response to item (1) that would be brought into compliance by reduction of MOP instead of hydrostatic testing (3) estimate the percentage drop of MOP and effect on annual throughput; and (4) estimate percentage of mileage given in response to item (1) that would be tested in accordance with § 195.306, which discusses the test medium.

Paperwork Reduction Act

This rulemaking would extend the collection of information under the current § 195.310 which describes the records of each hydrostatic test which must be retained as long as the facility is in use. This proposal will be submitted to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act of 1980 (44 U.S.C. chap. 35). Persons desiring to comment on these information collection requirements should submit their comments to the office of Regulatory Policy, Office of Management and Budget , 726 Jackson Place NW., Washington, DC 20503, Attention: Desk Officer, Research and Special Program Administration (RSPA). Persons submitting comments to OMB are also requested to submit a copy of their comments to OPS as indicated above under **ADDRESSES.**

Impact Assessment

The proposed rules are major under Executive order 12291. That order defines a major rule as one which has an annual effect on the economy of $100 million, a major increase in costs, or a significant adverse effect on the economy. The draft Economic Evaluation, a copy of which is in the docket, is based on available data and projected relevant costs and quantifiable benefits, shows net benefits resulting from the proposed rule. The agency's draft Economic Evaluation suggests that the benefits of hydrostatic testing exceed the associated costs. Comments are requested explaining why operators have not voluntarily tested pipelines never tested in accordance with current standards. Comments are also requested on the draft Economic Evaluation, in particular: (a) on the assumption of a 25 percent increase in benefits for non-reportable accidents; (b) on the cost of disposing testwater; (c) on the cost of environmental cleanup (i.e., cost per barrel); (d) on the cost of repairing blowouts; and (e) on whether those pipelines already tested have focused on pipelines with the most potential for leaking. These comments will be taken into consideration when preparing the final Regulatory Evaluation.

The proposal is "significant" as defined by the Department of Transportation Policies and procedures (44 FR 11034, February 26, 1979) because it involves a substantial change in regulations affecting existing hazardous liquid pipelines. Also, based on the facts available about the anticipated impact of this rulemaking action, I certify pursuant to section 605 of the Regulatory Flexibility Act that the action will not, if adopted as final, have a significant economic impact on a substantial number of small entities, because few, if any, small entities operate pipelines subject to part 195.

Federalism

OPS has analyzed this action in accordance with the principles and criteria contained in E.O. 12612 (52 FR 41685) and has determined that it does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 49 CFR Part 195

Hydrostatic testing, Maximum operating pressure, Carbon dioxide.

In consideration of the foregoing, RSPA proposes to amend title 49 of the Code of Federal Regulations part 195 to read as follows:

PART 195—[AMENDED]

1. The authority citation for part 195 continues to read as follows:

Authority: 49 App. U.S.C. 2002; and 49 CFR 1.53.

2. Section 195.300 would be revised to read as follows:

§ 195.300 Scope.

This subpart prescribes minimum requirements for hydrostatically testing steel pipelines. It does not apply to the movement of pipe under § 195.424.

3. Section 195.302 would be revised to read as follows:

§ 195.302 General requirements.

(a) Except for the alternative provided under paragraph (a)(6) of this section, each of the following pipelines must be hydrostatically tested without leakage under this subpart before being operated:

(1) An interstate hazardous liquid pipeline constructed on or after January 8, 1971.

(2) An intrastate hazardous liquid pipeline constructed on or after October 21, 1985.

(3) A carbon dioxide pipeline constructed on or after (insert date of publication of final rule).

(4) A pipeline system or component of a pipeline system that is relocated, replaced or otherwise changed.

(5) A pipeline previously used in service not subject to this part and qualified for use under § 195.5.

(6) An HVL pipeline where the operator reduced the maximum operating pressure under the requirements of § 195.406(a)(5) as in effect (insert one day prior to effective date of this final rule):

(i) An interstate onshore pipeline constructed before January 8, 1971, and in HVL service before September 8, 1980.

(ii) An intrastate onshore pipeline constructed before October 21, 1985, and in HVL service before April 23, 1985.

(b) The following non-HVL pipelines that were not hydrostatically tested under this subpart must be hydrostatically tested without leakage under this subpart or the operator may reduce maximum operating pressure under § 195.406(a)(5) in accordance with the compliance dates of paragraph (e) of this section:

(1) An interstate pipeline constructed before January 8, 1971.

(2) An intrastate pipeline constructed before October 21, 1985.

(c) The following HVL pipelines that were not hydrostatically tested under this subpart must be hydrostatically tested without leakage under this subpart or the operator may reduce maximum operating pressure under § 195.406(a)(5) in accordance with the compliance dates of paragraph (e) of this section:

(1) An interstate offshore pipeline constructed before January 8, 1971.

(2) An intrastate offshore pipeline constructed before October 21, 1985.

(d) A carbon dioxide pipeline constructed before the (insert publication date of final rule) that was not hydrostatically tested under this subpart must be hydrostatically tested without leakage under this subpart or the operator may reduce maximum operating pressure under § 195.406(a)(5) in accordance with the compliance dates of paragraph (e) of this section.

(e) The following compliance dates apply to pipelines under paragraphs (b), (c), and (d) of this section:

(1) Planning and scheduling of hydrostatic testing, or actual reduction in maximum operating pressure under § 195.406(a)(5), must be completed before (1 year after date of publication of final rule);

(2) Hydrostatic testing of each discrete (as identified by name, symbol or otherwise by the operator) pipeline for which it can be determined from existing records that electric resistance welded pipe manufactured prior to 1970 exceeds 50 percent by mileage of the pipeline must be completed before (4.5 years after date of publication of final rule); and

(3) Hydrostatic testing of pipelines other than those identified in subparagraph (2) of this paragraph must be completed before (7.5 years after date of publication of final rule) with at least 50 percent by mileage of the testing completed before (4.5 years after date of publication of final rule).

4. Section 195.302(c) would be redesignated as § 195.303 to read as follows:

§ 195.303 Test Pressure.

The test pressure for each hydrostatic test conducted under this subpart must be maintained throughout the part of the system being tested for at least 4 continuous hours at a pressure equal to 125 percent, or more, of the maximum operating pressure, and in the case of a pipeline that is not visually inspected for leakage during test, for at least an additional 4 continuous hours at a pressure equal to 110 percent, or more, of the maximum operating pressure.

5. Section 195.304(a) would be revised to read as follows:

§ 195.304 Testing of components.

(a) Each hydrostatic test under this subpart must test all pipe and attached fittings, including components, unless otherwise permitted by paragraph (b) of this section.

* * * * *

6. In § 195.406, the introductory text of paragraph (a) is republished without change, and paragraph (a)(5) would be revised to read as follows:

§ 195.406 Maximum operating pressure.

(a) Except for surge pressures and other variations from normal operations, no operator may operate a pipeline at a pressure that exceeds any of the following:

* * * * *

(5) For pipelines under § 195.302 (b), (c), and (d), 80 percent of a hydrostatic test pressure or alternatively 80 percent of an operating pressure to which the pipeline was subjected for 4 or more continuous hours that can be demonstrated by recording charts or logs made at the time the hydrostatic test or the alternative operations were conducted.

* * * * *

Issued in Washington, DC, on May 14, 1991.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety, Research and Special Programs Administration.

[FR Doc. 91-12168 Filed 5-21-91; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1246 and 1248

[Docket No. 40436]

Revision to Railroads' Reporting Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rulemaking sets forth proposed changes to railroads' periodic report forms. The objective is to streamline and update the report forms to reduce reporting burden and require only frequently used disclosures.

DATES: Comments are due by June 21, 1991.

ADDRESSES: An original and fifteen copies, if possible, of comments should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: William F. Moss, III, (202) 275-7510, (TDD for hearing impaired (202) 275-1721).

SUPPLEMENTARY INFORMATION: The Commission is proposing to revise the reporting regulations and report forms for railroads in order to effect cost savings and to reduce reporting burden by an estimated 20,000 hours. Generally, Form R-1 will be reduced by eliminating certain schedules and combining others. Form C will no longer be required. Form QCS will be required annually instead of quarterly. We propose no specific changes to the report forms RE&I, CBS, or to FORMS A AND B. The following report forms are under review:

—Railroad Annual Report Form R-1 (Form R-1) (OMB 3120-0029)

—Quarterly Report Form RE&I (Form RE&I) (OMB 3120-0027)

—Quarterly Condensed Balance Sheet—Railroads (Form CBS) (OMB 3120-0063)

—Monthly Report of Number of Railroad Employees (Form C) (OMB 3120-0133)

—Report of Railroad Employees, Service, and Compensation (Forms A and B) (OMB 3120–0074)
—Quarterly Report of Freight Commodity Statistics (Form QCS) (OMB 3120–0031)

The new Form R–1 will be used for the 1991 reporting year, required to be filed by March 31, 1992. All other revised forms listed here will be effective upon OMB approval for the 1991 reporting year.

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: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275–7428. [Assistance for the hearing impaired is available through TDD services (202) 275–1721.]

This revision will not have a significant economic impact on a substantial number of small entities and this decision will not significantly affect the quality of the human environment or the conservation of energy resources.

It is estimated that no additional burden hours per response are required to complete this collection of information. It is anticipated that the proposed changes would be beneficial to the railroad companies and to the Commission because implementation would result in an overall decrease of approximately 20,000 burden hours. This estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The information collection requirements contained in this proposal will be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and 5 CFR part 1320. Respondents may direct comments concerning the paperwork burden and burden estimates to the OMB and ICC by addressing them to:

Office of Management & Budget, Office of Information and Regulatory Affairs, Desk Officer for ICC (Forms 3120–), Washington, DC 20503.

Interstate Commerce Commission, ATTN: Forms Clearance Officer, room 2203, Washington, DC 20423.

List of Subjects

49 CFR Part 1246

Railroad employees, Reporting and recordkeeping requirements.

49 CFR Part 1248

Freight, Railroads, Reporting and recordkeeping requirements, Statistics.

Decided: May 8, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald. Commissioners Simmons and McDonald dissented in part with separate expressions.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, parts 1246 and 1248 are proposed to be amended as follows:

PART 1246—[REMOVED]

1. Part 1246 is proposed to be removed.

PART 1248—FREIGHT COMMODITY STATISTICS

2. The authority citation for part 1248, subpart A-Railroads, is proposed to be revised to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 10321 and 11145.

3. Section 1248.1 is proposed to be revised to read as follows:

§ 1248.1 Freight commodity statistics.

All Class I railroads shall compile and report freight commodity statistics on the basis of the commodity codes named in § 1248.101. Such reports shall be made in conformity with the provisions set forth in §§ 1248.2 through 1248.5, as supplemented by the instructions included in the appropriate report form to be supplied to the reporting railroads.

4. In § 1248.2 the introductory text of paragraph (a) is proposed to be revised to read as follows:

§ 1248.2 Items to be reported.

(a) The following items are required to be reported annually by Class I railroads:

* * * * *

5. In § 1248.3, the first sentence of paragraph (a) is proposed to be revised to read as follows:

§ 1248.3 Carload and L.C.L. traffic defined.

(a) Commodity codes 01 through 462 and 48, named in Section 1248.101, shall include only carload traffic. * * *

* * * * *

6. Section 1248.5 is proposed to be revised to read as follows:

§ 1248.5 Report forms and date of filing.

Class I railroads shall file annually the report of Freight Commodity Statistic (Form FCS) with the Office of Economics, Interstate Commerce Commission, Washington, DC 20423. This report shall be filed on or before February 28 of each year.

7. The authority citation for part 1248, Subpart B-Commodity Code, is proposed to be revised to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 10321 and 11145.

8. Section 1248.100 is proposed to be revised to read as follows:

§ 1248.100 Commodity classification designated.

Class I railroads shall file the report of Freight Commodity Statistics (Form FCS) based on the commodity codes as shown in Section 1248.101.

9. Section 1248.101 is proposed to be amended by adding the following commodity codes to the table:

§ 1248.101 Commodity codes required.

* * * * *

Code and Description	
* * * * *	
43	MAIL AND EXPRESS TRAFFIC.
* * * * *	
48	HAZARDOUS WASTES.

[FR Doc. 91–12143 Filed 5–21–90; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 56, No. 99
Wednesday, May 22, 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.

DEPARTMENT OF AGRICULTURE

Types and Quantities of Agricultural Commodities to be Made Available for Donation Overseas; Fiscal Year 1991

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This Notice sets forth the determination that a quantity of nonfat dry milk owned by the Commodity Credit Corporation may be made available for donation overseas under section 416(b) of the Agricultural Act of 1949, as amended, during fiscal year 1991, in addition to quantities of commodities previously determined to be available for such purpose.

FOR FURTHER INFORMATION CONTACT: Mary Chambliss, Director, Program Analysis Division, Office of the General Sales Manager, FAS, USDA (202) 447-3573.

SUPPLEMENTARY INFORMATION: It has previously been determined that a total of 2,200,000 metric tons of grains and 109,700 metric tons of butter and butter oil shall be made available for donation under section 416(b) during fiscal year 1991. This determination was published in the Federal Register on October 4, 1990. The purpose of this Notice is to inform the public that such previous determination is revised by adding 22,650 metric tons of nonfat dry milk.

Accordingly, a total of 2,200,000 metric tons of grains and 132,350 metric tons of dairy products shall be made available for donation overseas pursuant to section 416(b) during fiscal year 1991.

The kinds and quantities of commodities that shall be made available for donation are as follows:

Commodity	Quantity (Metric tons)
Grains and Oilseeds:	
Corn	1,500,000
Sorghum	700,000
Total	2,200,000
Dairy Products:	
Butter and Butter Oil	109,700
Nonfat Dry Milk	22,650
Total	132,350

Done at Washington, DC this 16th day of May 1991.

Edward Madigan,

Secretary of Agriculture.

[FR Doc. 91-12163 Filed 5-21-91; 8:45 am]

BILLING CODE 3410-10-M

Animal and Plant Health Inspection Service

[Docket No. 91-065]

Recipt of Permit Applications for Release Into the Environment of Genetically Engineered Organisms

AGENCY: Amimal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that two applications for permits to release genetically engineered organisms into the environment are being reviewed by the Animal and Plant Health Inspection Service. The applications have been submitted in accordance with 7 CFR part 340, which regulates the introduction of certain genetically engineered organisms and products.

FOR FURTHER INFORMATION CONTACT: Mary Petrie, Program Analyst, Biotechnology, Biologics, and Environmental Protection, Biotechnology Permits, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 844, Federal Building, 650 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612.

SUPPLEMENTARY INFORMATION: The regulations in 7 CFR part 340, "Introduction of Orgainisms and Products Altered to Produced Through Genetic Engineering Which are Plant Pests or Which There is Reason to Believe Are Plant Pests." require a person to obtain a permit before introducing (importing, moving interestate, or relasing into the environment) in the United States, certain genetically engineered organisms and products that are considered "regulated articles." The regulations set forth procedures for obtaining a permit for the release into the environment of a regulated article, and for obtaining a limited permit for the importation or interstate movement of a regulated article.

Pursuant to these regulations, the Animal and Plant Health Inspection Service has received and is reviewing the following applications for permits to release genetically engineered organisms into the environment:

Application No.	Applicant	Date received	Organism	Field test location
91-107-04	Calgene, Incorporated	04-17-91	Tomato plants genertically engineered to express a neomycin phospho-transferase II gene (NPT II) and a polygalac-turonase (PG) antisense gene, or a cytokinin biosynthetic gene.	California.
91-115-01	U.S. Department of Agriculture, Argicultural Research Service.	04-25-91	Tobacco plants genetically engineered to express the neomycin phospho-transferase II (NPT II) protein and the Beet Curly Top Virus (BCTV) capsid protein gene.	Washington.

Done in Washington, DC, this 16 day of May 1991.

Robert Melland,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 91-12161 Filed 5-21-91; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Devil's Den Compartment, Placerville Ranger District, Eldorado National Forest; Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: After completion of a study on impacts from management activities that are proposed within the Devil's Den Compartment by the Eldorado National Forest, the Forest Service will prepare an environmental impact statement (EIS) for management of the resources within the compartment. The agency invites written comments and suggestions on the analysis. The agency also gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: The Eldorado National Forest held a public meeting in February 1990 and has continuously invited public comments. Further comments are requested by May 31, 1991.

ADDRESSES: Submit written comments and suggestions about the analysis to Robert A. Smart, Jr., Placerville Ranger District, Eldorado National Forest, 3491 Carson Court, Placerville, CA 95667.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and EIS should be directed to Debbie Gaynor, Project Leader, Placerville Ranger District, Eldorado National Forest, 3491 Carson Court, Placerville, CA 95667, phone 916-644-2324.

SUPPLEMENTARY INFORMATION: A range of alternatives for this compartment, located in the Strawberry Canyon area of the Placerville Ranger District, will be considered. One of these will be a no action alternative. Other alternatives will address resource management that include varying intensities of recreation development, timber harvest, wildlife management, archaeological surveys, watershed and fisheries improvement projects, and fuels treatment. Location and scope of activities will be described.

Public participation will be especially important at several points throughout the environmental analysis process. The Forest Service has been seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed actions. This input will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying the issues and determining the significant issues for consideration and analysis within the EIS.
2. Identifying the potential environmental, technical, and social impacts of the alternatives.
3. Determining potential cooperating agencies.
4. Identifying groups or individuals interested or affected by the decision.

The U.S. Fish and Wildlife Service and California Department of Fish and Game have participated to evaluate potential impacts on threatened and endangered species habitat.

The draft EIS will be filed with the Environmental Protection Agency (EPA) and become available for public review sometime after the study on impacts to the Compartment and its resources is completed. At that time, the EPA will publish a notice of availability of the draft EIS in the **Federal Register**.

The comment period on the draft EIS will be 45 days from the date the EPA's notice of availability appears in the **Federal Register**. Comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed (see the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions, *Vermont Yankee Nuclear Power Corp.* v. NRDC, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stages may be waived if not raised until after completion of the final EIS, *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

After the comment period on the draft EIS ends, the comments will be analyzed and considered by the Forest Service in preparing the final EIS. In the final EIS, the Forest Service is required to respond to the comments and responses received (40 CFR 1503.4). The responsible official will consider the comments; responses; environmental consequences discussed in the draft EIS; and applicable laws, regulations, and policies in making a decision. The responsible official will document the decision and reasons for the decision in the Record of Decision. The decision is subject to appeal pursuant to 36 CFR part 217.

Dated: May 9, 1991.

Robert A. Smart, Jr.,

District Ranger.

[FR Doc. 91-12045 Filed 5-21-91; 8:45 am]

BILLING CODE 3410-11-M

Trail System and Off-Rock Vehicle Management and Development, Ochoco National Forest and Crooked River National Grassland, Crook, Grant, Harney, and Wheeler Counties, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) for analysis of development and management of the Ochoco National Forest and Crooked River National Grassland trail system and off-road vehicle use. The proposed action includes:

(1) Develop trail and trailhead facilities Standards and Guidelines for all Forest and Grassland management allocations.

(2) Develop recreation objectives that address all user groups and acceptable intensity of use for all Forest and Grassland trails and trailhead facilities.

(3) Identify corridors for additional trails

(4) Designate off-road vehicle use and routes.

(5) Review and strengthen the Management Allocations Standards and Guidelines in the Forest and Grassland Land and Resource Management Plans that inadequately address off-road vehicle use.

The EIS will be both programmatic and site specific. Those components that are programmatic which require another decision will have a site specific environmental analysis conducted at a later date. This additional analysis may occur several years after the decision supported by this EIS.

Changes proposed to this EIS to the current Management Allocations Standards and Guidelines in the Forest

and Grassland Land and Resource Management Plan will result in amendments to those Plans.

The purpose of the EIS will be to develop and evaluate a range of alternatives for these proposed actions. The alternatives will include a no action (no change) alternative. The proposed actions will be tiered to and in compliance with direction in the Ochoco National Forest and Crooked River National Grassland and Resource Management Plans (Forest Plan). In addition, the proposed off-road vehicle use shall be planned and implemented to protect land and other resources, promote public safety, and minimize conflicts with other uses of the National Forest Systems lands (36 CFR 219.21 (g) and 36 CFR 295—Use of Motor Vehicles Off Forest Development Roads).

The Forest Service invites written comments on the scope of this project. In addition, the Forest Service gives notice of this analysis so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of this proposal must be received by June 30, 1991.

ADDRESSES: Submit written comments and suggestions concerning the scope of the analysis to Thomas A. Schmidt, Forest Supervisor, Ochoco National Forest, P.O. Box 490, Prineville, OR 97754.

FOR FURTHER INFORMATION CONTACT: Questions and comments about this EIS should be directed to Ollie Jones, Supervisor's Office, Ochoco National Forest, phone (503) 573–9549.

SUPPLEMENTARY INFORMATION: A need to address access and travel on the Ochoco National Forest and Crooked River National Grassland became apparent from public comments and appeals to the Record of Decision for the Forest and Grassland Land and Resource Management Plan Final Environmental Impact Statement. To address these comments and appeals, a interdisciplinary team was assembled. The interdisciplinary team devoted most of 1990 studying these comments and appeals.

Considerable public involvement identified and clarified access and travel issues. The Forest and Grassland held over 30 public meetings and received comments from over 40 individuals and user groups. The interdisciplinary team identified a need to provide a comprehensive, Forest and Grassland trail system analysis. The Forest Supervisor has decided to develop a programmatic Forest and Grassland Trails Environmental Impact Statement.

A tentative list of issues has been identified from the scoping for Forest and Grassland access and travel, and the appeals to the Forest and Grassland Land Management Plans. These tentative issues are:

1. What are the impacts from all the different kinds of recreational use upon the land and to the other recreation users?

2. How much recreation trail development can the resources on the Forest and Grassland handle without degrading the resources and recreational experience?

3. Which user groups are compatible for use of the same recreational facilities and which are not? Some user groups want to have their own designated single-use areas. Can seasonal-use restrictions for a recreational facility enable incompatible user groups to enjoy and use the same facilities?

4. What will be the effects of trail development and use upon the ability of the Forest Service to control wildfires, harvest timber, and administer grazing and special use permits?

5. Some user groups want sponsored events and have specific areas developed for their use: When and where is this type of use and development appropriate?

6. There is a need to maintain consistent and equitable control of recreational users to provide for user safety, and to prevent damage to adjacent landowners and forest resources.

7. Determine those areas of the Forest and Grassland that are restricted and available to recreational use.

8. Use signs to post regulations, restrictions, and sharing of information to educate and inform the public.

Public participation will be important during the analysis. The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies, and other individuals or organizations who may be interested in or affected by the proposed actions. This information will be used in preparation of the draft EIS. The scoping process includes:

1. Identifying potential issues.

2. Identifying issues to be analyzed in depth.

3. Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis process.

4. Exploring additional alternatives.

5. Identifying potential environmental effects of the proposed action and alternatives (i.e. direct, indirect, and cumulative effects and connected actions).

6. Determining potential cooperating agencies and task assignments.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review around July, 1992. Copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. EPA will publish a notice of availability of the draft EIS in the **Federal Register.**

The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register.** It is very important that those interested in the management of the Ochoco National Forest participate at that time.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions (*Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978)). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts (*City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980)). In light of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed

action, comments on the draft EIS should be as specific as possible.

The final EIS is scheduled to be completed around July 1993. In the final EIS, The Forest Service is required to respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. Tom Schmidt, Forest Supervisor, Ochoco National Forest, is the responsible official. As the responsible official he will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service appeal regulations (36 CFR part 217).

Dated: May 10, 1991.

Thomas A. Schmidt,

Forest Supervisor.

[FR Doc. 91-12097 Filed 5-21-91; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis, Commerce.

Title: Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad.

Form Number: Agency-BE-133C; OMB-0608-0024.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,400 respondents; 3,780 reporting hours.

Average Hours per Respondent: 2.7 hours.

Needs and Uses: The survey collects data on actual and projected expenditures for property, plant, and equipment of majority-owned foreign affiliates of U.S. companies. Universe estimates are developed from the reported sample data. The data are needed to: (1) Monitor current and projected developments in international investment; and (2) assess the potential impact of proposed or newly implemented U.S. or foreign government policies affecting international investment, and, based upon this assessment, make informed policy decisions regarding U.S. direct investment abroad.

Affected public: Businesses or other for-profit institutions.

Frequency: Annually.

Respondent's obligation: Mandatory.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room H6622, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 17, 1991.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 91-12172 Filed 5-21-91; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Economic Analysis, Commerce.

Title: Followup Schedule of Expenditures for Property, Plant, and Equipment of U.S. Direct Investments Abroad.

Form Number: Agency—BE-133B; OMB—0608-0020.

Type of Request: Extension of the expiration date of a currently approved collection.

Burden: 1,400 respondents; 3,780 reporting hours.

Average Hours per Response: 2.7 hours.

Needs and Uses: The survey collects data on projected expenditures for property, plant, and equipment of majority-owned foreign affiliates of U.S. companies. Universe estimates are developed from the reported sample data. The data are needed to: (1) Monitor current and projected developments in international investment; and (2) assess the potential impact of proposed or newly implemented U.S. or foreign government policies affecting international investment, and, based upon this assessment, make informed policy decisions regarding U.S. direct investment abroad.

Affected Public: Businesses or other for-profit institutions.

Frequency: Annually.

Respondent's Obligation: Mandatorv.

OMB Desk Officer: Marshall Mills, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room H6622, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Marshall Mills, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: May 17, 1991.

Edward Michals,

Department Clearance Officer, Office of Management and Organization.

[FR Doc. 91-12173 Filed 5-21-91; 8:45 am]

BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Docket 31-89]

Foreign-Trade Zone 32—Miami, Florida Withdrawal of Request for Removal of Zone Restricted Merchandise

Notice is hereby given of the withdrawal of the request 6/7/89) on behalf of Philip Morris International, Inc., to enter for consumption certain zone-restricted status merchandise in Foreign-Trade Zone 32, Miami, Florida.

The case has been withdrawn due to changed circumstances, and FTZ Board Docket 31-89 is closed.

Dated: May 17, 1991.

John J. Da Ponte, Jr.,

Executive Secretary

[FR Doc. 91-12181 Filed 5-21-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-588-810]

Mechanical Transfer Presses From Japan; Termination in Part of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Termination in Part of Antidumping Duty Administrative Reviews.

SUMMARY: On March 15, 1991, the Department of Commerce initiated

administrative reviews of the antidumping duty order on mechanical transfer presses from Japan. The Department has now determined to terminate in part these reviews.

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Helen M. Kramer or Linda D. Ludwig, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–3793.

SUPPLEMENTARY INFORMATION:

Background

On March 15, 1991, the Department of Commerce published a notice of initiation of administrative reviews of the antidumping duty order on mechanical transfer presses from Japan. This notice stated that we would review entries for exporters during the period from August 18, 1989, through January 31, 1991. The following exporters subsequently withdrew their requests for review:

Aida Engineering, Ltd.
Hitachi Zosen Corporation
Yamakawa Manufacturing Corporation of America

Accordingly, the Department has determined to terminate in part these reviews. This notice is in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and section 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–12182 Filed 5–21–91; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–813]

Initiation of Antidumping Duty Investigation: Refined Antimony Trioxide From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce (the Department), we are initiating an antidumping duty investigation to determine whether imports of refined antimony trioxide from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of refined antimony trioxide from the PRC are materially injuring, or threaten material injury to, a U.S. industry. The ITC will make its preliminary determination on or before June 10, 1991. If that determination is affirmative, we will make a preliminary determination on or before October 2, 1991.

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Vincent Kane or Carole Showers, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–2815 or (202) 377–3217.

SUPPLEMENTARY INFORMATION:

The Petition

On April 25, 1991, we received a petition filed in proper form by the Coalition for Fair Trade in Antimony Trioxide and its individual members, Anzon, Inc. and Atochem North America, Inc. of Philadelphia, PA, Laurel Industries, Inc. of Cleveland, OH, U.S. Antimony Corporation of Thompson Falls, MT and U.S. Antimony Sales Corporation of Natick, MA. In compliance with the filing requirements of the Department's regulations (19 CFR 353.12), petitioners allege that imports of refined antimony trioxide from the PRC are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, U.S. industry.

Petitioners have stated that they have standing to file the petition because they are interested parties, as defined under section 771(9)(C) of the Act, and because they have filed the petition on behalf of the U.S. industry producing the product that is subject to this investigation. Any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, who wishes to register support for, or opposition to, this petition, should file written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

United States Price and Foreign Market Value

Petitioners have calculated United States price (USP) based on two methods. The first uses an estimated average c.i.f. unit value of imports of the subject merchandise from the PRC, as reported in the U.S. Census Bureau statistics for July through December 1990, with deductions for ocean freight and insurance. The second method calculates USP based on documented c.i.f. Hong Kong price quotes from a Hong Kong distributor of the subject merchandise with a deduction for foreign inland freight.

Petitioners allege that the PRC is a nonmarket economy country within the meaning of section 777(c) of the Act. Accordingly, petitioners based foreign market value (FMV) on constructed value using one of the petitioning firm's factors of production for refined antimony trioxide. In valuing the factors of production, petitioners used Bolivia, a third country that produces a comparable product, and whose economy is market driven and which petitioners contend is comparable to the PRC.

Based on a comparison of USP and FMV, petitioners allege dumping margins ranging from 109.1 to 122.6 percent. We have accepted this comparison.

Initiation of Investigation

Under section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on refined antimony trioxide from the PRC and found that the petition meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of refined antimony trioxide from the PRC are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by October 2, 1991.

Pursuant to section 771(18) of the Act and based on prior investigations, the PRC is an NME. Parties will have the opportunity to comment on this issue and whether foreign market value should be based on prices or costs in the NME in the course of this investigation.

The Department further presumes, based on the extent of central control in the NME, that a single antidumping duty margin is appropriate for all exporters. Only if NME exporters can demonstrate an absence of central government control with respect to the pricing of exports, both in law and in fact, will they be entitled to separate, company-specific margins. (See, Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China [56 FR 20588, May 6, 1991] for a discussion of the information the Department considers in this regard.)

In accordance with section 773(c), FMV in NME cases is based on NME producers' factors of production (valued in a market economy country). Absent evidence that the PRC government has selected which factories produce for the United States, for purposes of the investigation we intend to base FMV only on those factories in the PRC which produce refined antimony trioxide for export to the United States.

Scope of Investigation

The product covered by this investigation is refined antimony trioxide (also known as antimony oxide) from the PRC. Antimony trioxide is a crystalline powder of the chemical formula Sb203, as provided for in subheading 2825.80.00 of the *Harmonized Tariff Schedule of the United States* (HTS). The refined trioxide includes blends with organic or inorganic additives comprising up to and including 20 percent of the blend by volume or weight. Crude antimony trioxide (antimony trioxide having less than 98 percent Sb203) is excluded. The HTS item number is provided for convenience and customs purposes. The written description remains dispositive.

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will allow the ITC access to all privileged and business proprietary information on the Department's files, provided the ITC confirms in writing that it will not disclose such information either publicly or under administrative protective order without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

Preliminary Determination by ITC

The ITC will determine by June 10, 1991, whether there is a reasonable indication that imports of refined antimony trioxide from the PRC are materially injuring, or threaten material injury to, a U.S. industry. If its determination is negative, the investigation will be terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act.

Dated: May 15, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-12183 Filed 5-21-91; 8:45 am]

BILLING CODE 3510-DS-M

A-588-028]

Roller Chain, Other Than Bicycle, From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner and seven respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on roller chain, other than bicycle, from Japan. The review covers one firm, Pulton Chain Co., Ltd., including sales made through I&OC of Japan Co., Ltd., and the period April 1, 1985, through March 31, 1986. The review indicates the existence of dumping margins during this period. As a result of the review, the Department of Commerce has preliminarily determined to assess antidumping 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: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Michael Diaz, Edward Haley, or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On October 22, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 42608) the final results of its last administrative review of the antidumping finding on roller chain, other than bicycle, from Japan (38 FR 9226, April 12, 1973). The American Chain Association, the petitioner, and seven respondents requested in accordance with 19 CFR 353.53a(a) (1985) that we conduct an administrative review. We published notices of initiation of the antidumping duty administrative review on May 20, 1986 (51 FR 18475), and October 3, 1986 (51 FR 35384). The Department has now conducted that administrative review with respect to one firm in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of the Review

Imported covered by this review are shipments of roller chain, other than bicycle, from Japan. The term "roller chain, other than bicycle," as used in this review includes chain, with or without attachments, whether or not plated or coated, and whether or not manufactured to American or British standards, which is used for power transmission and/or conveyance. Such chain consists of a series of alternately-assembled roller links and pin links in which the pins articulate inside the bushings and the rollers are free to turn on the bushings. Pins and bushings are press fit in their respective link plates. Chain may be single strand, having one row of roller links, or multiple strand, having more than one row of roller links. The center plates are located between the strands of roller links. Such chain may be either single or double pitch and may be used as power transmission or conveyor chain.

This review also covers leaf chain, which consists of a series of link plates alternately assembled with pins in such a way that the joint is free to articulate between adjoining pitches. This review further covers chain model numbers 25 and 35. Roller chain, other than bicycle, was classified under various provisions of the Tariff Schedules of the United States Annotated (TSUSA) from item numbers 652.1400 through 652.3800, and is currently classifiable under Harmonized Tariff System (HTS) item numbers 7315.11.00 through 7616.90.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The Department initiated a review covering seven manufacturers/exporters of roller chain to the United States and the period April 1, 1985, through March 31, 1986. Of these seven firms, the review of three companies has been deferred, the finding has been revoked with respct to one company, the review of another company has been terminated, and the review of I&OC of Japan Co,, Ltd. (I&OC), has been

incorporated into the review of Pulton Chain Co., Ltd. (Pulton). We have deferred the review of Daido Kogyo Co., Ltd. (Daido), and Enuma Chain Manufacturing Co., Ltd. (Enuma), pending the final results of the review for April 1, 1986, through March 31, 1987, which could result in revocation of the finding in part for these two firms prior to this review. Sugiyama Chain Co., Ltd. (Sugiyama), is not included in this review because we are conducting all outstanding reviews of Sugiyama concurrently. The finding was revoked with respect to Tsubakimoto Chian Co., Ltd. (Tsubakimoto), effective September 1, 1983 (54 FR 33259, August 14, 1989), and the review of Nissan Motor Co., Ltd. (Nissan), was terminated May 7, 1991 (56 FR 21128).

This review covers one manufacturer/exporter of roller chain, other than bicycle, from Japan, Pulton (including sales made through I&OC), and the period April 1, 1985, through March 31, 1986.

United States Price

In calculating United States price, the Department used purchase price, as defined in section 772 of the Tariff Act, because all sales were made directly to unrelated parties prior to importation into the United States. Because Pulton knew at the time of sale to I&OC that the ultimate destination of the merchandise was the United States, we used purchase price for I&OC sales of merchandise produced by Pulton. Purchase price was based on packed, duty-paid, delivered prices to either I&OC or unrelated purchasers in the United States. Where applicable, we made adjustments for ocean freight, marine insurance, foreign and U.S. inland freight, and brokerage and handling changes. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value (FMV), the Department used home market price as defined in section 773 of the Tariff Act, when sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. For each such or similar model where there were insufficient sales in the home market, we then used sales to a third country as the basis for FMV. Where neither the home market nor any third country market had sufficient sales of such or similar merchandise, we calculated FMV on the basis of constructed value, in accordance with section 773(a)(2) of the Tariff Act.

Home market price was based on a packed, delivered price to unrelated purchasers in Japan. Sales to third countries were based on packed, delivered prices to unrelated purchasers in Canada, Ireland, Thailand, and the Republic of the Phillipines. We calculated constructed value at the sum of materials, fabrication costs, general expenses, and profit. The amount added for general expenses was actual general expenses because they were higher than the statutory minimum of 10 percent of the sum of materials and fabrication costs. Because actual profit was greater than the 8 percent of the sum of materials, fabrication, and general expenses, the Department used actual profit. Where applicable, we made deductions from FMV for inland and ocean freight, insurance, and brokerage and handling costs. We made adjustments for differences in packing and credit expenses. We added U.S. selling expenses, limited to the amount of third country selling commissions. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United Staes price to foreign market value, we preliminarily determine that a weighed-average margin of 1.79 perecent exists for the period April 1, 1985, through March 31, 1986, for Pulton Chain Co., Ltd., including sales made through I&OC.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication of this preliminary notice or the first workday thereafter. Parties to the proceeding may submit prehearing briefs and/or written comments not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions for all companies directly to the Customs Service.

Given the fact that reviews for more recent periods have already been completed, the dumping margins determined in this preliminary notice will have no impact on the current cash deposit rates. As provided by section 751(a)(1) of the Tariff Act, the Customs Service shall continue to require a cash deposit for all merchandise produced or exported by Daido, Enuma, Sugiyama, Nissan, or Pulton of estimated antidumping duties based on the final rates published for each firm's most recent administrative review period.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a(a) of the Commerce Regulations (19 CFR 353.53a(a)) (1985).

Dated: May 15, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-12184 Filed 5-21-91; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

South Atlantic Fishery Management Council; Wreckfish Limited Entry Public Hearings

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

ACTION: Notice of public hearings and request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold public hearings and provide a comment period to solicit public input on Amendment 5 to the Snapper-Grouper Fishery Management Plan (wreckfish limited entry).

DATES: Written comments on Amendment 5 must be received by June 20, 1991. All public hearings will be held from 7 to 10 p.m., and are scheduled as follows:

1. Monday, June 3, 1991, Wrightsville Beach, South Carolina.

2. Tuesday, June 4, 1991, Charleston, South Carolina.

3. Wednesday, June 5, 1991, Jacksonville Beach, Florida.

ADDRESSES: Comments should be addressed to Robert K. Mahood, Executive Director, South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407-4699.

The hearings will be held at the following locations:

1. Wrightsville Beach—Holiday Inn, 1706 N. Lumina Avenue, Wrightsville Beach, North Carolina

2. Charleston—South Carolina Wildlife & Marine Resources Center, Fort Johnson Road, Charleston, South Carolina.

3. Jacksonville Beach—Holiday Inn Oceanfront, 1617 N. First Street, North Dunes Room, Jacksonville Beach, Florida.

FOR FURTHER INFORMATION CONTACT: Carrie Knight, Public Information Officer, South Atlantic Fishery Management Council, 803–571–4366.

SUPPLEMENTARY INFORMATION: The Council approved the following preferred options: (1) Establish an individual transferable quota (ITQ) system for wreckfish by dividing the annual total allowable catch (TAC) into individual quotas (individual allocations held by fishermen will be based upon the original allocation as subsequently modified by trading among fishermen) that fishermen may land anytime, except during a spawning closure, during the fishing year; (2) individual quotas will be of indefinite duration but may be revoked for either non-compliance or by Council amendment; (3) include those who can document wreckfish landings during the legal 1990 season and prior to September 24, 1990 (56 FR 39039), when the control date was published in the **Federal Register**; (4) divide 50 percent of TAC equally among eligible participants, with the remaining to be divided among those with documented landings from 1987 to 1990, based on percentage shares of total wreckfish landings during that time; (5) allow sale or lease of annual percentage share, and allow sale or lease of wreckfish pounds allocated for a given year; (6) initially allocate percentage shares to vessel owners; (7) require that individual quota or a major portion of it (51 percent or more) be used by a person or business owning it at least once in every 3-year period; (8) allocate future TACs, whether larger or smaller, based on annual percentage shares at the beginning of the fishing year; (9) allocate initial percentage share to an individual or business not to exceed 10 percent of the TAC; (10) require dealers handling wreckfish to be permitted and to purchase wreckfish only from permitted fishermen; (11) require both a permit and a percentage-share record to harvest wreckfish; (12) appoint an appeals board to handle complaints on eligibility and initial allocation; and (13) warrant strict penalties such as forfeiture of individual share for gross violations (for example, non-reporting and exceeding individual quota).

Dated: May 16, 1991.

David S. Crestin,

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

[FR Doc. 91–12066 Filed 5–21–91; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information may be obtained by writing to: National Technical Information Service, Center for Utilization of Federal Technology—Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487–4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology.

Department of Agriculture

SN 7–330,547 (5,004,523) Delignification of Lignocellulosic Materials with Monoperoxysulfulate Acid

SN 7–519,196 (5,005,774) Rapid, Single Kernel Grain Characterization System

SN 7–525,016 (5,005,416) Insect Detection Using a Pitfall Probe Trap Having Vibration Detection

SN 7–531,680 (4,999,986) Fruit Decelerator

SN 7–641,837 System for Capturing, Pressing and Analyzing Entrained Solids Such as Cotton

SN 7–662,601 Green Leaf Volatiles as Inhibitors of Bark Beetle Aggregation Pheromones

SN 7–665,044 Anionically Dyeable Smoot-Dry Crosslinked Cellulose With Non-Reactive Glycol Ether Swelling Agents and Nitrogen Based Compounds

SN 7–679,849 Increasing Stability of Fruits, Vegetables or Fungi

Department of Health and Human Services

SN 7–277,708 (5,006,330) Evaluative Means for Detecting Inflammatory Reactivity

SN 7–278,821 (5,004,457) Tissue Transplantation System

SN 7–317,407 Metalloproteinase Peptides: Role In Diagnosis and Therapy

SN 7–415,710 (5,003,097) Method for the Sulfurization of Phosphorous Groups in Compounds

SN 7–417,769 Prolongation of Receptors on the Cell Surface (Increased Receptor Life Span For Treatment Of Adult-Onset Diabetes)

SN 7–478,081 Method for Detection of Human Immunodeficiency Virus and Cell Lines Useful Therefore

SN 7–488,460 Matrix Metalloproteinase Peptides: Role in Diagnosis and Therapy

SN 7–528,388 Method and Apparatus for Heating of Cryogenically Stored Organs

SN 7–545,077 Methods of Inducing Immune Response to AIDS Virus (Diagnosis and Treatment of Autoimmune Diseases)

SN 7–555,091 Improved Immunotherapeutic Method of Preventing or Treating Viral Respiratory Tract Disease

SN 7–559,029 Arg A Human Gene Related to But Distinct From abl Proto-Oncogene

SN 7–564,075 Cannabinoid Receptor (Clones Of The Cannabinoid Receptor and Cell Lines Expressing The Cloned Receptor)

SN 7–564,755 Cocaine Receptor Binding Ligands

SN 7–566,108 Lymphokine 154 (Novel Secreted Protein From Activated T Lymphocytes)

SN 7–572,633 Flavivirus Envelope Proteins With Increased Immunogenicity for Use in Immunization Against Virus Infection

SN 7–579,630 Synthesis and Purification of N-Bromoacetyl-3,3',5-Triiodothyronine (An Affinity Label for the Study of Thyroid Hormone Binding)

SN 7–582,065 A Protease Assay (For Detection of Retroviral Proteases and Evaluation of Antiviral Agents)

SN 7–586,079 A Method for Over-Expression and Rapid Purification of Biosynthetic Proteins

SN 7–586,085 Macrophage Stimulating Protein

SN 7–586,087 Method of Inhibiting Viral Production Using Antisense Oligonucleotides)
SN 7–588,998 Method of Electroporation Using Bipolar Oscillating Electric Fields
SN 7–589,837 In Vivo DMRI Method for Determining Cerebral Blood Flow and Volume Variation
SN 7–596,289 Mouse Monoclonal Antibodies (Reactive with Human Carcinomas)
SN 7–596,291 A Monoclonal Antibody (Against Ovarian Cancer)
SN 7–596,299 Vector with Multiple Target Response Elements Affecting Gene Expression (Inhibition of Viral Replication)
SN 7–599,491 Molecular Clones of HIV–1 and Uses Thereof (HIV–1(MN))
SN 7–605,788 Human Olfactory Neuron Cultures
SN 7–608,040 Vaccine Against Disease Caused By Human Type 3 Parainfluenze Virus
SN 7–623,690 Method of Treating Ocular Inflammatory Diseases (Using Phospholipase A2 Inhibiting Peptides)
SN 7–626,704 Isolation and Characterization of cDNAs Coding for the gamma B and gamma Subunits of the High-Affinity Receptor for Immunoglobulin E
SN 7–627,095 Duplex Cone Trap for Collection of Adult Mosquitoes
SN 7–642,340 Type-XLL Cross-Axis Synchronous Flow-Through Coil Planet Centrifuge
SN 7–648,876 Glandulin, A Low-Molecular Weight Antimicrobial Factor Derived From Nasal Secretions
SN 7–656,326 Rapid Exchange Imaging Chamber for Stop-Flow Microscopy
SN 7–661,005 Metal-Based Formulation With High Microbicidal Efficiency Valuable for Disinfection and Sterilization
SN 7–662,022 Methods and Pharmaceutical Compositions for Inhibiting Protease From Human Immunodeficiency Virus (With Copper and Metal Catalyzed Oxidation)

Department of Interior

SN 7–506,054 (5,003,144) Microwave Assisted Hard Rock Cutting

[FR Doc. 91–12111Filed 5–21–91; 8:45 am]
BILLING CODE 3510–04–M

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 and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial Number 7/127,214, "DNA Encoding IgE Receptor Sub-unit or Fragment" to Harvard University, having a place of business at Cambridge, Massachusetts. The patent rights in this invention have been jointly assigned to the United States of America and Harvard University.

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 features a cDNA sequence encoding the -subunit of human mast cell IgE surface receptor and also covers a vector (plasmid or viral). The human IgE receptor subunit made according to this invention can be used in a variety of diagnostic and therapeutic application.

The availability of the invention for licensing was published in the **Federal Register** Vol. 55, No. 205, p. 42752 (1990). A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning 703/487–4650 or by writing to Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Inquiries, comments and other materials relating to the contemplated license must be submitted to Girish C. Barua, Center for Utilization of Federal Technology, NTIS, Box 1423, Springfield, VA 22151. Properly filed competing applications received by the NTIS in response to this notice will be considered as objections to the grant of the contemplated license.

Douglas J. Campion,

Patent Licensing Specialist, Center for Utilization of Federal Technology, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 91–12112 Filed 5–21–91; 8:45 am]
BILLING CODE 3510–04–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comments on Bilateral Textile Consultations with the Arab Republic of Egypt

May 16, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: May 24, 1991.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Nguyen, 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).

On April 30, 1991, under the terms of the Bilateral Cotton Textile Agreement of January 16, 1990 between the Governments of the United States and the Arab Republic of Egypt, the United States Government requested consultations with the Government of the Arab Republic of Egypt with respect to cotton shop towels in Category 369–S.

The purpose of this notice is to advise the public that, pending agreement on a mutually satisfactory solution concerning Category 369–S, the Government of the United States has decided to control imports during the prorated period which began on April 30, 1991 and extends through December 31, 1991.

A summary market statement concerning Category 369–S follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 369–S, under the agreement with the Arab Republic of Egypt, or to comment on domestic production or availability of products included in Category 369–S, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW, Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Category 369–S. Should such a solution be reached in consultations with the Government of the Arab Republic of Egypt, further notice will be published in the **Federal Register**.

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).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Market Statement—Egypt

Category 369–S—Cotton Shop Towels

April 1991

Import Situation and Conclusion

U.S. imports of cotton shop towels, Category 369–S, from Egypt reached 17,500,000 units (730,400 kilograms) in the year ending January 1991, six times the 2,787,500 units (113,735 kilograms) imported a year earlier. In the first month of 1991, Egypt shipped 2,500,000 units, five times their January 1990 level and nine percent above their total calendar year 1989 level. Egypt is the third largest supplier of cotton shop towels accounting for 10 percent of Category 369–S unit imports for the year ending January 1991. In the previous year, Egypt was ranked twelfth among the major suppliers, accounting for two percent of total cotton shop towel imports.

The sharp and substantial increase of Category 369–S imports from Egypt is causing a real risk of disruption in the U.S. market for cotton shop towels.

Import Penetration and Market Share

U.S. production of cotton shop towels dropped to 144,448 thousand units in 1990, 2.4 percent below the 1989 level and 12.4 percent below the 1988 level. In contrast, U.S. imports of cotton shop towels from all sources reached 160,338 thousand units in 1990, 50 percent above the 1988 level. Imports of cotton shop towels in January 1991 were 78 percent above the January 1990 level.

The U.S. producers' share of the cotton shop towel market dropped 14 percentage points, falling from 61 percent in 1988 to 47 percent in 1990. The ratio of imports to domestic production increased from 65 percent in 1988 to 111 percent in 1990.

Duty-Paid Value and U.S. Producers' Price

Category 369–S imports from Egypt entered under HTSUSA number 6307.10.2005—cotton shop towels. These shop towels entered the U.S. at duty-paid landed values below the U.S. producers' prices for comparable shop towels.

Committee for the Implementation of Textile Agreements

May 16, 1991.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton Textile Agreement of January 16, 1990, between the Governments of the United States and the Arab Republic of Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 24, 1991, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 369–S [1], produced or manufactured in Egypt and exported during the period beginning on April 30, 1991 and extending through December 31, 1991, in excess of 590,724 kilograms. [2]

Textile products in Category 369–S which have been exported to the United States prior to April 30, 1991 shall not be subject to the limit established in this directive.

Textile products in Category 369–S which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

[1] Category 369–S: only HTS number 6307.10.2005.

[2] The limit has not been adjusted to account for any imports exported after April 29, 1991.

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–12099 Filed 5–21–91; 8:45 am]

BILLING CODE 3510–DR–F–

COMMODITY FUTURES TRADING COMMISSION

Regulatory Coordination Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, 10(a) and 41 section CFR 101–6.1015(b), that the Commodity Futures Trading Commissions Regulatory Coordination Advisory Committee will conduct a public meeting in the new Hearing Room at the Commission's Washington, DC headquarters located at level B–1, 2033 K Street, NW., Washington, DC 20581, on June 5, 1991, beginning at 1:30 p.m. and lasting until 5 p.m. The agenda will consist of:

Agenda

1. Report from Dennis Earle on clearance and settlement.

2. Report from the CFTC staff responding to recommendations of the Working Group on Managed Accounts.

a. Recommendations for streamlining risk disclosure statements.

(i) Institutional investor exemption;

(ii) Bifurcated disclosure;

(iii) Other recommendations.

b. Other pool-related issues, e.g., legal impediments to domestic pool participation in the over-the-counter markets; Investment Company Act and Investment Advisers Act issues.

3. Reports from the Working Group on Speculative Limits and from the Division of Economic Analysis.

4. Report from the Working Group on International Issues.

5. Follow-up on issues discussed at earlier Committee meetings.

6. Other issues for Committee consideration; timing of next meeting; other Committee business.

The purpose of this meeting is to solicit the views of the Committee on the agenda matters listed above. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on ways to improve coordination and to facilitate cross market transactions, including cross border transactions. The purposes and objectives of the Advisory Committee are more fully set forth in the April 16, 1990 Charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Chairman Wendy L Gramm, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Regulatory Coordination Advisory Committee, c/o Ms. Kate Hathaway or Mr. Robert Zwirb, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should inform Ms. Hathaway or Mr. Zwirb in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on May 16, 1991.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 91–12223 Filed 5–21–91; 8:45 a.m.]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Fort Wingate Depot et al.; Closure and Realignment Availability of Environmental Impact Statement

AGENCY: Department of Defense, U.S. Army.

ACTION: Notice of availability of the draft environmental impact statement for the closures of Fort Wingate and Navajo Depot Activities, and realignment of Umatilla Depot Activity.

SUMMARY: This Draft Environmental Impact Statement (EIS) describes the impact of closures of the Fort Wingate Depot Activity, New Mexico, and Navajo Depot Activity, Arizona; and realignment of Umatilla Depot Activity, with transfer of their conventional ammunition missions to Hawthorne Army Ammunition Plant, Nevada. This document considers only those actions recommended in the December 1988 Report of the Secretary of Defense's Commission on Base Realignments and Closures and those related actions necessary to complete the recommendations. No alternatives to the Commission's recommendations are considered, in compliance with the Base Closure and Realignment Act of October 24, 1988 (Pub. L. 100–526). The major concerns described are the extent and level of contamination and socioeconomic impacts. No significant impacts of closure were found. The Army will prepare separate NEPA analyses to address the effects of construction at receiving installations and for Fort Wingate remediation, property excessing and specific reuse alternatives. Navajo Depot Activity will be transferred to the Arizona National Guard and Umatilla will remain open to support the chemical demilitarization program which is scheduled to be completed in 1999.

The public is encouraged to comment on the Draft EIS. Public notices requesting input will be issued. A copy of the Draft EIS may be obtained by contacting Mr. Arver Ferguson (817) 334–3246, or writing to Commander, U.S. Army Corps of Engineers, Fort Worth District, 819 Taylor Street, Fort Worth, Texas 76102–0300.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 91–12135 Filed 5–21–91; 8:45 am]

BILLING CODE 3710–08–M

Jefferson Proving Ground, IN; Closure Availability of Environmental Impact Statement

AGENCY: Department of Defense, U.S. Army.

ACTION: Notice of Availability of the Draft Environmental Impact Statement for the closure of Jefferson Proving Ground (JPG).

SUMMARY: This Environmental Impact Statement (EIS) describes the impacts of closing the Jefferson Proving Ground, Indiana, with transfers of its activities to Yuma Proving Ground, Arizona. This document considers only those actions recommended in the December 1988 Report of the Secretary of Defense's Commission on Base Realignments and Closures and those related actions necessary to complete the recommendations. No alternatives to the Commission's recommendations are considered in compliance with the Base Closure and Realignment Act of October 24, 1988 (Public Law 100–526). The major concerns described are the extent and level of contamination and socioeconomic impacts. No significant environmental impacts of closure were found. The Army will prepare separate NEPA analyses to address the effects of construction at receiving installations and for JPG remediation, property excessing and specific reuse alternatives.

The public is encouraged to comment on the Draft EIS. Public notices requesting input will be issued. A copy of the Draft EIS may be obtained by contacting Mr. James M. Baker (502) 582–5774, or writing to Commander, U.S. Army Corps of Engineers, Louisville District, P.O. Box 59, Louisville, Kentucky 40201–0059.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I,L&E).

[FR Doc. 91–12134 Filed 5–21–91; 8:45 am]

BILLING CODE 3710–08–M

Lexington-Bluegrass Depot, KY; Closure Availability of Environmental Impact Statement

AGENCY: Department of Defense, U.S. Army.

ACTION: Notice of Availability of the Draft Environmental Impact Statement for the closure of the Lexington portion of the Lexington-Bluegrass Army Depot.

SUMMARY: This Environmental Impact Statement (EIS) describes the impacts of closure of the Lexington portion of the Lexington-Bluegrass Army Depot, Lexington, Kentucky, with transfers of the supply and materiel-readiness missions to Letterkenny Army Depot, Pennsylvania; the central test management mission to Redstone Arsenal, Alabama; and the communications-electronics mission to Tobyhanna Army Depot, Pennsylvania. This document considers only those actions recommended in the December 1988 Report of the Secretary of Defense's Commission on Base Realignments and Closures and those related actions necessary to complete the recommendations. No alternatives to the Commission's recommendations are considered, in compliance with the Base Closure and Realignment Act of October 24, 1988 (Pub. L. 100–526). No significant impacts of closure were found. The Army will prepare separate NEPA analyses to address the effects of construction at receiving installations and for the Lexington remediation, property excessing and specific reuse alternatives.

Execution of all or some of the decisions analyzed in the Draft EIS are subject to change based on the Defense Base Closure and Realignment Act of 1990. Specifically, the Secretary of Defense recommended to the newly formed Base Closure and Realignment Commission the following actions which

affect gaining installations discussed in this document:

- Realign the Headquarters, Depot Systems Command (DESCOM) (including the Systems Integration and Management Activity) from Letterkenny Army Depot, Pennsylvania to Rock Island Arsenal, Illinois and merge it with the Armament, Munitions and Chemical Command (AMCCOM) to form the Industrial Operations Command (IOC). Relocate the Materiel Readiness Support Activity (MRSA) from Lexington-Bluegrass Army Depot, Kentucky to Redstone Arsenal, Alabama, along with the relocation of the Logistics Control Activity (LCA) from the Presidio of San Francisco, California, to Redstone Arsenal, Alabama.
- Relocate the tactical missile maintenance workload from Tobyhanna Army Depot, Pennsylvania, and several Navy and Air Force industrial facilities into Letterkenny Army Depot and realign the tactical vehicle and artillery maintenance workload from Letterkenny to Tooele Army Depot, Utah, and Red River Army Depot, Texas.
- Close Sacramento Army Depot. Transfer the ground communication electronic maintenance workload from Sacramento to Army Depot, California, to Tobyhanna Army Depot, Pennsylvania; Anniston Army Depot, Alabama; and Letterkenny Army Depot, Pennsylvania.

These recommendations, if approved, would be subject to additional environmental impact analyses and documentation.

The public is encouraged to comment on the Draft EIS. Public notices requesting input will be issued. A copy of the Draft EIS may be obtained by contacting Mr. William Haynes, (502) 582-6015, or writing to Commander, U.S. Army Corps of Engineers, Louisville District, P.O. Box 59, Louisville, Kentucky 40201-0059.

Lewis D. Walker,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health), OASA (I, L&E).

[FR Doc. 91-12136 Filed 5-21-91; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates/Time of Meeting: 29-30 May 1991.

Time: 0900-1600 hours 29 May 1991, 0900-1500 hours 30 May 1991.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on Tactical Space Systems will conduct a classified review of a technology demonstration. In addition to the technical review of issues, the panel will make preparations for their final report. This meeting will be closed to the public in accordance with section 552b(c) of title 5, U.S.C., specifically subparagraph (1) thereof, and title 5, U.S.C., appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer Sally Warner, may be contacted for further information at (703) 695-0781/0782.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 91-12205 Filed 5-21-91; 8:45 am]

BILLING CODE 3710-8-M

Marina Project, Ewa District, Oahu, HI; Environmental Import Statement (DEIS)

AGENCY: U.S. Army Corps of Engineers, Honolulu District, Pacific Ocean Division.

ACTION: Notice of Intent to prepare a DEIS for a regulatory permit action.

SUMMARY:

1. Background of Previous Actions. This project was initially proposed by MSM and Associates, Inc. in 1980 and was processed under File No. PODCO-O 1570-SD. The application was subsequently cancelled on 21 September 1987 because of the applicant's lack of progress in providing additional required information. The current application for substantially the same project was submitted by HASEKO (Hawaii), Inc., on November 20, 1989 and a Public Notice was issued on November 30, 1989. The ensuing permit process evaluated the project's impacts on beaches, whales, turtles, caprock, aquifer, water quality, surf sites, archaeological sites, and nearshore reef resources. The applicant undertook studies during this period to assess and quantify project impacts and evaluated several alternative marina alignments to minimize and mitigate these impacts.

The Corps conducted a public hearing on December 17, 1990 to obtain additional information and evidence to evaluate the benefits and detriments of the proposed work and to assist the District Engineer in making a decision on the permit application. After reviewing the studies and proposed mitigation plans submitted by the applicant and considering the views of the public as submitted in writing and at the hearing, the Corps has determined that and environment impact statement (EIS) should be prepared to assess the impacts of the proposal on the quality of the human environment.

2. Description of the Proposed Action. The proposed marina under evaluation in this application would be the major facility in the proposed 4,850-unit urban housing community. The marina would provide 1,600 boat slips in the approximately 140 acres of excavated waterways. The entrance channel to the marina would be 400 ft. wide, 3,000 ft. long and 20 ft. deep. Two rock jetties would be constructed along the entrance channel to protect the marina basin from waves and to prevent littoral drift from shoaling the channel. The jetties would be approximately 400 ft. long and have a crest elevation of approximately six to eight feet above mean lower low water (MLLW). Other infrastructure elements of the marina would include rock wave absorbers, floating and fixed docks, boat ramps and bridge crossings.

FOR FURTHER INFORMATION: Questions about the proposed action and DEIS can be answered by:

Ms. Ruby Mizue or Mr. Warren Kanai, Operations Division, Directorate of Construction-Operations, US Army Corps of Engineers, Fort Shafter, Hawaii 96858-5440, Phone: (808) 438-9258.

SUPPLEMENTARY INFORMATION:

1. Authority. The statutory authorities under which this application is being processed include: Section 10, Rivers and Harbors Act of 1899 (33 U.S.C. 403), Section 404 of the Clean Water Act (33 U.S.C. 1344), Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Previous Notice of Intent Publications. The previous permit application by MSM and Associates, Inc. resulted in the following NOI publications: **Federal Register** Vol. 45, No. 96, May 15, 1980; and **Federal Register** Vol. 49, No. 209, October 26, 1984.

3. Proposed Action. A total of about 5 million cubic yards (CY) of material would be excavated and dredged for the project, of which approximately 300,000 CY would be generated from the entrance channel. Blasting would likely

be required to facilitate the excavation and dredging. The marina basin would be excavated prior to opening it to the ocean so that suspended sediments would be confined to the excavation site. The applicant is considering the disposal of the 300,000 CY of dredged material from the channel at the Environmental Protection Agency-approved dredged material ocean dump site. This material would consist predominantly of sand, gravel, limestone and reef material, and other naturally occurring bottom material with particle sizes larger than silt. Suitable material excavated from the inland waterway would be used for project construction and grading work. Unsuitable material, including grubbed trees and vegetation, would be disposed at approved upland sites.

4. Reasonable Alternatives. a. Alternative Sites. The applicant prepared an Alternatives Analysis which indicates that the Ewa Marina site is the least environmentally adverse practicable location for the facility. This discussion will be presented in the DEIS.

b. Full scale development as proposed ("Applicant's preferred alternative").

c. Alternative configurations. Several channel positions and marina layouts were investigated by the applicant in efforts to minimize impacts on existing resources at the project site. These alternatives will be presented in the DEIS.

d. Reduced development.

e. "No-action" alternative. This alternative is one which results in no construction requiring a Corps permit. It may result from (1) alternative design plans, without the marina; or (2) no development alternatives, such as maintaining the existing land use, expanding agriculture, or enhancing open space or park uses.

Scoping

1. The public and affected federal, state and local agencies, and other interested private organizations and parties are invited to provide comments identifying specific concerns which should be addressed in the Draft Environmental Impact Statement (DEIS). Upon preparation of the DEIS, a public notice will be issued summarizing the facts of the case and announcing the availability of the DEIS. If a public hearing is requested, it will be held after completion of the DEIS. A public notice announcing the time, date, location and nature of the hearing would be issued at least 30 days prior to the hearing date.

2. The issues to be analyzed in the DEIS will include:

a. Impacts of the project on beaches and littoral processes.

b. Impacts of the project on marine flora and fauna, including threatened and endangered species.

c. Impacts of the project on wetlands and anchialine pools.

d. Impacts of the project on the caprock aquifer.

e. Impacts of the project on water quality.

f. Impacts of the project on historic, archaeological and paleontological resources.

g. Impacts of the project on air quality.

h. Effects of Navy and commercial aircraft noise on the proposed residential community.

i. Temporary construction impacts on air and water quality, disruption of the park and recreational uses in the area, and the effects of blasting noise on the adjacent community.

j. Impacts of the project on recreational activities in the area, including surfing, fishing, limu (seaweed gathering), swimming, jogging, and boating.

k. Susceptibility of the project location in the tsunami hazard zone.

l. Impacts of the project on surface water runoff and drainage.

m. Aesthetic considerations and socioeconomic impacts; impacts on public facilities such as transportation, utilities and services, as well as growth-related impacts including increased population, traffic and pollution.

n. Impacts on land use, including the loss of agricultural lands, and impacts of the project on the existing lifestyles of the affected region, the affected interests, and the locality, that are generated by construction of the marina.

o. Long-term maintenance dredging.

p. Cumulative impact analysis.

3. Consultation with the National Marine Fisheries Service has been initiated in accordance with section 7 of the Endangered Species Act. The review process under section 106 of the National Historic Preservation Act has also been initiated.

4. A scoping meeting for the proposed action is not presently scheduled. The public interest review for the permit application, the numerous resource and regulatory agency meetings conducted with the applicant, and the Corps' public hearing in December 1990 have identified the significant issues to be addressed in the DEIS.

5. It is estimated that the DEIS will be made available to the public in late 1991.

Dated: May 10, 1991.

Donald T. Wynn,

District Engineer.

[FR Doc. 91-12104 Filed 5-21-91; 8:45 am]

BILLING CODE 3710-NN-M

DEPARTMENT OF EDUCATION

Indian Nations At Risk Task Force; Meeting

AGENCY: Indian Nations At Risk Task Force, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Indian Nations At Risk Task Force. This notice also describes the functions of the Task Force. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is also intended to notify the general public of their opportunity to attend the meeting.

DATES AND TIMES: June 10, 1991 9 a.m. to 5 p.m., June 11, 1991 9 a.m. to 5 p.m.

ADDRESSES: Barnard Auditorium, room 1134, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Alan Ginsburg, Executive Director, Indian Nations At Risk Task Force, room 3127, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202-4244, Telephone: (202) 401-3132.

SUPPLEMENTARY INFORMATION: The Indians At Risk Task Force was established by the Secretary of Education on March 8, 1990. Its purpose is to advise and make recommendations to the Secretary of Education on the condition of education of American Indians/Alaska Natives of the United States. The meetings of the Task Force are open to the public. The agenda for this meeting will include: A discussion of the content and format of the final report, a review of the commissioned papers, and a discussion of the recommendations to be presented to the Secretary of Education.

Records are kept of the proceedings of the Task Force and are available for public inspection at the staff offices of the Task Force, from 9 a.m. to 4:30 p.m., on weekdays, excluding Federal holidays, room 4010, FOB-6, 400 Maryland Avenue SW., Washington, DC 20202-4244.

Dated: May 16, 1991.

Sally H. Christensen,

Acting Deputy Under Secretary for Planning, Budget and Evaluation, U.S. Department of Education.

[FR Doc. 91-12086 Filed 5-21-91; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER91–435–000, et al.]

D C Tie Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission;

1. D C Tie Inc.

[Docket No. ER91–435–000]

May 14, 1991.

Take notice that D C Tie Inc. (D C Tie), on May 10, 1991, tendered for filing a petition for a disclaimer of jurisdiction under section 201 of the Federal Power Act, for waivers and blanket approvals under various regulations of the Commission, and an order accepting its Rate Schedule 1, to be effective 60 days from and after May 10, 1991.

D C Tie intends to engage in electric power and energy transactions both as a broker and a marketer. In transactions where D C Tie does not take title to the electric power and/or energy, D C Tie will be limited to the role of a broker and charge a fee for its services. In transactions where D C Tie purchases power, including capacity and related services from electric utilities, qualifying facilities and independent power producers, and resells such power to other purchasers, D C Tie will be functioning as a marketer. In D C Tie's marketing transactions, D C Tie proposes to charge rates mutually agreed upon by the parties, subject to the rate being at or below the buyer's cost of alternative supply. All sales will be at arms-length, and no sales will be made to affiliated entities. D C Tie is not in the business of producing or transmitting electric power. D C Tie does not currently have or contemplate acquiring title to any electric power transmission or generation facilities.

Rate Schedule 1 provides for the sale of energy and capacity at agreed prices subject to a ceiling equal to the purchaser's alternative cost of electric power. Rate Schedule 1 also provides that no sales may be made to affiliates.

Comment date: May 31, 1991, in accordance with Standard Paragraph E at the end of this notice.

2. Minnesota Power & Light Company

[Docket No. ER91–434–000]

May 14, 1991.

Take notice that on May 10, 1991, Minnesota Power & Light Company (MP&L) tendered for filing a rate schedule for Firm Power Interchange Service provided by MP&L to other members of the Mid-Continent Area Power Pool (MAPP), pursuant to Service Schedule J of the MAPP Agreement.

MP&L requests waiver of the Commission's notice requirements and an effective date of May 1, 1991.

Copies of the filing have been served on MAPP, other members of MAPP, and on the state utility commissions in the MAPP region.

Comment date: May 31, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Florida Power & Light Company

[Docket No. ER91–436–000]

May 14, 1991.

Take notice that on May 10, 1991, Florida Power & Light Company (FPL), tendered for filing a document entitled Amendment Number Six to St. Lucie Delivery Service Agreement Between Florida Power & Light Company and the Florida Municipal Power Agency (FMPA).

FPL states that Amendment Number Six revises the designation of delivery points and allocation of the FMPA St. Lucie Nuclear Power Resources.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendment Number Six be made effective June 1, 1991. FPL states that a copy of the filing was served on Florida Municipal Power Agency and Florida Public Service Commission.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas Gas and Electric Company

[Docket No. ER91–433–000]

May 14, 1991.

Take notice that Kansas Gas and Electric Company (KG&E) on May 9, 1991, tendered for filing an application, pursuant to section 203 of the Federal Power Act for approval of Kansas City Power and Light Company's Letter of Intent, accepted by Kansas Gas and Electric Company on April 9, 1991. The Letter of Intent specifies voiding certain notices of both parties and continues the Lease Agreement throughout the operating life of the Wolfe Creek Generating Station.

The Letter of Intent is required to outline an agreement between the parties and amend certain provisions of the Lease Agreement.

Copies of this filing were served upon Kansas City Power and Light Company and the Kansas Corporation Commission.

Comment date: May 31, 1991, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp Electric Operations

[Docket No. ER91–430–000]

May 14, 1991.

Take notice that PacifiCorp Electric Operations (PacifiCorp), on May 7, 1991, tendered for filing, in accordance with the Commission's Rules of Regulations, Fifth Revised Sheet No. 3.0 superseding Fourth Revised Sheet No. 30.0 (Index of Utilities Executing Service Agreements) of PacifiCorp's FERC Electric Tariff, Original Volume No. 5 (Tariff) and a Transmission Service Agreement (Service Agreement) between PacifiCorp and the City of Anaheim, California (Anaheim) dated April 11, 1991.

Under terms of the Service Agreement, PacifiCorp will provide firm transmission service for Anaheim under Service Schedules TS–1 and TS–4 of the Tariff.

PacifiCorp respectfully requests, pursuant to the Commission's Rules and Regulations, that a waiver of prior notice be granted and that an effective date of April 1, 1991 be assigned to the Service Agreement, this date being consistent with the effective date as provided in § 2.1 of the Service Agreement.

Copies of this filing were supplied to the City of Anaheim, the Public Utilities Commission of the State of California, the Public Utility Commission of Oregon, and the Utah Public Service Commission.

Comment date: May 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. PacifiCorp Electric Operations

[Docket No. ER91–346–000]

May 14, 1991.

Take notice that on May 8, 1991, PacifiCorp Electric Operations (PacifiCorp), tendered for filing an amendment to its filing for the Restated Power Sales Agreement with Nevada Power Company.

PacifiCorp renews its request, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that the rate schedule become effective on July 20, 1990.

Copies of this amendment have been supplied to Nevada Power Company, the Public Service Commission of Nevada the Public Utility Commission of Oregon and the Utah Public Service Commission.

Comment date: May 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. PacifiCorp Electric Operations

[Docket No. ER91-32-9000]

May 14, 1991.

Take notice that on May 8, 1991, PacifiCorp Electric Operations (PacifiCorp), tendered for filing an amendment to its filing for the Long-Term Sales Agreement with the Arizona Power Pooling Association (APPA).

PacifiCorp renews its request, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that the rate schedule become effective on May 1, 1991.

Copies of this filing amendment have been supplied to APPA, Arizona Electric Power Cooperative, Inc., City of Mesa, Arizona, Electrical District No. 2 of Pinal County, Arizona, the Public Utility Commission of Oregon and the Utah Public Services Commission.

Comment date: May 30, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Jim. L. Peterson

[Docket No. ID-2601-000]

May 14, 1991.

Take notice that on May 6, 1991, Jim L. Peterson (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Central Power and Light Company.
Director, First City, Texas-Corpus Christi bank.

Comment date: June 5, 1991 in accordance with Standard Paragraph E at the end of this notice.

9. Pete Morales, Jr.

[Docket No. ID-2609-000]

May 14, 1991.

Take notice that on May 6, 1991, Pete Morales, Jr. (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Central Power and Light Company.
Director, Devine State Bank.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

10. Glen D. Churchill

[Docket No. ID-2608-000]

May 14, 1991.

Take notice that on May 6, 1991, Glen D. Churchill (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, President and Chief Executive Officer, West Texas Utilities Company.
Director, First National Bank of Abilene, Texas.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

11. Robert R. Carey

[Docket No. ID-2604-000]

May 14, 1991.

Take notice that on May 6, 1991, Robert R. Carey (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, President and Chief Executive Officer, Central Power and Light Company.
Director, Corpus Christi National Bank.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

12. H. Lee Richards

[Docket No. ID-2603-000]

May 14, 1991.

Take notice that on May 6, 1991, H. Lee Richard, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Central Power & Light Company.
Director, Harlingen National Bank.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

13. Jack L. Phillips

[Docket No. ID-2599-000]

May 14, 1991.

Take notice that on May 6, 1991, Jack L. Phillips, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Southwestern Electric Power Company.
Director, Texas Commerce Bank-Longview.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

14. Mark J. Krawczyk

[Docket No. ID-2598-000]

May 14, 1991.

Take notice that on May 6, 1991, Mark J. Krawczyk (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Assistant Treasurer, Public Service Company of Oklahoma.
Director, Oklahoma Central Credit Union.

Comment date: June 5, 1991 in accordance with Standard Paragraph E at the end this notice.

15. John W. Turk, Jr.

[Docket No. ID-2597-000]

May 14, 1991.

Take notice that on May 6, 1991 John W. Turk, Jr., (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Southwestern Electric Power Company.
Director, Texas Commerce Bank-Longview.

Comment date: June 5, 1991, in accordance with Standard Paragraph E end of this notice.

16. William C. Peatross

[Docket No. ID-2596-000]

May 14, 1991.

Take notice that on May 6, 1991, William C. Peatross (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Southwestern Electric Power Company.
Director, Commercial National Bank.

Comment date: June 5, 1991, in accordance with standard Paragraph E at the of this notice.

17. William B. Ellis

[Docket No. ID-1794-003]

May 14, 1991.

Take notice that on May 6, 1991, William B. Ellis (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act of hold the following positions:

Chairman and Chief Executive Officer and Director, Connecticut Light and Power Company.
Chairman and Chief Executive Officer and Director, Western Massachusetts Electric Company.
Chairman and Chief Executive Officer and Director, Holyoke Water Power Company.
Chairman and Chief Executive Officer and Director, Holyoke Power and Electric Company.
Chairman and Chief Executive Officer and Director, Connecticut Yankee Atomic Power Company.
Director, Connecticut Mutual Life Insurance Company.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

18. F.L. Stephens

[Docket No. ID-2602-000]

May 14, 1991.

Take notice that on May 6, 1991, F.L. Stephens, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, West Texas Utilities Company.
Director, First National Bank of Lubbock.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

19. Ruben M. Garcia

[Docket No. ID–2606–000]

May 14, 1991.

Take notice that on May 6, 1991, Ruben M. Garcia, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Central Power and Light Company.
Director, South Texas National Bank.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

20. James M. Parker

[Docket No. ID–2600–000]

May 14, 1991.

Take notice that on May 6, 1991, James M. Parker, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, West Texas Utilities Company.
Director, First Abilene Bankshares, Inc. and First National Bank of Abilene, Texas.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

21. Joan T. Bok

[Docket No. ID–1821–003]

May 14, 1991.

Take notice that on May 9, 1991, Joan T. Bok, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, John Hancock Mutual Life Insurance Company.
Director, Massachusetts Electric Company.
Director, Narragansett Energy Resources Company.
Director, New England Electric Transmission Corporation.
Director, New England Hydro-Transmission Corporation.
Director, New England Hydro-Transmission Electric Company, Inc.
Vice Chairman & Director, New England Power Company.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

22. Frederick E. Joyce

[Docket No. ID -2613–000]

May 14, 1991.

Take notice that on May 6, 1991, Frederick E. Joyce, (Applicant) tendered for filing under section 305(b) of the Federal Power Act to hold the following positions:

Director, Southwestern Electric Power Company.
Director, State First National Bank and State First Financial Corporation.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

23. Jack E. Raulston

[Docket No. ID–2605–000]

May 14, 1991.

Take notice that on May 6, 1991, Jack E. Raulston, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Public Service Company of Oklahoma.
Director Advisor, Security Bank and Trust Company.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

24. Scrubgrass Generating Company L.P.

[Docket No. QF88–406–001]

May 14, 1991.

On May 10, 1991, Scrubgrass Generating Company L.P., (Applicant) tendered for filing an amendment to its filing in this docket.

The amendment provides additional information relating to management control of the partnership and compensation under the management services agreement.

Comment date: 21 days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

25. Joseph K. Tannehill

[Docket No. ID–2208–002]

May 15, 1991.

Take notice that on May 6, 1991, Joseph K. Tannehill (Applicant) tendered for filing an informational report for automatic authorization to hold the following interlocking positions under section 305(b) of the Federal Power Act:

Director, Gulf Power Company.
Director, Sun Commercial Bank.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

26. William B. Turner

[Docket No. ID–2574–000]

May 15, 1991.

Take notice that on May 6, 1991, William B. Turner (Applicant) tendered for filing an informational report for automatic authorization to hold the following interlocking positions under section 305(b) of the Federal Power Act:

Director, and Chairman of the Compensation Committee of the Board of Directors, Georgia Power Company.
Director, and Chairman of the Executive Committee of the Board of Directors, Synovus Financial Corp.
Chairman of the Board of Directors, Columbus Bank and Trust Company.
Chairman of the Board of Directors and President, TB&C Bancshares, Inc.

Comment date: June 7, 1991, in accordance with Standard Paragraph E at the end of this notice.

27. Bernard A. Fox

[Docket No. ID–2008–002]

May 15, 1991.

Take notice that on May 6, 1991, Bernard A. Fox (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

President and Chief Operating Officer and Director, Connecticut Light and Power Company.
President and Chief Operating Officer and Director, Western Massachusetts Electric Company.
President and Chief Operating Officer and Director, Holyoke Water Power Company.
President and Chief Operating Officer and Director, Holyoke Power and Electric Company.
President and Chief Operating Officer and Director, Connecticut Yankee Atomic Power Company.
Director, Vermont Yankee Nuclear Power Corporation.
Director, Maine Yankee Atomic Power Company.
Director, Yankee Atomic Electric Company.
Director, The Connecticut National Bank.

Comment date: June 5, 1991, in accordance with Standard Paragraph E at the end of this notice.

28. Power Authority of the State of New York

v.

Long Island Lighting Company

[Docket No. EL91–32–000]

May 15, 1991.

Take notice that on May 10, 1991, the Power Authority of the State of New York (NYPA) tendered for filing a complaint against Long Island Lighting Company (LILCO). In its filing NYPA requests that LILCO be required to continue the service it is now rendering to NYPA pursuant to its FERC Schedule Nos. 32 and 34 for the annual period commencing June 1, 1991, and further that LILCO not be permitted to terminate those schedules as threatened, as of April 8, 1993.

Comment date: June 14, 1991, in accordance with Standard Paragraph E at the end of this notice.

29. National Electric Associates Limited Partnership

[Docket No. ER90–168–004]

May 15, 1991.

Take notice that on April 29, 1991, National Electric Associates Limited Partnership (NEA) filed certain information as required by Ordering Paragraph (L) of the Commission's March 20, 1990 order in this proceeding. 50 FERC 61,378 (1990). Copies of NEA's information filing are on file with the Commission and are available for public inspection.

30. Iowa Power Inc.

[Docket No. ER90–575–000]

May 15, 1991.

Take notice that on April 29, 1991, Iowa Power Inc. (Iowa Power) tendered for filing an Amendment to the Second Seasonal Diversity Agreement between Iowa Power and Central Iowa Power Cooperative (CIPCO) dated February 12, 1991.

Originally, on August 30, 1990, Iowa Power Inc., tendered for filing the Second Seasonal Diversity Exchange Agreement between Iowa Power and CIPCO dated April 30, 1990.

Iowa Power states that the Second Diversity Exchange Agreement is a negotiated Agreement for the exchange of 20 MW of power and energy on a seasonal basis, with Iowa Power providing to CIPCO 20 MW of capacity for the 1990 winter season and CIPCO providing to Iowa Power 20 MW for the 1990 summer season; and Iowa Power states that the Iowa State Utilities Board and CIPCO have been mailed copies of the Agreement.

Iowa Power requests an effective date of May 1, 1990, and therefore requests a waiver of the Commission's notice requirements.

Comment date: May 31, 1991, in accordance with Standard Paragraph E end of this notice.

31. American Electric Power Service Corp.

[Docket No. ER90–563–000]

May 15, 1991.

Take notice that on May 6, 1991, American Electric Power Service Corp. (AEP) tendered for filing its Compliance Refund Report in this docket pursuant to the Commission's letter order issued on April 24, 1991.

Comment date: May 31, 1991, in accordance with Standard Paragraph E at the end of this notice.

32. PSI Energy, Inc.

[Docket No. ER91–432–000]

May 15, 1991.

Take notice that on April 29, 1991, PSI Energy, Inc. (PSI) tendered for filing revised Service Schedule H, J, and K to the Interconnection Agreement between Louisville Gas and Electric Company and PSI.

Comment date: May 31, 1991, in accordance with Standard Paragraph E at the end of this notice.

33. Florida Power & Light Company

[Docket No. ER91–431–000]

May 15, 1991.

Take notice that Florida Power & Light Company on May 8, 1991, tendered for filing a document entitled Amendment Number One to the Restate and Revised Transmission Service Agreement Between Florida Power & Light Company and the Florida Municipal Power Agency (FMPA).

FPL states that under Amendment Number One, FPL and FMPA have agreed to amend the Restated and Revised Transmission Agreement such that FPL may provide transmission service for an additional FMPA resource in accordance with the provisions of the Restated and Revised Transmission Agreement.

FPL requests that waiver of the Commission's Regulations be granted and that the proposed Amendment Number One be made effective June 1, 1991. FPL states that a copy of the filing was served on the Florida Municipal Power Agency and the Florida Public Service Commission.

Comment date: May 31, 1991, in accordance with Standard Paragraph E end of this notice.

34. Tucson Electric Power Company

[Docket No. ER91–437–000]

May 15, 1991.

Take notice that on May 13, 1991, Tucson Electric Power Company (Tucson) tendered for filing an agreement entitled "1991 Short Term Power Sale Agreement Between Tucson Electric Power Company and Citizens Utilities Company."

The parties request an effective date of May 15, 1991, and therefore request waiver of the Commission's regulations regarding filing.

Tucson states that copies of this filing have been served upon all parties affected by this proceeding.

Comment date: May 31, 1991, in accordance with Standard Paragraph E at the end of this notice.

35. Montana Power Company

[Docket No. ER91–429–000]

May 15, 1991.

Take notice that on May 6, 1991, Montana Power Company (Montana) tendered for filing a revised Appendix 1 as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Public Law 96–501. The Agreement provides for the exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

Montana requests that the rate have an effective date of August 29, 1990, and, therefore, requests waiver of the Commission's notice requirements.

A copy of the filing was served upon BPA.

Comment date: May 31, 1991 in accordance with Standard Paragraph E at the end of this notice.

36. Robert W. Scherer

[Docket No. ID–1580–001]

May 15, 1991.

Take notice that on May 7, 1991, Robert W. Scherer (Applicant) tendered for filing an informational report for automatic authorization to hold the following interlocking positions under section 305(b) of the Federal Power Act:

Honorary Director, Georgia Power Company.
Director, SunTrust Banks, Inc.
Director, Trust Company of Georgia.
Director, Trust Company Bank.

Comment date: June 7, 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. 91–12059 Filed 5–21–91; 8:45 am]

BILLING CODE 6717–01–M

Docket No. QF85–55–001; Docket No. QF85–148–004; and Docket No. QF86–808–003

[Docket No. QF85–55–001 et al.]

Modesto Energy Limited Partnership et al.; Application for Commission Recertification of Qualifying Status of Small Power Production Facilities

May 15, 1991.

In the matter of Modesto Energy Limited Partnership, A California Limited Partnership; Wadham Energy Limited Partnership, A California Limited Partnership; Exeter Energy Limited Partnership, A Connecticut Limited Partnership.

On May 15, 1991, the Modesto Energy Limited Partnership, a California Limited Partnership ("Modesto"), the Wadham Energy Limited Partnership, a California Limited Partnership ("Wadham"), and the Exeter Energy Limited Partnership, a Connecticut Limited Partnership ("Exeter"), all c/o The Oxford Energy Company of 3510 Unocal Place, Santa Rosa, California 95403, submitted for filing an application for recertification of three facilities as qualifying small power production facilities pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Modesto facility is located in Westley, California. The primary fuel is waste tires. Wadham's facility is located in Colusa County, approximately five miles south of Williams, California, and is fueled by biomass in the form of rice hulls and rice straw. Exeter's facility is located in Sterling, Connecticut. The primary energy source will be waste tires.

The original application for the Exeter facility was filed on June 4, 1986, and was granted on August 20, 1986, *Exeter Energy Limited Partnership*, 36 FERC 62,208 (1986). On February 6, 1989, a Notice of Self-Certification was also filed (Docket No. QF86–808–001). An application for recertification was filed on May 11, 1989 and was granted on August 17, 1989, *Exeter Energy Limited Partnership*, 48 FERC 62,135 (1989).

The Wadham facility was previously certified by the Commission as a qualifying small power production facility on December 19, 1987, *Wadham Energy Limited Partnership*, 41 FERC 62,245 (1987), and was recertified by the Commission on February 6, 1990, *Wadham Energy Limited Partnership*, 50 FERC 62,075 (1990). In addition, a Notice of Self-Certification was filed on October 22, 1987.

Modesto's facility was certified by the Commission on January 18, 1985. *Modesto Energy Company*, 30 FERC 62,066 (1985). Recertification by the Commission is requested (i) for all three facilities with respect to changes pertaining to the Oxford Energy Company, and (ii) for Modesto and Exeter with respect to changes in the ownership of those partnerships.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed no later than May 30, 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–12058 Filed 5–21–91; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 10810–000]

Greenbrier Electro-motive, Inc.; Availability of Environmental Assessment

May 15, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for minor license for the proposed Kincaid Hydro Project located on the Greenbrier River in Greenbrier County, near Alderson, West Virginia, and has prepared an Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the environmental impacts of the project and has concluded that approval of the project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 91–12060 Filed 5–21–91; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 1975–004]

Idaho Power Co.; Availability of Environmental Assessment

May 15, 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 requesting authorization to construct an access road to the Bliss Dam Project on the Snake River in Elmore County, Idaho. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, the 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. 91–12061 Filed 5–21–91; 8:45 am]

BILLING CODE 6717–01–M

Federal Energy Regulatory Commission

[Docket Nos. CP91–1957–000, et al.]

El Paso Natural Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. El Paso Natural Gas Co.

[Docket No. CP91–1957–000]

May 8, 1991.

Take notice that on May 6, 1991, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP91–1957–000 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 Conoco Inc., an interruptible, under the blanket certificate issued in Docket No. CP88–433–000 pursuant to section 7 of the

Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

El Paso states that, pursuant to an agreement dated September 21, 1990, under its Rate Schedule T–1, it proposes to transport up to 51,500 MMBtu per day equivalent of natural gas. El Paso indicates that it would transport 51,500 MMBtu on an average day and 18,797,500 MMBtu annually. El Paso further indicates that the gas would be transported from Rvarious, and would be redelivered in Colorado.

El Paso advises that service under § 284.223(a) commenced March 23, 1991, as reported in Docket No. ST91–8309.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

2. Transcontinental Gas Pipe Line Corp.

[Docket Nos. CP91–1941–000, CP91–1942–000]

May 8, 1991.

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[1]

Information applicable to each transaction including the identify of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average annual	Points of		Start up date, rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91–1941–000 4/30/91	Transcontinental Gas Pipe Corporation, Post Office Box 1396, Houston, TX 77251	Hunt Petroleum Corporation.	15,000 15,000 5,475,000	Offshore TX	Offshore TX	IT, Interruptible, 3/ 22/91	CP88–328–000, ST91–7997–000
CP91–1942–000 4/30/91	Transcontinental Gas Pipe Corporation, Post Office Box 1396, Houston, TX 77251	CNG Producing Company.	60,000 60,000 21,900,000	Offshore LA	LA	IT, Interruptible, 3/ 22/91	Cp88–328–000, ST91–8227–000.

[1] Quantities are shown in Dt. unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

3. ANR Pipeline Co.

[Docket No. CP91–1943–000]

May 8, 1991.

Take notice that on May 1, 1991, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP91–1943–000 a request pursuant to §§ 157.205 and 157.208 of the Commission's Regulations for authorization to operate certain transmission facilities which have been constructed or acquired by ANR pursuant to section 311 of the Natural Gas Policy Act (NGPA), under ANR's blanket certificate issued in Docket No. CP82–480–000 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.

Specifically, ANR requests authorization to operate under the provisions of section 7 of the Natural Gas Act: (1) The existing 39.4 miles of 12-inch pipeline extending from the General Motors Corporation (GM) plant near Defiance, Ohio, to an interconnection with East Ohio Gas Company (East Ohio) near Maumee, Ohio; (2) the existing approximately five miles of 12-inch pipeline extending from ANR's Defiance, Ohio compressor station to an interconnection with the Maumee Lateral near Defiance, Ohio; and (3) various other proposed and existing interconnections as listed in the application.

ANR states that the subject facilities would be used to provide transportation service on an open access basis pursuant to subpart G (§ 284.221) of the Regulations. ANR estimates that the facilities would cost $6,580,910, which cost would be financed through internally generated funds. It is indicated that the subject acquired facilities were constructed by East Ohio on behalf of the owner, GM.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Equitable Resources Marketing Co.

[Docket No. CI89–361–004]

May 8, 1991.

Take notice that on April 29, 1991, Equitable Resources Marketing Company (Applicant) of 330 Grant Street, Suite 2900, Pittsburgh, Pennsylvania 15219 filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder to amend its limited-term blanket certificate with pregranted abandonment previously issued by the Commission in Docket No. CI89–361–002 to include authorization to make sales for resale in interstate commerce of natural gas acquired from any non-first sellers, including 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: May 28, 1991, in accordance with Standard Paragraph J at the end of this notice.

5. Texas Gas Transmission Corp.; Northern Natural Gas Co.

[Docket Nos. CP91-1954-000, CP91-1955-000, CP91-1956-000]

May 8, 1991.

Take notice that the above referenced companies (Applicants) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average, annual	Points of		Start up date, rate schedule	Related [3] dockets
				Receipt	Delivery		
CP91-1954-000 5-3-91	Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, KY 42301.	ARCO Natural Gas Marketing, Inc.	230,000 20,000 7,300,000	LA, IN, KY, TX, TN, IL, AR, OH, Off LA, Off TX.	LA	3-20-91, IT	CP88-686-000, ST91-8015-000.
CP91-1955-000 5-3-91	Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, KY 42301.	Coast Energy Group.	500,000 30,000 182,500,000	LA, IN, KY, TX, TN, IL, AR, OH, Off LA, Off TX.	LA	3-20-91, IT	CP88-686-000, ST91-8013-000.
CP91-1956-000 5-3-91	Northern Natural Gas Company, 1400 Smith St., P.O. Box 1188, Houston, TX 77251-1188.	Union Texas Products Corporation.	30,000 22,500 10,950,000	OK, TX, KS, NM, WI, IA, SD, MN, NE.	TX	4-17-91, IT-1	CP86-435-000, ST91-8347-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[3] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

6. Gulf States Gas Corp.; Gulf States Pipeline Corp.

[Docket Nos. CI91-77-000, CI91-78-000][3]

May 8, 1991.

Take notice that on April 30, 1991, Gulf States Gas Corporation of 1000 Louisiana, suite 4960, Houston, Texas 77002 and Gulf States Pipeline Corporation of 1324 N. Hearne Ave., suite 300, Shreveport, Louisiana 71107 (Applicants) each 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 blanket certificates with pregranted abandonment authorizing sales for resale in interstate commerce of imported natural gas, LNG, and gas purchased from non-first sellers, such as gas purchased pursuant to interstate pipeline discount sales (ISS) authority, and gas purchased from intrastate pipelines and local distribution companies, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Comment date: May 28, 1991, in accordance with Standard Paragraph J at the end of this notice.

[3] This notice does not provide for consolidation for hearing of the several matters covered herein.

7. Mid Louisiana Gas Co.; Tennessee Gas Pipeline Co.

[Docket Nos. CP91-1929-000, CP91-1930-000]

May 8, 1991.

Take notice that Mid Louisiana Gas Company, Five Post Oak Park, suite 800, Houston, Texas 77027, and Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under the blanket certificates issued in Docket No. CP86-214-000 and Docket No. CP87-115-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[4]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points[1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-1929-000 (4-29-91)	Quintana Petroleum Corporation	8,000 8,000 2,920,000	OLA	LA	7-31-90, IT-1, Interruptible.	ST91-8278-000, 4-1-91.
CP91-1930-000 (4-29-91)	Interstate Gas Marketing, Inc. (Marketer)	10,000Dth 10,000Dth 1,200,000Dth	OLA, LA, TX	NY, OH, PA, WV	4-7-89, IT, Interruptible.	ST91-8325-000, 3-7-91.

[1] Offshore Louisiana and offshore Texas are shown as OLA and OTX.

8. Transcontinental Gas Pipe Line Corp.

[Docket No. CP91-1931-000]

May 8, 1991.

Take notice that on April 29, 1991, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP91-1931-000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act for permission and approval to abandon certain facilities and related service under the authorization issued in Docket No. CP82-426-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco states that it has abandoned firm transportation service under Rate Schedule X-219 to Northern Natural Gas Company (Northern) pursuant to Commission authorization issued on July 11, 1990 in Docket No. CP90-298-000. Transco further states that the dual 12-inch Northern Natural-Vinton Measurement and Regulating Station and 342 feet of 20- and 16-inch diameter pipeline in Vinton Field, Calcasieu Parish, Louisiana (collectively, the Northern-Vinton Delivery Point) remained after the abandonment of such service. Transco indicates that in late 1989, Northern removed all of its above-ground equipment in the area to prevent vandalism, thereby making Transco's Northern-Vinton Delivery Point the only facilities in the area. Transco states that its field personnel determined at that time that it was necessary to remove Transco's facilities immediately, also to prevent vandalism. Therefore, Transco proposes to abandon such facilities and suggests that an oath statement indicating Northern's consent to such abandonment is unnecessary.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

9. Midwestern Gas Transmission Co.

[Docket No. CP91-1953-000]

May 8, 1991.

Take notice that on May 3, 1991, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77252, filed a prior notice request with the Commission in Docket No. CP91-1953-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to add two delivery points to its FERC Rate Schedule IT under the blanket certificate issued in Docket No. CP82-414-000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Midwestern proposes to add its currently nonjurisdictional Huntingburg, Pike County, Indiana, and Shrewsburg, Davies County, Kentucky, delivery points for jurisdictional service under its FERC Rate Schedule IT. Midwestern states that the construction costs for these delivery points were paid by their respective shippers. Midwestern also states that its tariff does not prohibit the proposed change in service. The total natural gas quantities that Midwestern delivers for its FERC Rate Schedule IT customers would not exceed presently authorized quantities, nor would there be an impact on Midwestern's average or peak day deliveries.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

10. Williston Basin Interstate Pipeline Co.

[Docket No. CP91-1915-000]

May 8, 1991.

Take notice that on April 25, 1991, Williston Basin Interstate Pipeline Company (Williston Basin), suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP91-1915-000 a request pursuant to §§ 157.205 and 157.213(b) of the Commission's Regulations under the Natural Gas Act for authorization to continue providing storage service for Quivira Gas Company (Quivira) under its blanket certificate issued in Docket No. CP89-1118-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williston Basin states that it has been providing interruptible storage service for Quivira pursuant to an August 15, 1989 service agreement for a total maximum aggregate storage inventory not to exceed the lesser of 28,000,000 Mcf or the amount of capacity which Williston Basin determines to be available from time to time. Williston Basin indicates that it requests authorization, pursuant to § 157.213(b) of the Commission's Regulations, to continue to provide storage service under its Rate Schedule S-3 for Quivira for up to one year beyond the two year period authorized by § 157.213(a).

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

11. Colorado Interstate Gas Co.; Transcontinental Gas Pipe Line Corp; Williston Basin Interstate Pipeline Co.

[Docket Nos. CP92-1958-000, CP91-1959-000, CP91-1960-000]

May 8, 1991.

Take notice that on May 6, 1991, Applicants filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[5]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached Appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached Appendix B.

[5] These prior notice requests are not consolidated.

Comment date: June 24, 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 Dth	Receipt points [1]	Delivery points	Contract date rate schedule, service type	Related docket, start up date
CP91-1958-000 (5-6-91)	Mountain Cement Company (End-user).	6,400 6,400 [2] 2,336,000	WY, CO	WY	3-1-91, TI-1, Interruptible.	ST91-7852-000, 3-15-91.
CP91-1959-000 (5-6-91)	Tropicana Products, Inc. (End-user).	20,000 10,000 3,650,000	Various	LA	7-20-90, IT, Interruptible.	ST91-8263-000, 9-18-90.
CP91-1960-000 (5-6-91)	Portage Energy, Inc. (Marketer).	73,000 73,000 26,645,000	MT, WY, ND	Various	2-27-91, IT-1, Interruptible.	ST91-8305-000, 3-22-91.

[1] Offshire Louisiana and offshore Texas are shown as OLA and OTX.
[2] CIG's quantities are in Mcf.

Applicant's address	Blanket docket
Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944.	CP86-589, et al.
Transcontinental Gas Pipe Line Corporation, P.O. Box 1396, Houston, Texas 77251.	CP88-328-000.
Williston Basin Interstate Pipeline Company, Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501.	CP89-1118-000.

12. CATEX Energy Inc. (Successor-in-Interest to Catamount Natural Gas, Inc.

[Docket No. CP87-910-003]

May 8, 1991.

Take notice that on April 30, 1991, CATEX Energy Inc. (CATEX) of 470 Atlantic Ave., Boston, Massachusetts 02210 filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder requesting that the Commission redesignate the blanket certificate previously issued to Catamount Natural Gas, Inc., in the name of CATEX, and to amend that unlimited-term blanket certificate with pregranted abandonment previously issued by the Commission in Docket No. CI87-910-002 to include authorization to make sales for resale in interstate commerce of natural 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: May 28, 1991, in accordance with Standard Paragraph J at the end of the notice.

13. Sea Robin Pipeline Co.

[Docket No. CP91-1944-000]

May 8, 1991.

Take notice that on May 1, 1991, Sea Robin Pipeline Company (Sea Robin), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP91-1944-000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations for authorization to abandon sales lateral facilities consisting of a meter station and appurtenant piping and facilities installed for deliveries of natural gas to Southern Natural Gas Company (Southern), in Bayou Sale, Lafayette Parish, Louisiana, under Sea Robin's blanket certificate issued in Docket No. CP82-429-000, all as more fully detailed in the request which is on file with the Commission and open to public inspection.

It is stated that the facilities proposed for abandonment are located at the interconnection of the pipeline systems of Southern and United Gas Pipe Line Company (United) in Bayou Sale. It is explained that the facilities were constructed to measure gas sold to Southern by Sea Robin for redelivery to Southern by United under an exchange agreement between Southern, Sea Robin and United. It is further explained that both the construction and the exchange were authorized by the Commission in Docket No. CP69-305. It is asserted that the facilities would be sold at book value by Sea Robin to Southern following receipt of abandonment authorization by Sea Robin. Sea Robin states that the sales service to Southern was abandoned effective April 1, 1990, and that the facilities are no longer needed.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

14. Transok, Inc.

[Docket No. CI91-79-000]

May 8, 1991.

Take notice that on April 30, 1991, Transok, Inc. (Applicant) of P.O. Box 3008, Tulsa, Oklahoma 74101 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 (domestic or foreign) including LNG, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: May 28, 1991, in accordance with Standard Paragraph J at the end of the notice.

15. Tennessee Gas Pipeline Co.

[Docket Nos. CP91-1962-000,[6] CP91-1963-000]

May 9, 1991.

Take notice that on May 6, 1991, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, 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 (18 CFR 157.205 and 284.223) for authorization to transport natural gas on behalf of various shippers under its 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 prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the date of the gas

[6] These prior notice requests are not consolidated.

transportation agreement between Tennessee and the respective shipper, the contract number of the gas transportation agreement, function of the shipper, i.e., marketer, intrastate pipeline, etc., the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket number and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by Tennessee and is included in the attached appendix.

Tennessee alleges that it would provide the proposed service for each shipper under an executed gas transportation agreement and would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No. trans. agree. (Contract No.)	Shipper name	Shipper's function	Peak day,[1] average annual	Points of Receipt	Points of Delivery	Start up date, rate schedule, service type	Related [2] dockets
CP91-1962-000 3-18-91 (T-4259)	Fulton Cogeneration Associates.	End-user	12,500 12,500 4,562,500	NY	NY & PA	4-1-911, IT, Interruptible.	ST91-8537-000.
CP91-1963-000 1-14-91 (T-4203)	Energy Development Corporation.	Producer	500,000 500,000 182,500,000	Off. LA, LA, & TX	Existing Delivery Points.	3-29-91, IT, Interruptible	ST91-8433-000

[1] Quantities are shown in Dekatherms.
[2] The ST docket indicates that 120-day transportation service was initiated under Section 284.223(a) of the Commission's Regulations.

16. Northwest Pipeline Corp.

[Docket No. CP91-1965-000]

May 9, 1991.

Take notice that on May 6, 1990, Northwest Pipeline Corporation (Northwest), P.O. Box 58900, Salt Lake City, Utah 84158-0900, filed in Docket No. CP91-1965-000 a request pursuant to §§ 157.205, 157.211, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, and 157.216) to partially abandon its existing Coeur D'Alene West Meter Station metering facilities in Kootenai County, Idaho and to construct and operate upgraded metering facilities at the Coeur D'Alene West Meter Station in order to accommodate existing firm delivery obligations to Water Power Gas Company (Water Power), under the authorization issued in Docket No. CP82-433-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest asserts that the existing Coeur D'Alene West Meter Station, has a design delivery capacity of approximately 6,833 dekatherms per day at a delivery pressure of 150 psig, and that on several days this past winter, deliveries at the station actually exceeded the existing theoretical design capacity by up to ten percent. Northwest alleges that its currently authorized maximum daily delivery obligation (MDDO) for firm sales, transportation, and storage gas to Water Power at the Coeur D'Alene West Meter Station is 8,200 dekatherms per day at a minimum delivery pressure of 150 psig.

Northwest proposes to upgrade the existing inadequate facilities at the Coeur D'Alene West Meter Station by replacing the two old four-inch orifice meters with two new six-inch turbine meters.[7] This upgrading of the metering facilities would result in a maximum station design capacity of 11,200 dekatherms per day at 150 psig, sufficient to handle delivery requirements at the existing MDDO level and potential future increased requirements. It is alleged that since Northwest proposes to replace all the abandoned facilities by upgraded facilities at the Coeur D'Alene West Meter Station so no abandonment of service would occur. The total cost of upgrading the Coeur D'Alene West Meter Station is estimated to be approximately $43,060. Since this upgrade is required to replace inadequate equipment and to enable Northwest to deliver up to its current MDDO to Water Power, Northwest would not require any construction cost reimbursement from Water Power.

It is alleged that the upgrading of the Coeur D'Alene West Meter Station would be done within the site of the existing meter station and upon completion of the proposed construction, the site would be graded back to its present contours and regraveled.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

17. Williams Natural Gas Co.

[Docket No. CP91-1952-000]

May 9, 1991.

Take notice that on May 2, 1991, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP91-1952-000 pursuant to § 157.205 and 157.212(a) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to reassign volumes of gas at existing points in Greene County, Missouri under the blanket certificate issued in Docket No. CP82-479-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

WNG states that City Utilities has requested that WNG reassign volumes of gas at its various delivery points in order to provide gas to the James River power plant and turbines and the Southwest power plant and turbines, the Fulbright pump station, Southwest disposal plant and Old disposal plant. These locations were previously served under a direct sale agreement. No abandonment or change of facilities is anticipated.

Comment date: June 24, 1991, in accordance with Standard Paragraph G at the end of this notice.

18. ANR Pipeline Co.

[Docket No. CP91-1936-000]

May 9, 1991.

Take notice that on April 30, 1991, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP91-1936-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a portion of natural gas transportation service performed by ANR for Mid Louisiana Gas Company (MidLa), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to abandon the transportation of 3,000 Mcf per day of natural gas to MidLa under ANR's Rate Schedule X-141 to be effective May 1, 1991. ANR states that it transports up to 25,000 Mcf per day of natural gas,

[7] The facilities to be abandoned wee certificated by order issued November 25, 1955, at Docket No. G-8934, 14 FPC 157.

authorized in an order issued on April 17, 1984, in Docket No. CP83–532–000, from reserves MidLa purchases in Eugene Island Area Block 34, offshore Louisiana pursuant to a transportation agreement dated June 20, 1983. The onshore delivery points are an interconnection between ANR and MidLa in Franklin Parish, Louisiana and at a meter station in Tensas Parish, Louisiana, it is indicated.

ANR states that the term of service, commenced on June 5, 1984, under Rate Schedule X–141, is ten years from the date of initial delivery, and year to year thereafter unless canceled by either party by at least six month's written notice which may be made effective at the end of the initial ten years, or any year thereafter. ANR states that pursuant to an amendatory agreement dated April 26, 1991, ANR and MidLa have mutually agreed to reduce the entitlement from 25,000 Mcf to 22,000 Mcf of natural gas per day, to be effective May 1, 1991.

Comment date: May 30, 1991, in accordance with Standard Paragraph F at the end of the notice.

19. William Natural Gas Co.

[Docket No. CP91–1951–000]

May 10, 1991.

On May 2, 1991, Williams Natural Gas Company (WNG) filed in Docket No. CP91–1951–000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of gas for direct sale to City Utilities of Springfield (City Utilities) at five locations in Greene County, Missouri, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Specifically WNG seeks authority to abandon the transportation of gas for direct sale to the James River Power Plant, the Southwest Power Plant, Southwest Disposal Plant, the Old Disposal Plant and the Fulbright Pump Station at the request of City Utilities. WNG states the City Utilities has requested that WNG remove these locations from a direct sale designation so that they may be added to City Utilities existing Rate F and PR(B) agreements.

Comment date: May 31, 1991, in accordance with Standard Paragraph F at the end of this notice.

20. National Fuel Gas Supply Corp.

[Docket Nos. CP91–1966–000,[a] CP91–1967–000, CP91–1968–000, CP91–1969–000, CP91–1970–000, CP91–1971–000, CP91–1972–000, CP91–1973–000, CP91–1974–000, CP91–1975–000]

May 13, 1991.

Take notice that on May 7, 1991, National Fuel Gas Supply Corporation (Applicant), filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the Applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

[a] These prior notice requests are not consolidated.

Docket No.	Applicant	Shipper name	Peak day,[1] average, annual	Points of		Start up date, rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91–1966–000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Open Flow Gas Supply Corporation.	5,000 5,000 1,825,000	NY,PA	NY,PA	3–1–91, IT	CP89–1582–000, ST91–7948–000.
CP91–1967–000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Lenape Resources Corporation.	1,800 1,800 657,000	NY,PA	NY,PA	3–22–91, IT	CP89–1582–000, ST91–7949–000.
CP91–1968–000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Fuel Services Group, Inc.	500 500 182,500	NY,PA	NY,PA	3–1–91, IT	CP89–1582–000, ST91–7946–000.
CP91–1969–000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Endevco Oil & Gas Company.	50,000 50,000 18,250,000	NY,PA	NY,PA	3–31–91, IT	CP89–1582–000, ST91–8447–000.

Docket No.	Applicant	Shipper name	Peak day,[1] average, annual	Points of		Start up date, rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91-1970-000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Wes Cana Energy Marketing, Inc.	50,000 50,000 18,250,000	NY,PA	NY,PA	3-5-91	CP89-1582-000, ST91-7931-000.
CP91-1971-000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Woodward Marketing, Inc.	20,000 20,000 7,300,000	NY,PA	NY,PA	3-14-91, IT	CP89-1582-000. ST91-7932-000.
CP91-1972-000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Integrated Gas Marketing.	2,000 2,000 730,000	NY,PA	NY,PA	3-22-91, IT	CP89-1582-000, ST91-7927-000.
CP91-1973-000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Phibro Energy, Inc.	250,000	250,000 91,250,000 NY,PA	NY,PA	3-20-91, IT	CP89-1582-000, ST91-7928-000.
CP91-1974-000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Vineyard Oil & Gas Company.	1,740 1,740 635,100	NY,PA	NY,PA	3-1-91, IT	CP89-1528-000, ST91-7957-000.
CP91-1975-000	National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, NY 14203.	Chevron USA, Inc.	200,000 200,000 73,000,000	NY,PA	NY,PA	3-8-91, IT	CP89-1528-000, ST91-7936-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

21. Transwestern Pipeline Co.

[Docket No. CP91-1984-000]

May 13, 1991.

Take notice that on May 7, 1991, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP91-1984-000 a request pursuant to §§ 157.205, 157.211, and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to install and operate a proposed meter run as a point of delivery of natural gas volumes under its blanket certificate issued in Docket No. CP82-534-000 pursuant to section 7 of the Natural Gas Act, and to transport natural gas to accommodate deliveries to Yates Petroleum Corporation under its blanket certificate issued in Docket No. CP88-133-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

22. Florida Gas Transmission Co.

[Docket No. CP91-1961-000]

May 13, 1991.

Take notice that on May 6, 1991, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP91-1961-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to (1) construct and operate a new meter station and appurtenant facilities (the South Meter Station) to deliver gas to the City of Tallahassee (Tallahassee), an existing resale and transportation customer; and (2) realign the Maximum Daily Contract Quantities (MDCQ) between Tallahassee's authorized and proposed delivery points under Rate Schedule G, under the authorization issued in Docket No. CP82-553-000 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.

It is stated that Tallahassee is an LDC that will purchase gas from FGT for resale to serve Tallahassee and nearby communities upon completion of the Phase II expansion which was approved in the settlement agreement in Docket No. RP89-50-000, *et al.*, 51 FERC 61,309. FGT states that the proposed South Meter Station will be a jurisdictional facility necessary to accommodate natural gas deliveries pursuant to the existing Service Agreement under Rate Schedule G.

FGT states that in Docket No. CP96-704-000 requested authorization to expand its system which included a request to construct the North Meter Station. This docket along with others was consolidated with FGT's Section 4 rate case in Docket No. RP89-50-000, *et al.* The above referenced order approved, among other things, FGT's request to serve Tallahassee under Rate Schedules G and FTS-1 and to construct and operate the North Meter Station at the time of the in-service date of the Phase II facilities.

FGT requests authority to construct and operate the proposed South Meter Station at Mile Post 428.5 on its 30-inch mainline in Leon County, Florida. FGT further requests authorization to realign the currently effective certificated MDCQ within the existing Service Agreement under Rate Schedule G between the Norther Meter Station and

the proposed South Meter Station, to accommodate natural gas deliveries to Tallahassee. It is stated that Tallahassee had requested that FGT construct the South Meter Station on FGT's 30-inch mainline on the south side of Tallahassee in order to accommodate future growth and provide flexibility in the receipt of the Rate Schedule G volumes. FGT avers that the South Meter Station will enable Tallahassee to receive gas into their system and serve the City of Tallahassee and nearby communities with only minor non-jurisdictional facilities required because of an existing 8-inch high pressure transmission line within close proximity to the proposed South Meter Station.

FGT states that Tallahassee will reimburse it for all costs directly and indirectly incurred by FGT for the installation of the meter station and appurtenant facilities. It is estimated that the costs of these facilities will be $376,485 inclusive of tax gross-up.

FGT further states that it has sufficient capacity to deliver the proposed daily and annual volumes without detriment or disadvantage to other FGT customers and will not impact FGT's peak day or annual deliveries.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

23. Tennessee Gas Pipeline Co.

[Docket Nos. CP91-1985-000, CP91-1986-000, CP91-1987-000]

May 13, 1991.

Take Notice that Tennessee Gas Pipeline Company, P.O. Box 2511, Houston, Texas 77252 (Applicant), filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP87-115-000, 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.[9]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

[9] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Dt	Receipt [1] points	Delivery points	Contract date, rate schedule, service type	Related docket, start up date
CP91-1985-000 (5-7-91)	Texas-Ohio Gas, Inc. (marketer).	60,000 60,000 21,900,000	Various	Various	12-18-91, IT, Interruptible.	ST91-8536, 2-6-91.
CP91-1886-000 (5-7-91)	Ball-Incon Glass Packaging Corp. (end-user).	600 600 219,000	OTX	PA	4-21-89, FT-A, firm.	ST91-8539, 4-1-91.
CP91-1987-000 (5-7-91)	Clinton Gas Transmission, Inc. (marketer).	1000 1000 365,000	OTX	TN	4-2-91, IT, Interruptible.	ST91-8538, 4-2-91.

[1] Offshore Louisiana and offshore Texas are shwon as OLA and OTX.

24. Northern Natural Gas Co.; Columbia Gas Transmission Corp.

[Docket Nos. CP91-1993-000,[10] CP91-1999-000]

May 13, 1991.

Take notice that on May 8, 1991, Applicants filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the National Gas Act for authorization to transport natural gas on behalf of various shippers, under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

[10] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average, annual	Points of [2]		Start up date, rate schedule	Related [3] dockets
				Receipt	Delivery		
CP91-1993-000 (5-8-91)	Northern Natural Gas Company, P.O. Box 1188, Houston, TX 77251-1188.	Eastex Hydrocarbons, Inc.	100,000 75,000 36,500,000	IA, KS, MN, NE, NM, OK, SD, TX, WI.	IA, KS, NM, OK, TX..	4-3-91, IT-1	CP86-435-000, ST91-8529-000.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average, annual	Points of [2]		Start up date, rate schedule	Related [3] dockets
				Receipt	Delivery		
CP91-1999-000 (5-8-91)	Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, WV 25325-1273.	Copeland Corporation.	1,200 960 438,000	KY, NY, OH, PA, WV.	OH	3-1-91, ITS	CP86-240-000, ST91-7861-000.

[1] Quantities are shown in MMBtu unless otherwise noted.
[2] Offshore Louisiana and Offshore Texas are shown as OLA and OTX.
[3] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

25. K N Energy, Inc.

[Docket No. CP91-1989-000]

May 13, 1991.

Take notice that on May 8, 1991, K N Energy, Inc. (K N), P.O. Box 281304, Lakewood, Colorado 80228, filed a request with the Commission in Docket No. CP91-1989-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate 15 sales taps for the delivery of natural gas to end-users under K N's blanket certificate issued in Docket No. CP83-140-000, *et al.*, pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

K N proposes to construct and operate the sales taps along its jurisdictional pipelines to deliver 748 Mcf of natural gas on peak days and 27,200 Mcf annually for irrigation, grain drying, and commercial purposes in Kansas and Nebraska.[11] K N states that its tariff does not prohibit the addition of new sales taps, nor would the additional sales taps have a significant impact on K N's peak day and annual deliveries.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

[11] See Appendix.

APPENDIX

Customer	Location	Volumes (Mcf)		End-use
		Peak day	Annual	
Paul Poessnecker	Holt County, NE	24	800	Irrigation.
Potter Family Partnership	Franklin County, NE	24	800	Irrigation.
First Farm Corp	Hamilton County, NE	180	4,000	Grain Drying.
First Farm Corp	Hamilton County, NE	110	3,600	Grain Drying.
Halford Cattle Co., Inc	Thomas County, KS	160	10,000	Commercial.
James Frerichs	Holt County, NE	26	800	Irrigation.
Al Dickman	Thomas County, KS	24	800	Irrigation.
Mike Thom	Kearney County, NE	28	800	Irrigation.
Alan Songster	Fillmore County, NE	27	800	Irrigation.
Gary Cederburg	Kearney County, NE	24	800	Irrigation.
Lush Family	Kearney County, NE	24	800	Irrigation.
Tom Hoefer	Antelope County, NE	24	800	Irrigation.
Harold Volzke	Seward County, NE	25	800	Irrigation.
Viola B. Jerrum	Seward County, NE	24	800	Irrigation.
Von Feldt Enterprise	Thomas County, KS	24	800	Irrigation.

26. Southern Natural Gas Co.

[Docket Nos. CP91-2000-000, CP91-2001-000]

May 13, 1991.

Take notice that on May 9, 1991, Southern Natural Gas Company (Applicant), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[12]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by the Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

[12] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name	Peak day,[1] average annual	Points of		Start up date, rate schedule	Related dockets [2]
			Receipt	Delivery		
CP91-2000-000 5-9-91	Yuma Gas Corporation	25,000 25,000 9,125,000	On TX, Off TX, On LA, Off LA, AL MS, GA.	GA	3-21-91, IT	ST91-8247-000.

Docket No. (date filed)	Shipper name	Peak day,[1] average annual	Points of		Start up date, rate schedule	Related dockets [2]
			Receipt	Delivery		
CP91-2001-000 5-9-91	Graysville Municipal Gas..	3,706 3,706 1,352,690	On TX, Off TX, On LA, Off LA, AL MS, GA.	AL	3-24-91, FT	ST91-8245-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

27. National Fuel Gas Supply Corp.

[Docket Nos. CP91-1976-000, CP91-1977-000, CP91-1978-000, CP91-1979-000]

May 13, 1991.

Take notice that National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under its blanket certificate issued in Docket No. CP89-1582-000, 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.[13]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

[13] These prior notice requests are not consolidated.

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
CP91-1976-000 (5-7-91)	Kogas, Inc	150,000 150,000 54,750,000	NY, PA	NY, PA	3-19-91, IT, interruptible.	ST91-7955, 3-21-91.
CP91-1977-000 (5-7-91)	Nortech Energy Corporation.	20,000 20,000 7,300,000	NY, PA	NY, PA	3-19-91, IT, interruptible.	ST91-8451, 3-31-91.
CP91-1978-000 (5-7-91)	TXG Marketing Corporation.	50,000 50,000 18,250,000	NY, PA	NY, PA	3-19-91, IT, interruptible.	ST91-7933, 3-19-91.
CP91-1979-000 (5-7-91)	Catex Energy, Inc	50,000 50,000 18,250,000	NY, PA	NY, PA	2-5-91, IT, interruptible.	ST91-7938, 3-6-91.

28. U-T Offshore System

[Docket No. CP91-1988-000]

May 13, 1991.

Take notice that on May 7, 1991, U-T Offshore System (U-TOS), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP91-1988-000 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 Catex Energy Inc., a marketer, under the blanket certificate issued by the Commission's Order No. 509 corresponding to the rates, terms and conditions filed in Docket No. RP89-99-000, 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.

U-TOS states that, pursuant to an agreement dated March 29, 1991, under its Rate Schedule IT, it proposes to transport up to 200,000 Mcf per day of natural gas. U-TOS indicates that the gas would be transported from offshore Louisiana, and would be redelivered in Louisiana. U-TOS further indicates that it would transport 25,000 Mcf on an average day and 9,125,000 Mcf annually.

U-TOS advises that service under § 284.223(a) commenced April 1, 1991, as reported in Docket No. ST91-8224-000.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

29. Texas Eastern Transmission Corp.

[Docket No. CP91-2020-000]

May 13, 1991.

Take notice that on May 10, 1991, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251-1642, filed a request in Docket No. CP91-2020-000 pursuant to §§ 157.205 and 284.223 of the commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Phillips Petroleum Company (Phillips), a producer, under the blanket certificate issued in Docket No. CP88-136-007, 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.

Specifically, Texas Eastern proposes to implement a service agreement dated February 1, 1990, as amended, providing for a maximum transportation volume of 1,452,080 dt equivalent of natural gas per day. It is indicated that Texas Eastern would receive the gas at specified points located onshore and offshore Louisiana, Texas, Alabama, Arkansas, Illinois, Indiana, Kentucky, Missouri, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Tennessee, and West Virginia, and redeliver the gas, less applicable shrinkage, to specified delivery points on its system in Indiana, Louisiana, Mississippi, New Jersey, Ohio, Pennsylvania, and Texas. Texas Eastern estimates peak day and average day volumes of 1,452,080 dt equivalent of natural gas and annual volumes of 530,009,200 dt equivalent of natural gas. It is stated that Texas Eastern initiated a

120-day transportation service for Phillips on February 27, 1991, as reported in Docket No. ST91-7901-000.

Texas Eastern states that no new facilities would be required to implement the service and that it would change rates and abide by the terms and conditions of its Rate Schedule IT.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

30. Algonquin Gas Transmission Co.

[Docket No. CP91-1983-000]

May 13, 1991.

Take notice that on May 7, 1991, Algonquin Gas Transmission Company (Applicant), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed in Docket No. CP91-1983-000 an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing Applicant to construct and operate certain interstate pipeline facilities that will enable Applicant to transport natural gas on a firm basis for Milford Power Limited Partnership (Milford Power) under Applicant's blanket transportation certificate, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate approximately 3.1 miles of 12-inch pipeline loop on Applicant's existing T-1 6-inch pipeline located in the southeastern Massachusetts towns of Bellingham, Hopedale, and Milford, and to establish a new delivery point near Milford, Massachusetts at a meter station to be constructed on property owned by Milford Power. Applicant estimates that the cost of the proposed facilities at $4,612,000. Applicant states that initial financing will be through revolving credit arrangements, short term loans and from funds on hand.

Applicant indicates that the requested facilities, along with certain facilities requested by Applicant in Docket No. CP91-1111-000, would be required in order to commence on or before November 1, 1992, firm, year round receipts and transportation of up to 28,900 MMBtu per day equivalent for Milford Power from Distigas of Massachusetts Corporation (DOMAC) at Everett, Massachusetts to the proposed delivery point near Milford, Massachusetts, for ultimate delivery by Commonwealth Gas Company (Commonwealth) to Milford Power's proposed 140 MW electric generating plant in Milford, Massachusetts. Applicant states that the transportation from Everett, Massachusetts to the proposed delivery point would be under the authority of Applicant's blanket transportation certificate and at its general applicable rates for firm transportation service, Rate Schedule AFT-1.

Applicant states that Milford Power has entered into a contract to purchase firm supply from DOMAC which is to be delivered by Applicant at a new interconnection to be established between Applicant and Commonwealth. Applicant further states that DOMAC has requested that Applicant construct facilities necessary to transport this and other natural gas on a firm basis from a receipt point at Everett, Massachusetts to various points of delivery to DOMAC's customers, including Milford Power.

Applicant indicates that it filed an application in Docket No. CP91-1111-000 on February 1, 1991, to construct certain facilities that would enable Applicant to receive and transport up to 90,000 MMBtu per day equivalent of gas from DOMAC at Everett, Massachusetts on a firm year round basis commencing in June 1992. Applicant futher indicates that the firm transportation for Milford Power depends in part upon the construction and operation of those proposed facilities.

Applicant proposes to establish a new delivery point near Milford, Massachusetts at a meter station to be constructed on property owned by Milford Power. Applicant indicates that the meter station would be constructed, operated, and maintained by Applicant. Applicant further indicates that the meter station would be owned and paid for by Milford Power. It is indicated that Commonwealth, the local distribution company serving the Milford, Massachusetts area, would construct, operate and maintain regulator and pressure protection facilities and gas heating facilities which would be owned by Milford Power downstream of the proposed meter station. Applicant states that Commonwealth would design, construct, operate, maintain and own certain of its own related facilities and provide further transportation of the DOMAC supply to Milford Power's plant.

Comment date: June 3, 1991, in accordance with Standard Paragraph F at the end of this notice.

31. National Fuel Gas Supply Corp.

[Docket Nos. CP91-1980-000, CP91-1981-000, CP91-1982-000]

May 13, 1991.

Take notice that National Fuel Gas Supply Corporation, 10 Lafayette Square, Buffalo, New York 14203, (Applicant) filed in the above-referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP89-1582-000, 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.[14]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Comment dcate: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

[14] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Rate schedule, service type	Related ST docket, start up date
CP91-1980-000 (5-7-91)	Midcon Marketing Corp. (marketer).	300,000 300,000 109,500,000	NY, PA	NY, PA	IT, Interruptible	ST91-7952 3-22-91
CP91-1981-000 (5-7-91)	CNG Producing Co	60,000 .60,000 21,900,000	NY, PA	NY, PA	IT, Interruptible	ST91-7935 3-8-91

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual MMBtu	Receipt points	Delivery points	Rate schedule, service type	Related ST docket, start up date
CP91-1982-000 (5-7-91)	Access Energy Corp	21,800 21,800 7,957,000	NY, PA	NY, PA	IT, Interruptible	ST91-7944 3-22-91

32. Viking Gas Transportation Co.; United Gas Pipe Line Co.; Natural Gas Pipeline Company of America

[Docket Nos. CP91-2003-000, CP91-2004-000, CP91-2005-000, CP91-2007-000, CP91-2008-000, CP91-2009-000, CP91-2010-000]

May 13, 1991.

Take notice that on May 9, 1991, Applicants filed in the above-referenced dockets prior notice requests 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 the blanket certificates issued to Applicants pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[15]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix A. Applicants' addresses and transportation blanket certificates are shown in the attached appendix B.

Comments date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

[15] These prior notice requests are not consolidated.

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
CP91-2003-000 (5-9-91)	Triumph Gas Marketing Co. (marketer).	30,000 30,000 [1] 10,950,000	WI, MN, ND	WI, MN, ND	2-11-91, IT-2, Interruptible.	ST91-8577-000 4-24-91
CP91-2004-000 (5-9-91)	Consolidated Fuel Corporation (marketer).	77,250 77,250 28,196,250	Various	Various	7-26-88,[2] ITS, Interruptible.	ST91-8193-000 4-1-91
CP91-2005-000 (5-9-91)	Nerco Oil and Gas, Inc. (producer).	77,250 77,250 28,196,250	LA, MS	TX, LA, MS	5-24-88,[3] ITS, Interruptible.	ST91-8524-000 3-15-91
CP91-2007-000 (5-9-91)	Rangeline Corporation (marketer).	100,000 60,000 21,900,000	Various	Various	2-7-91, ITS, Interruptible.	ST91-7895-000 3-1-91
CP91-2008-000 (5-9-91)	PSI Gas Marketing, Inc. (marketer).	250,000 100,000 36,500,000	Various	Various	2-22-91, ITS, Interruptible.	ST91-7893-000 3-1-91
CP91-2009-000 (5-9-91)	Enmark Gas Corp. (intrastate pipeline).	30,000 15,000	Various	Various	2-22-91, ITS, Interruptible.	ST91-7894-000 3-1-91
CP91-2010-000 (5-9-91)	Trinity Pipeline, Inc. (marketer).	10,000 5,000 1,825,000	Various	Various	12-8-88,[4] ITS, Interruptible.	ST91-7982-000 3-3-91

[1] Viking's quantities are in dekatherms.
[2] As amended February 22, 1991.
[3] As amended January 17, 1991.
[4] As amended May 18, 1989, and February 26, 1991.

Applicant's address	Blanket docket
Natural Gas Pipeline Company of America, 701 East 22nd Street, Lombard, Illinois 60148.	CP88-582-000
United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251-1478.	CP88-6-000
Viking Gas Transmission Company, P.O. Box 2511, Houston, Texas 77252.	CP90-273-000

33. Texas Gas Transmission Corp.

[Docket Nos. CP91-2015-000 [16], CP91-2017-000, CP91-2018-000, CP91-2019-000]

May 14, 1991.

Take notice that on May 10, 1991, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky, 42301 filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under Texas Gas' blanket certificate issued in Docket No. CP88-686-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has

[16] These prior notice requests are not consolidated.

been provided by Texas Gas and is included in the attached appendix.

Texas Gas also states that it would provide the service for each shipper under an executed transportation agreement, and that Texas Gas would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: June 27, 1991, in accordance with Standard Paragraph G at the end of this notice.

Docket No.	Shipper name	Peak day,[1] average annual	Points of		Start up date, rate schedule	Related [2] dockets
			Receipt	Delivery		
CP91-2015-000	Tex/Con Gas	1,200	LA, IL, IN, AR, KY, OH, TX, TN, Off TX, Off LA.	KY	4-1-91, FT	ST91-8355-000.
	Marketing Co	1,200				
		438,000				
CP91-2017-000	Seagull	20,000	Off TX	Off TX	3-30-91	ST91-8357-000.
	Marketing	5,000				
	Services, Inc	1,825,000				
CP91-2018-000	Polaris	100,000	LA, TN, IN, IL, KY, AR, TX, OH, Off TX, Off LA.	KY, OH, IN	3-30-91, IT	ST91-8361-000.
	Pipeline	40,000				
	Corporation	3,650,000				
CP91-2019-000	TXG Gas	500	LA, TN, IN, IL, KY, AR, TX, OH, Off TX, Off LA.	KY	4-1-91 FT	ST91-8354-000.
	Marketing	500				
	Company	182,500				

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

34. Northern Natural Gas Co.

[Docket No. CP91-2002-000]

May 14, 1991.

Take notice that on May 9, 1991, Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP91-2002-000 an application pursuant to section 7(b) of the Natural Gas Act for an order granting permission and approval to partially abandon sales service provided to North Texas Gas Company, Inc. (NTGC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that Northern and NTGC are parties to a service agreement dated September 20, 1982, which is on file with the Commission as Rate Schedule X-90 of Northern's FERC Gas Tariff, Original Volume No. 2. Northern further states that NTGC desires to reform its Rate Schedule X-90 agreement to reflect reduced entitlements from 150 Mcf per day to 4 Mcf per day during the months of November through March and from 150 Mcf per day to 2 Mcf per day from April through October.

Northern indicates that Northern and NTGC have amended the existing agreement, reflecting the decreased level of service requested by NTGC. It is further indicated that overrun volumes may also be made available, from time to time, by Northern to NTGC on a best efforts basis. Northern states that the new service levels would become effective on the date of the order approving the instant application.

Comment date: June 4, 1991, in accordance with Standard Paragraph F at the end of this notice.

35. Northern Natural Gas Co.

[Docket No. CP91-1992-000]

May 14, 1991.

Take notice that on May 8, 1991, Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP91-1992-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an increase in sales entitlement under its Rate Schedule GS-1 to Wisconsin Southern Gas Company, Incorporated (Wisconsin), all as more fully set forth in the application on file with the Commission and open to public inspection.

Northern proposes to increase the sales entitlement for Wisconsin under Rate Schedule GS-1 by 880 MMBtu of natural gas per day from 3,120 MMBtu per day to 4,000 MMBtu per day to serve a new manufacturing process to be implemented by the Minnesota Mining and Manufacturing Company in Prairie du Chien, Wisconsin. Northern states that Northern and Wisconsin have entered into a new GS-1 Service Agreement, dated April 8, 1991, (agreement) for the increased level of service for the increased sales entitlement, starting with the 1991-1992 winter heating season, for the community of Prairie du Chien to be serviced by Wisconsin under Northern's Rate Schedule GS-1. The agreement would become effective on November 1, 1991, or such date approved by the Commission, whichever is later, and would continue in effect through October 1, 1993, it is stated. Northern indicates that no new facilities would be required for the additional sales service.

Comment date: June 4, 1991, in accordance with Standard Paragraph F at the end of this notice.

36. Texas Eastern Transmission Corp.

[Docket No. CP91-2016-000]

May 14, 1991.

Take notice that on May 10, 1991, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 1642, Houston, Texas 77251-1642, filed a request in Docket No. CP91-2016-000 pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to perform an interruptible transportation service for Clajon Marketing, L.P. (Clajon), a marketer, under the blanket certificate issued in Docket No. CP88-136-000, pursuant to section 7(c) 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.

Specifically, Texas Eastern proposes to implement a service agreement dated February 21, 1991, providing for a maximum transportation volume of 250,000 dt equivalent of natural gas per day. It is indicated that Texas Eastern would receive the gas at specified points located onshore and offshore Louisiana, Alabama, Arkansas, Illinois, Indiana, Kentucky, Missouri, Mississippi, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Texas and West Virginia and redeliver the gas at a specified point located in Texas. Texas Eastern estimates peak day and average day volumes of 250,000 dt equivalent of natural gas and annual volumes of 91,250,000 dt equivalent of natural gas. It is stated that Texas Eastern initiated a

120-day transportation service for Clajon on March 1, 1991, as reported in Docket No. St91–7961–000.

Texas Eastern states that no new facilities would be required to implement the service and that it would charge rates and abide by the terms and conditions of its Rate Schedule IT–1.

Comment date: June 28, 1991, in accordance with Standard Pargraph 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 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 Regulations under the Natural Gas Act (18 CFR 157.205) a 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.

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. 91–12064 Filed 5–21–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP89–460–007, et al.]

Pacific Gas Transmission Company, et al.; Natural Gas Certificate Filings

May 15, 1991.

Take notice that the following filings have been made with the Commission:

1. Pacific Gas Transmission Co.

[Docket No. CP89–460–007]

Take notice that on May 9, 1991 Pacific Gas Transmission Company ("PGT"), 160 Spear Street, San Francisco, California, 94105–1570, filed this Amendment to its Application in Docket No. CP89–460–000, as amended in Docket No. CP89–460–001, requesting a Certificate of Public Convenience and Necessity under section 7(c) of the Natural Gas Act, and part 157, subpart A of the Commission's Regulations, authorizing PGT to construct and operate an incremental looping of its existing pipeline facilities to enable it to provide firm and interruptible transportation service to the Pacific Northwest, and to the terminus of PGT's system at Malin, Oregon for ultimate delivery into California ("Expansion Project").

PGT states that the Commission determined that the Expansion Project, with modifications, is required by the public convenience and necessity, but directed PGT to conduct a new open season for the initial allocation of firm capacity. See "Preliminary Order on Nonenvironmental Issues,: 54 FERC ¶ 61,035 (issued January 22, 1991). PGT states that it conducted the new open season from February 21 to March 22, 1991. As a result of the open season, PGT states that the Expansion Project is fully subscribed by a diverse group of utilities, producers, and marketers—including a limited number of new shippers who were not previously capacity holders on the Expansion Project.

PGT states that the purpose of this Amendment is to reflect the names of all the new open season shippers, their contract quantities, and related receipt and delivery points. PGT's new shipper list and contract quantities are as follows:

California	MMBtu/d
Kingsgate, B.C. to Malin, OR:	
CanWest Gas Supply USA Inc	27,429
Chevron U.S.A. Inc	31,348
City of Burbank	4,770
City of Glendale	4,034
City of Pasadena	4,034
Dekalb Energy Co	11,755
NATGAS U.S. Inc	58,777
Norcem Marketing Inc	47,022
North Canadian Marketing Corp	19,592
North Canadian Oils Ltd	39,185
Northern California Power Agency	5,486
Northridge Alberta Gas Sales Ltd	8,066
PanCanadian Petroleum, Ltd	40,338
Pancontinental Oil, Ltd	4,034
Paramount Resources U.S. Inc	19,592
Petro-Canada Hydrocarbons Inc	19,592
Sacramento Municipal Utility District	12,101
Salmon Resources Ltd	27,429
San Diego Gas & Electric Company	52,508
Southern California Edison Company	201,687
Suncor, Inc	40,361
Vector Energy Inc	16,707
Washington Energy Exploration, Inc	19,592
Total	715,439
Stanfield, OR to Malin, OR:	
CanWest Gas Supply USA Inc	35,000
BP Resources Canada Limited	10,250
CanWest Gas Supply Inc	16,515
Total	61,765

Pacific Northwest	Delivery point	Annual average MMBtu/d	Winter MMBtu/d	Winter MMBtu/d
From Kingsgate, B.C.				
The Washington Water Power Company	Bonners Ferry, ID	590	879	300
	Schweitzer, ID	1,414	1,827	1,000
	Sandpoint, ID	2,914	3,327	2,500
	Athol, ID	171	191	150
	Rathdrum, ID	561	871	250
	Spokane, WA-NPC	5,283	7,165	3,400
	Spokane, WA-WWP	28,275	36,549	20,000
	Mica, WA	2,621	3,241	2,000
	Spangle, WA	192	233	150
	Rosalia, WA	142	183	100
	St. John, WA	162	224	100
	Lacrosse, WA	92	133	50
Chevron U.S.A. Inc	Stanfield, OR	20,000	20,000	20,000
IGI Resources, Inc	Stanfield, OR	7,158	7,158	7,158
Northwest Natural Gas Co	Standield, OR	38,275	46,549	30,000
Washington Energy Exploration, Inc	Stanfield, OR	35,343	45,686	25,000
Cascade Natural Gas Corp	Madras, OR	166	331	0
	Prineville, OR	414	827	0
	Redmond, OR	331	662	0
	Bend, OR	2,069	4,137	0
	Stearns, OR	621	1,241	0
	Gilchrist, OR	124	248	0
CP National Corp	Klamath Falls, OR	3,310	6,620	0
Total		150,220	188,000	112,528

PGT notes that it previously requested authorization to make deliveries in the Pacific Northwest at Spokane, Washington; Wallula, Washington; Stanfield, Oregon; and Hermiston, Oregon, with the possibility of adding additional delivery points based on the need of specific customers. See Original Application at 6. Accordingly, PGT allowed the bidders in the new Open Season to tender bids to any existing delivery point on the PGT system.

Proposed Facilities and Capitol Costs

The proposed facilities as reflected in the American Application have not changed. As noted in the 1989 Amended Application, PGT estimated capital costs for the Expansion Project, a fourth quarter 1988 cost basis, at $635,050,000.

As set forth in Exhibit K of PGT's Amendment, the cost of these facilities giving effect to the escalation from 1988 to the proposed in-service date in 1993, as well as finance charges associated with the project's construction schedule, the construction cost becomes $808,600,000, the details are shown in Table K, of PGT's amendment filing. In addition to the information provided in Exhibit K, PGT agrees to substantiate this proposed adjustment, and any future adjustments for environmental mitigation, actual construction costs, and any other factors affecting capitol costs, through a subsequent compliance filing. See *Iroquois Gas Transmission System, L.P. et al.*, Order No. 357, 53 FERC ¶ 61,194 AT PP. 61,736–37 (1990).

Tariff Modifications

PGT's *pro forma* tariff as set forth in Exhibit P has been revised to represent the adjusted Expansion Project costs. PGT has provided alternative tariff sheets which reflect: (1) The rate design (100 percent reservation charge) and return on equity (14.0 percent) proposed by PGT in its 1989 Amended Application and request for rehearing of the January 22, 1991, Preliminary Determination now pending before the Commission, and (2) the rate design and return on equity approved by the Commission in that same Order.

Attachment B of PGT's March 25, 1991, filing included a complete copy of all the revised *pro forma* tariff sheets governing service on the PGT Expansion Project. Subsequently, PGT and the new open season shippers agreed to modify certain tariff provisions to more accurately reflect the rights and obligations of PGT and its shippers. These modified provisions (Paragraph 9—Gas Quality, and Paragraph 10—Commercial Operating Date) and a new provision (Paragraph 12—Reservation Charge Relief) (force majeure) are included in Exhibit P.

PGT states that it served by first class mail a copy of this Amendment on May 9, 1991, upon all parties to this proceeding.

Comment date: May 29, 1991, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Transwestern Pipeline Co.

[Docket No. CP91–2022–000]

Take notice that on May 13, 1991, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP91–202–000 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 Mewbourne Oil Company, a producer of natural gas, under the blanket certificate issues in Docket No. CP88–133–000 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.

Transwestern states that, pursuant to an agreement dated September 20, 1990, under its Rate Schedule ITS–1, it proposes to transport up to 50,000 MMBtu per day equivalent of natural gas. Transwestern indicates that it would transport 37,500 MMBtu on an average day and 18,250,000 MMBtu annually. Transwestern further indicates that the gas would be transported from Arizona, New Mexico, Oklahoma, and Texas, and would be redelivered in Arizona, New Mexico, Oklahoma, and Texas.

Transwestern advises that service under § 284.223(a) commenced May 1, 1991, as reported in Docket No. ST91–8581.

Comment date: July 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

3. ANR Pipeline Co.

[Docket No. CP91-1990-000]

Take notice that on May 8, 1991, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP91-1990-000 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 Shell Western E&P, Inc., a marketer, under the blanket certificate issued in Docket No. CP88-532-000 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.

ANR states that, pursuant to an agreement dated October 9, 1990, under its Rate Schedule ITS, it proposes to transport up to 15,000 Dth per day equivalent of natural gas. ANR indicates that the gas would be transported from Michigan, and would be redelivered in various points on its system. ANR further indicates that it would transport 15,000 Dth on an average day and 5,475,000 Dth annually.

ANR advises that service under § 284.223(a) commenced March 25, 1991, as reported in Docket No. ST91-8024.

Comment date: July 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

4. Texas Eastern Transmission Corp; Mississippi River Transmission Corp.

[Docket Nos. CP91-2027-000,[1] CP-91-2028-000, CP91-2029-000, CP91-2031-000, CP91-2032-000]

Take notice that the above referenced companies (Applicants) filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under their blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under Section 284.223 of the Commission's Regulations, has been provided by the Applicants and is included in the attached appendix.

The Applicants also state that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: July 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

[1] These prior notices requests are not consolidated.

Docket No. [3] (date filed)	Applicant	Shipper name	Peak day [1] average annual	Points of [2]		Start up date rate schedule	Related dockets
				Receipt	Delivery		
CP91-2027-000 (5-13-91)	Texas Eastern Transmission Corporation, 5400 Westheimer Court, Houston, Texas 77056-5310.	Tenngasco Corporation.	200,000 200,000 73,000,000	OLA, LA, AL, AR, IL, IN, KY, MO, MS, NJ, NY, OH, PA, TN, TX, WV.	MX, TX, LA, MS, OH, AL.	03-02-91, IT-1	ST91-7962-000, CP88-136-000.
CP91-2028-000 (5-13-91)	Texas Eastern Transmission Corporation, 5400 Westheimer Court, Houston, Texas 77056-5310.	Public Electric and Gas Company.	200,000 200,000 73,000,000	OLA, LA, AL, AR, IL, IN, KY, MO, MS, NJ, NY, OH, PA, TN, TX, WV.	NJ	04-10-91, IT-1	ST91-8527-000, CP88-136-000.
CP91-2029-000 (5-13-91)	Texas Eastern Transmission Corporation, 5400 Westheimer Court, Houston, Texas 77056-5310.	Coast Energy Group, Inc.	35,000 35,000 12,775,000	OLA, LA, AL, AR, IL, IN, KY, MO, MS, NJ, NY, OH, PA, TN, TX, WV.	LA, TX, MS, OH, PA, WV, IN, NJ.	04-09-91, IT-1	ST91-8526-000, CP88-136-000.
CP91-2031-000 (5-13-91)	Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124.	The City of Potosi, Missouri.	350 334 122,000	AR, LA, OK, TX, IL	MO	04-01-91, FTS	ST91-8250-000, CP89-1121-000.
CP91-2032-000 (5-13-91)	Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124.	The City of Waterloo, Illinois.	300 ~~299~~ 109,000	AR, LA, OK, TX, IL	IL	04-01-91, FTS	ST91-8249-000, CP89-1121-000.

[1] Quantities are shown in MMBtu.
[2] Mexico is shown as MX.
[3] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.
[4] Quantities are shown in MMBtu.
[5] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

5. Mississippi River Transmission Corp.; Arkla Energy Resources, a division of Arkla, Inc.

[Docket Nos. CP91–2023–000, CP91–2024–000, CP91–2025–000, CP91–2026–000]

Take notice that on May 13, 1991, Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124, and Arkla Energy Resources, a division of Arkla, Inc., 525 Milam Street, Shreveport, Louisiana 71151, (Applicants) filed in the above-referenced dockets prior notice requests pursuant to § § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of shippers under the blanket certificates issued in Docket No. CP89–1121–000 and Docket No. CP88–820–000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[2]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related ST docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicants and is summarized in the attached appendix.

Comment date: July 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

[2] These prior notice requests are not consolidated.

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
CP91–2023–000 (5–13–91)	The City of Bismarck, Missouri (LDC).	60 51 18,500	AR, LA, OK, TX, IL	MO	2–21–91, FTS, Firm	ST91–8251–000 4–1–91
CP91–2024–000 (5–13–91)	The City of Chester, Illinois (LDC).	300 274 100,000	AR, LA, OK, TX, IL	IL	2–21–91, FTS, Firm	ST91–8248–000 4–1–91
CP91–2025–000 (5–13–91)	The Village of Dupo, Illinois (LDC).	150 148 54,000	AR, LA, OK, TX, IL	IL	3–27–91, FTS, Firm	ST91–8252–000 4–1–91
CP91–2026–000 ST91–5512–000 (5–13–91)	Arkla Energy Marketing (marketer).	90,000 72,000 26,280,000	AGS Pool [1]	OK, TX	11–1–90,IT, Interruptible.	3–6–91

[1] Points of receipt are shown on AER's master listing for sources of gas supplied by Arkla General Supply Company under the transportation service agreement.

6. United Gas Pipe Line Co.

[Docket Nos. CP91–1994–000, CP91–1995–000, CP91–1996–000, CP91–1997–000, CP91–1998–000]

Take notice that on May 8, 1991, United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77251–1478, filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth int he prior notice requests which are on file with the Commission and open to public inspection.[3]

A summary of each transportation service which includes the shippers identity, the peak day, average day and annual volumes, the receipt point(s), the delivery point(s), the applicable rate schedule, and the docket number and service commencement date of the 120-day automatic authorization under § 284.223 of the Commission's Regulations is provided in the attached appendix.

Comment date: July 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

[3] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper name	Peak day,[1] average annual	Points of		Start up date rate schedule	Related [2] dockets
				Receipt	Delivery		
CP91–1994–000 (5–8–91)	United Gas Pipe Line Company.	Laser Marketing Company.	618,000 618,000 225,570,000	LA, MS, TX	AL, FL, LA, MS, TX	4–9–91, ITS	CP88–6–000, ST91–8381–000.
CP91–1995–000 (5–8–91)	United Gas Pipe Line Company.	Seagull Marketing Services, Inc..	515,000 515,000 187,975,000	AL, LA, MS, TX	AL, LA, MS, FL, TX	4–3–91, ITS	CP88–6–000, ST91–8276–000.
CP91–1996–000 (5–8–91)	United Gas Pipe Line Company.	Fina Natural Gas Company.	41,383 41,383 15,104,795	LA, MS, TX	LA, MS	4–15–91, FTS	CP88–6–000, ST91–8380–000.
CP91–1997–000 (5–8–91)	United Gas Pipe Line Company.	NGC Transportation, Inc..	5,150 5,150 1,879,750	LA	LA	4–2–91, ITS	CP88–6–000, ST91–8206–000.
CP91–1998–000 (5–8–91)	United Gas Pipe Line Company.	Mobile Natural Gas Company.	51,000 51,000 18,797,000	LA, TX	AL, KS, LA, MS	4–15–91, ITS	CP88–6–000, ST91–8379–000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transpprtation service was reported in it.

7. Texas Gas Transmission Corp.

[Docket No. CP91–1991–000]

Take notice that on May 8, 1991, Texas Gas Transmission Corporation (Texas Gas), Post Office Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP91–1991–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing the increase in the daily contract demands of six sales customers and the operation under section 7 of the NGA of certain facilities constructed under section 311 of the Natural Gas Policy Act (NGPA), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas states that the six sales customers and the proposed increases in sales contract demand are as follows:

Name	Requested increase (MMBtu per day)
City of Olive Branch, Mississippi	3,995
City of Benton, Kentucky	3,814
City of Martin, Tennessee	1,024
Midwest Natural Gas Corp	1,222
Indiana Natural Gas Corp	995
Indiana Utilities Corp	1,000
Total Increases	12,050

Texas Gas states that these proposed increases are necessary because of growth in these customers' current and anticipated residential and industrial gas loads. It is indicated that Texas Gas has sufficient capacity to serve the total proposed increase in sales contract demand for these six customers without the construction of any additional facilities and without detriment to any existing customers.

Texas Gas also requests authorization to operate a meter station known as the Nasville Station under the authority of section 7 of the NGA. It is stated that this station was installed under the authority of section 311 of the NGPA in order to deliver volumes of gas transported under that same authority for Indiana Natural gas Corporation (Indiana Natural). It is stated that Indiana Natural now wishes to not only receive transportation gas volumes from Texas Gas at that location, but also to receive sales gas volumes. Thus, Texas Gas requests authorization to make jurisdictional sales and/or deliver transportation gas volumes on a jurisdictional basis at the Nashville Station.

Comment date: June 5, 1991, in accordance with Standard Paragraph F at the end of this notice.

8. Williston Basin Interstate Pipeline Co.; Tennessee Gas Pipeline Co.

[Docket No. CP91–2011–000, CP91–2012–000]

Take notice that Williston Basin Interstate Pipeline Company (Williston Basin), suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, and Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed prior notice requests with the Commission in the above-referenced dockets pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to present natural gas on behalf of various shippers under the blanket certificates issued In Docket No. CP89–1118–000 and Docket No. CP87–115–000, respectively, pursuant to section 7 of the NGA, all as more fully set forth in the requests that are open to public inspection.[4]

Information applicable to each transaction, including the shipper's identity; the type of transportation service; the appropriate transportation rate schedule; the peak day, average day and annual volumes; the service initiation date; and related ST docket number of the 120-day transaction under § 284.223 of the Commission's Regulations, has been provided by Applicants, as summarized in the appendix.

Tennessee also states that it would construct and operate, pursuant to its blanket certificate issued in Docket No. CP82–413–000, a 4-inch tie-in valve in Hancock County, Mississippi, in order to deliver natural gas transported under its blanket certificate issued in Docket No. CP87–115–000 to Calgon Carbon Corporation (Calgon). Calgon would reimburse Tennessee $9,000 for the construction of the proposed tie-in valve.

Comment date: July 1, 1991, in accordance with Standard Paragraph G at the end of this notice.

[4] These prior notice requests are not consolidated.

Docket No. (date filed)	Shipper name (type)	Peak day, average day, annual Dth	Receipt points [1]	Delivery points	Contract date, rate schedule, service type	Related docket, start up
CP91–2011–000 (5–9–91)	Rainbow Gas Company (marketer).	5,075 1,852,375	WY	WY	8–1–90, IT–1, Interruptible.	ST91–8427 4–1–90
CP91–2012–000 (5–10–91)	Calgon Carbon Corporation (End-user).	5,000 5,000 1,852,000	OLA	MS	5–2–91, IT–1, Interruptible.	

[1] Offshore Louisiana is shown as OLA.

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 Regulations under the Natural Gas Act (18 CFR 157.205) a 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.

Lois D. Cashell,

Secretary.

[FR Doc. 91–12065 Filed 5–21–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP91–154–000]

Florida Gas Transportation Co.; Petition For Limited Waivers

May 15, 1991

Take notice that on May 13, 1991, Florida Gas Transmission Company (FGT), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. RP91–154–000 a petition requesting authorization for waivers of Federal Energy Regulatory Commission ("Commission") policy, Commission regulations, and FGT's F.E.R.C. Gas Tariff to the extent necessary to allow FGT to add a delivery point under an existing Service Agreement for firm transportation service ("Service Agreement") between FGT and the City of Tallahassee ("COT"), while permitting COT to maintain its existing priority in FGT's first-come, first-served transportation queue.

FGT states that good cause exists for granting the requested waivers in that (i) FGT will continue to serve the same resale customer, COT, at the new delivery point, (ii) the new delivery point will be located in the same geographic location as an existing delivery point at which FGT is presently authorized to serve COT, and (iii) the new delivery point will not interfere with FGT's ability to render firm service to FGT's other customers.

Any person desiring to be heard or to protest said petition should on or before May 22, 1991 file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or protest in accordance with §§ 385.214 and 385.211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests 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 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 91–12063 Filed 5–21–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. FA89–28–001]

System Energy Resources, Inc.; Filing

May 15, 1991.

Take notice that on February 15, 1991, System Energy Resources, Inc. tendered for filing its refund report in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before May 30, 1991. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–12062 Filed 5–21–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 91–06–NG]

American Central Gas Companies, Inc.; Order Granting Blanket Authorization to Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to export natural gas to Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting American Central Gas Companies, Inc., blanket authorization to export to Mexico up to 146 Bcf of natural gas over a two-year period beginning on 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, U.S. Department of Energy, 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, May 16, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–12175 Filed 5–21–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–05–NG]

Northern Natural Gas Co.; Application To Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on January 8, 1991, as supplemented on March 22, 1991, and April 1, 1991, of an application filed by Northern Natural Gas Company (Northern) to import from Canada up to 50,000 Mcf of natural gas per day (18,250 MMcf annually) on a firm basis from Western Gas Marketing Limited (WGM) commencing on the date of authorization through March 31, 1996. The gas would be imported at the international border near Emerson, Manitoba, Canada, using existing pipeline facilities. Northern would use the proposed imports for its system supply.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed in Washington, DC, at the address listed below no later than 4:30 p.m., June 21, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9590.

Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–0503.

SUPPLEMENTARY INFORMATION:

Northern, a Delaware corporation with its principal place of business in Houston, Texas, is an interstate natural gas pipeline company. Northern seeks authorization to import up to 50,000 Mcf of natural gas per day starting on the effective date of DOE's authorization and extending through March 31, 1996. The gas would be transported to Northern by TransCanada PipeLines Limited (TransCanada) and Great Lakes Gas Transmission (Great Lakes).

Northern entered into an agreement to purchase gas from WGM on November 1, 1990. Pending action on its application, Northern is currently effecting deliveries and receipts under the November 1, 1990, contract using an existing short term import authorization.

The price paid by Northern consists of transportation costs, fuel costs, and a per MMBtu charge, equal to Northern's weighted average cost of gas (WACOG) for supplies contracted to Northern from United States sources. The transportation charge consists of the firm transportation tolls on NOVA Corporation of Alberta, TransCanada, and Great Lakes. The WACOG fluctuates in accordance with changes in market conditions. In the 12 month period ending March 31, 1991, Northern's WACOG ranged from $1.21 to $1.92 per MMBtu for an annual average WACOG of $1.32 per MMBtu during the period. Northern stated that the delivered cost to the border during March 1991 was approximately $1.76 per MMBtu, consisting of a transportation charge of $0.44 per MMBtu and a WACOG of $1.32 per MMBtu.

The November 1, 1990, contract requires Northern to purchase a minimum annual volume of 6,000,000 Mcf. In Natural takes less than the minimum annual volume, it will pay a deficiency charge consisting of the amount of the deficiency times 25% of the WACOG. Northern may, at its sole discretion, reduce its minimum annual volume obligation due to loss of sales to its customers. The obligation for WGM to provide Northern up to 50,000 Mcf per day in gas supplies would be firm, but subject to best-efforts transportation in the event transportation capacity constraints occur on either TransCanada's or Great Lakes systems. In addition, Northern would be given credit toward its minimum purchase obligation where daily nominations are made and WGM fails to provide up to maximum allowable deliveries, even if such volumes are not ultimately purchased.

Northern states that it has negotiated competitive price terms with WGM and the need for the gas is demonstrated by its marketability and competitiveness. It also states that the gas supply is scarce, inasmuch WGM's parent, TransCanada, has nearly 19 Tcf in reserves dedicated by Alberta producers, in addition to the reliability of Canadian supplies in general. Finally, Northern states that since no new facilities will be required for the proposed imports, granting the application request will have no adverse environmental impacts.

The decision on the application for import authority will be made consistent with DOE's natural gas policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters to be considered in making a public interest determination in a long-term import proposal such as this include the need for the gas and the security of the long-term supply. Parties that may oppose this application should comment in their responses on the issues of competitiveness as set forth in the policy guidelines. The application asserts that imports made under this requested arrangement would be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is

necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. if no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Northern's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056 at the above address. 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, May 16, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–12176 Filed 5–21–91; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 91–24–NG]

Seagull Marketing Services, Inc.; Application to Import and Export Natural Gas From and to Canada

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas from and to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 26, 1991, of an application filed by Seagull Marketing Services, Inc. (Seagull), requesting blanket authorization to import up to 150 Bcf and export up to 150 Bcf of natural gas from and to Canada over a two-year period. Seagull intends to use existing pipeline facilities in the United States and states that it will notify DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed in Washington, DC, at the address listed below, no later than 4:30 p.m., June 21, 1991.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4708.

Diane J. Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Seagull, a Texas corporation with its principal place of business in Houston, Texas, is a wholly owned subsidiary of Seagull Energy Corporation. Under the blanket authority requested, Seagull intends to export and import U.S. and Canadian natural gas for spot and short-term sales, either for its own account or as agent for U.S. and Canadian purchasers and suppliers. Seagull asserts the terms of each transaction, including price and volume, would be negotiated in response to market conditions, and therefore would be consistent with section 3 of the Natural Gas Act.

Seagull was granted blanket authorization on December 30, 1988, by DOE/ERA Opinion and Order No. 292, 1 ERA ¶ 70,833, to import and export the same quantities of gas from and to Canada for a period of two years from the date of the first import or export. Seagull commenced export deliveries under this blanket certificate on April 1, 1989. During 1989, Seagull exported an aggregate quantity of 964,800 Mcf of gas to Canada from the U.S. Seagull engaged in no export or import activity during 1990. Order 292 expired on March 31, 1991.

The decision on the application for import/export authority will be made consistent with DOE's gas import policy guidelines and DOE Delegation Order Nos. 0204–111 and 0204–127. Under the policy guidelines, the competitiveness of an import in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing an export proposal, DOE examines domestic need for the gas and any other issue determined to be appropriate in a particular case. Parties that may oppose this application should comment in their responses on these matters. The applicant asserts the proposed import/export authority is consistent with these criteria and parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is

necessary for a full and true of the facts.

If an additional procedure is scheduled, a notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Seagull's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F–056, at the above address. 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 on May 16, 1991.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 91–12177 Filed 5–21–91; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–3958–2]

Agency Information Collective Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before June 21, 1991.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Certification and Training of Pesticide Applicators. (EPA ICR No.: 0155.03; OMB No.: 2070–0029). The ICR supports a proposed rule which would amend an existing regulation. The proposed rule was published in the Federal Register November 7, 1990, at (55 FR 46890). The estimated public burden for this action is detailed in the ICR document which is now available for public comment.

Abstract: In compliance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and to minimize the threat to human health and the environment, EPA classifies pesticides as being for general or for restricted use. Restricted-use pesticides can only be used by or under the supervision of a certified applicator. Individuals applying for or renewing certification as applicators of restricted-use pesticides must complete, and return to EPA, form 8500–17. Applicants for certification must establish their competency in pesticide use through completion of a training program. Certified commercial applicators and dealers of restricted-use pesticides are required to maintain records of use and sale of restricted-use pesticides. In addition, States, Indian tribes, and Federal agencies with EPA approved certification programs must submit an annual report of their sale and use of restricted-use pesticides. EPA uses the information to determine compliance with FIFRA, and, when necessary, as evidence in enforcement cases. This action will update the regulations governing the certification of pesticide applicators initially promulgated in 1974.

Burden Statement: The burden for this collection of information is estimated to average 9 minutes per response for reporting and 4.4 minutes per recordkeeper annually. This estimate includes the time needed to review instructions, gather the data needed, and review the collection of information.

Respondents: Private and commercial applicators, and dealers of restricted-use pesticides. States, Indian tribes, and Federal agencies.

Estimated No. of Respondents: 500,217 for reporting and 351,100 for recordkeeping.

Estimated No. of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 100,907 hours.

Frequency of Collection: Annually and on occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223Y), 401 M Street, SW., Washington, DC 20460.

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20530.

May 16, 1991.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 91–12154 Filed 5–21–91; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3958–1]

Science Advisory Board, Ecological Processes and Effective Committee; Open Meeting

Under Public Law 92–463, notice is hereby given that a meeting of the Ecological Processes and Effects Committee of the Science Advisory Board will be held on June 13–14, 1991 at the Holiday Inn Crowne Plaza 300 Army Navy Drive, Arlington, VA 22202.

The meeting will start at 9 a.m. on June 13, and will adjourn no later than 5 p.m. June 14, and is open to the public. The main purpose of this meeting is to plan the agenda for this committee for Fiscal Year 1992, to discuss comments on certain draft reports and to provide consultation to the Office of Water on the development of biological criteria for water quality.

An agenda for the meeting is available from Mrs. Frances Dolby, Staff Secretary, Science Advisory Board (A101F), U.S. Environmental Protection Agency, Washington, DC 20460 (202–382–2552). Members of the public desiring additional information should contact Dr. Edward S. Bender, Designated Federal Official, Ecological Processes and Effects Committee, by telephone at the number noted above or by mail to the Science Advisory Board (A101F), 401 M Street, SW., Washington, DC 20460 no later than June 1, 1991. Anyone wishing to make a presentation at the meeting should forward a written statement to Dr. Bender by June 1, 1991. The Science Advisory Board expects that the public statements presented at its meetings will not be repetitive of previously submitted written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes. Seating at the meeting will be on the first come basis.

Dated: May 16, 1991.

Donald Barnes,

Director, Science Advisory Board.

[FR Doc. 91–12153 Filed 5–21–91; 8:45 am]

BILLING CODE 6560–50–M

[OPP-100085; FRL-3888-8]

Radian Corp., Science Applications International Corp., Westat Inc.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Radian Corp. and its subcontractors Science Applications International Corp. (SAIC) and Westat Inc. have been awarded a contract to perform work for the EPA Office of Water Regulations Standards, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Radian Corp. and its subcontractors SAIC and Westat Inc. consistent with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2). This transfer will enable Radian Corp. and its subcontractors SAIC and Westat Inc. to fulfill the obligations of the contract and this notice serves to notify affected persons.

DATES: Radian Corp. and its subcontractors SAIC and Westat Inc. will be given access to this information no sooner than May 27, 1991.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-4460.

SUPPLEMENTARY INFORMATION: Under Contract No. 68-C0-0081, Radian Corp. and its subcontractors SAIC and Westat Inc. will provide technical support to EPA's Office of Water Regulations Standards in the development of levels of technology to support: (1) Best Practicable Control Technology (BPT), (2) Best Available Technology (BAT), (3) New Source Performance Standards (NSPS), (4) Wastewater Pretreatment Standards for existing and new sources (PSES and PSNS). (5) Best Conventional Pollutant Control Technology (BCT), (6) supplemental regulations to control toxic pollutant discharges using Best Management Practices (BMP), (7) treatment technology, management practices, and techniques for reduction or control of solid waste generated, and (8) provide technical assistance and expert testimony for EPA in judicial review and administrative review related to the pesticide chemicals manufacturing and pesticide formulating/packaging industries.

The Office of Water Regulations Standards and the Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3) and 40 CFR 2.308(i)(2), the contract with Radian Corp. and its subcontractors SAIC and Westat Inc., prohibits use of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractors sign an agreement to protect the information in accordance with the FIFRA Information Security Manual from unauthorized release. In addition, Radian Corp. and its subcontractors SAIC and Westat are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to these contractors until the above requirements have been fully satisfied.

Records of information provided to these contractors will be maintained by the Project Officer for this contract in the EPA Office of Water Regulations Standards. All information supplied to Radian Corp. and its subcontractors SAIC and Westat Inc. by EPA for use in connection with this contract will be returned to EPA when Radian Corp. and its subcontractors SAIC and Westat Inc. have completed their work.

Dated: May 7, 1991.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 91-11883 Filed 5-21-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Maryland Port Administration, et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in §572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200515.

Title: Maryland Port Administration/ Puerto Rico Maritime Shipping Authority Terminal Agreement.

Parties:

Maryland Port Administration
Puerto Rico Maritime Shipping Authority (PRMSA).

Synopsis: The Agreement, filed May 13, 1991, provides for a 6-year lease of 20 acres at the Seagirt Marine Terminal to receive, ship, and store containers and related cargoes/equipment PRMSA guarantees to move a minimum of 25,000 total containers through the facility each lease-year and will receive container volume discount rates for land rental, dockage, wharfage and office space.

Agreement No. 224-200516.

Title: Port Authority of New York and New Jersey/Evergreen International (USA) Corporation Terminal Agreement.

Parties:

Port Authority of New York and New Jersey (Port),
Evergreen International (USA) Corporation (Evergreen).

Synopsis: The Agreement provides for: The Port to pay Evergreen $25 per import and $50 per export container with cargo loaded/unloaded from a vessel at the Port and shipped by rail to or from points more than 260 miles from the Port, subject to rail freight bills issued on or after January 1, 1991. The term of the Agreement will expire December 31, 1991.

Agreement No.: 224-200517.

Title: South Carolina State Ports Authority Terminal Agreemnt.

Parties:

South Carolina State Ports Authority

Compania Sud Americana de Vapores (Granco)

Flota Mercante Granco-Lumbiana (Chilean).

Synopsis: The Agreement, filed May 15, 1991, provides Chilean-Granco container/chassis receiving and delivering services at reduced tariff rates as well as volume incentive wharfage rates. Chilean-Granco guarantees 50,000 short tons of cargo throughout and/or 26 vessel calls for each contact year of the Agreement's 3-year term.

Dated: May 17, 1991.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 91-12151 Filed 5-21-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 042991 AND 051091

Name of acquiring person, name of acquired person, name of acquired entity-	PMN No.	Date terminated
Ssangyong Cement Industrial Co., Ltd., Beazer PLC, RVC Venture Corp	91-0808	04/30/91
Provigo Inc., New Deal Market, Inc., New Deal Market, Inc	91-0818	04/30/91
VIAG AG, Royal Nedlloyd Group N.V., Union-Transport Corporation	91-0851	04/30/91
Bayernwerk AG, Royal Nedlloyd Group N.V., Union-Transport Corporation	91-0852	04/30/91
Oakwood Health Services Corporation, United Care, Inc., United Care, Inc	91-0785	05/01/91
Berwind Group Partners, ADT Limited, Electro Signal Lab, Inc	91-0807	05/01/91
VS&A Communications Partners, L. P., George N. Gillett, Jr., WCKR Partners	91-0856	05/01/91
Hanover Energy Inc., United Gas Holding Corporation, United Gas Holding Corporation	91-0789	05/02/91
The Promus Companies Incorporated, The Promus Companies Incorporated, Embassy/Shaw Syracuse Venture	91-0848	05/03/91
The Promus Companies Incorporated, CHS Syracuse Associates, Limited Partnership, Embassy/Shaw Syracuse Venture	91-0849	05/03/91
Southern Air Transport, Inc., Mesa Limited Partnership, SimuFlite Division of Bicoastal Corporation	91-0859	05/03/91
General Motors Corporation, Mr. Sharad Tak, ST Systems Corporation	91-0865	05/03/91
Newell Co., W. T. Rogers Company, W. T. Rogers Company	91-0877	05/03/91
H Group Holding, Inc., Ticketron Limited Partnership, Ticketron Limited Partnership	91-0645	05/06/91
Mr. Kok Thay Lim, The Leo Freedman Foundation U/D/T Dated January 6, 1989, Anaheim Plaza Resort Hotel	91-0826	05/06/91
Michael G. DeGroote, Republic Waste Industries, Inc., Republic Waste Industries, Inc	91-0822	05/07/91
Coda Energy, Inc., Mobil Corporation, Mobil Producing Texas & New Mexico Inc	91-0831	05/07/91
Bechtel Investments, Inc., Robert R. Onstead and Kay M. Onstead, Randall's Properties, Inc., Randall's	91-0858	05/07/91
W. W. Grainger, Inc., Irving A. Singer, Ball Industries, Inc	91-0878	05/07/91
Mr. Kenneth Thomson, The News Corporation Limited, HarperCollins Publishers Inc. and Scott, Foresman	91-0861	05/08/91
Service Corporation International, Arlington Corporation, Arlington Corporation	91-0843	05/09/91
The Prudential Insurance Company of America, The Johns Hopkins Health System Corporation, The Johns Hopkins Health Plan, Inc	91-0844	05/09/91
Haden MacLellan Holdings plc, David G. Smith and Grace B. Smith, Smith Engineering Co	91-0885	05/09/91
Cable TV Fund 14-A, Ltd., Glenn R. Jones, Jones Intercable, Inc	91-0903	05/10/91

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, or Renee A. Horton, Contact Representatives, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, room 303, Washington, DC 20580, (202) 326-3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 91-12114 Filed 5-21-91; 8:45 am]

BILLING CODE 6750-01-M

[File No. 881 0134]

Connecticut Chiropractic Association; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, an association of approximately 350 chiropractors to cease and desist from prohibiting, regulating, or interfering with its members offering free services or services at discounted fees and from prohibiting, regulating, or interfering with its members' advertising.

DATES: Comments must be received on or before July 22, 1991.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Phoebe Morse, Boston Regional Office, Federal Trade Commission, 10 Causeway Street, Room 1184, Boston, Ma. 02222-1073. (617) 565-7240.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited.

Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Connecticut Chiropractic Association, a corporation, hereinafter sometimes referred to as "CCA" or "proposed respondent," and it now appearing that CCA is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between CCA, by its duly authorized officer and its attorney, and counsel for the Federal Trade Commission that:

1. CCA is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Connecticut, with its principal business office located at 28 Main Street, East Hartford, Connecticut 06118.

2. CCA admits all the jurisdictional facts set forth in the draft of complaint here attached.

3. CCA waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify CCA, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by CCA that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to CCA, (1) issue its complaint corresponding in form and substance with the attached draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to CCA's address as stated in this agreement shall constitute service. CCA waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, CCA will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

It is ordered that for the purposes of this order, the following definitions shall apply:

A. *CCA* means the Connecticut Chiropractic Association and its Executive Board, committees, officers, directors, agents, representatives, employees, successors, and assigns;

B. *Disciplinary action* means, but is not limited to, revocation or suspension of, or refusal to grant, membership, or the imposition of a reprimand, warning, probation, or any other penalty or condition;

C. *Person* means any natural person, corporation, partnership, unincorporated association, or other entity; and

D. *Regulating* means (1) adopting or maintaining any rule, regulation, interpretation, ethical ruling, policy, or course of conduct; (2) taking or threatening to take formal or informal disciplinary action; or (3) conducting investigations or inquiries.

II

It is further ordered that CCA, directly or indirectly, or through any corporate or other device, in connection with its activities in or affecting commerce. as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Prohibiting, regulating, or interfering with any of the following practices of its members:

1. Offering free services or services at discounted fees to consumers;

2. Advertising, including but not limited to:

(a) Advertising free services or services at discounted fees to consumers, including by use of coupons;

(b) Advertising that CCA considers to be "sensational," "undignified," or not in "good taste;" and

(c) Implying that they possess "unusual expertise," provided, however, that CCA may restrict members' claims of specialization, unless additional experience and educational requirements have been met that are approved by a recognized chiropractic accrediting agency.

B. Inducing, suggesting, urging, encouraging, or assisting any non-governmental person or organization to take any action that if taken by CCA would violate Part II.A. of this order.

Provided that nothing contained in this order shall prohibit CCA from adopting, maintaining, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to representations, advertising, or other communications that CCA reasonably believes would be false or deceptive within the meaning of section 5 of the Federal Trade Commission Act.

III

It is further ordered that CCA shall:

A. Distribute by first-class mail hard copies of this order, the accompanying complaint, and an announcement in the form shown in appendix A to this order in the following manner:

(1) Within thirty (30) days after the date this order becomes final, to each CCA member; and

(2) For five (5) years after the date this order becomes final, to each applicant for membership in CCA within thirty (30) days after CCA receives such application;

B. Within ninety (90) days after the date this order becomes final, publish this order, the accompanying complaint,

and an announcement in the form shown in appendix A to this order in The Connecticut Yankee (CCA's quarterly journal), or any successor publication, in the same size type normally used for articles that are published in The Connecticut Yankee or in that successor publication;

C. Within thirty (30) days after this order becomes final, remove from CCA's Ethical Code, Bylaws, and any other existing policy statement or guideline of CCA, any provision, interpretation, or policy statement that is inconsistent with part II of this order;

D. Within sixty (60) days after this order becomes final, publish and distribute to all members of CCA and to all personnel, agents, or representatives of CCA, revised versions of CCA's Ethical Code, Bylaws, and any other existing policy statement or guideline of CCA;

E. File with the Federal Trade Commission within one hundred and twenty (120) days after the date this order becomes final, one (1) year after the date this order becomes final, and at such other times as the Federal Trade Commission may by written notice to CCA request, a verified report in writing setting forth in detail the manner and form in which CCA has complied and is complying with this order;

F. For a period of five (5) years after the date this order becomes final, maintain and make available to the Federal Trade Commission staff for inspection and copying, upon reasonable notice, records adequate to describe in detail all action taken in connection with any activity covered by parts II and III of this order, including all written communications and all summaries of oral communications, and all disciplinary action; and

G. Notify the Federal Trade Commission at least thirty (30) days prior to any proposed changes in CCA, such as dissolution or reorganization resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this order.

Appendix A

[Date]

Announcement

As you may be aware, the Connecticut Chiropractic Association ("CCA") has entered into a consent agreement with the Federal Trade Commission that became final on [Date]. The order issued pursuant to the consent agreement provides that CCA may not interfere if its members wish to engage in any of the following activities:

(1) Offering free services or services at discounted fees to consumers;

(2) Advertising free services or services at discounted fees to consumers, including by use of coupons;

(3) Advertising that CCA considers to be "sensational," "undignified," or not in "good taste"; and

(4) Implying that they possess "unusual expertise," provided, however, that CCA may restrict members' claims of specialization, unless additional experience and educational requirements have been met that are approved by a recognized chiropractic accrediting agency.

The order does not prevent CCA from formulating reasonable ethical guidelines prohibiting advertising or other communications that CCA reasonably believes would be false or deceptive within the meaning of section 5 of the Federal Trade Commission Act.

In particular, the agreement between CCA and the Federal Trade Commission means that as long as its members do not engage in falsehood or deception, CCA cannot prevent or discourage them from engaging in the practices listed above, among others.

For more specific information you should refer to the FTC order itself. A copy of the order is enclosed.

Keith Overland,

D.C. President, Connecticut Chiropractic Association.

Connecticut Chiropractic Association

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from the Connecticut Chiropractic Association ("CCA"). The agreement would settle charges by the Commission that the proposed respondent violated section 5 of the Federal Trade Commission Act by adopting and maintaining provisions in its Ethical Code that restricted competition among CCA members.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

A complaint has been prepared for issuance by the Commission along with the proposed order. The complaint alleges that CCA has acted as a combination of its members, or conspired with at least some of its members, to restrain competition among chiropractors in the State of Connecticut by prohibiting its members from offering free services and services at discounted fees and from disseminating truthful, nondeceptive information through advertising and other means.

The complaint states that CCA is subjected to the Commission's jurisdiction pursuant to section 5 of the Federal Trade Commission Act.

According to the complaint, CCA is a corporation formed and doing business pursuant to the laws of the State of Connecticut. It is a voluntary association of approximately 350 chiropractors, constituting approximately 86 percent of the chiropractors practicing in Connecticut. CCA is organized for the purpose of serving the interests of its members by associating them into a practical business organization and is engaged in substantial activities that further its members' precuniary interests. CCA members have been and are now in competition among themselves and with other chiropractors.

The complaint alleges that in furtherance of this combination or conspiracy, CCA has restrained competition among chiropractors in the State of Connecticut by adopting and maintaining provisions in its Ethical Code that prohibit members from:

(1) Offering free services or services at discounted fees to consumers;

(2) Advertising free or discounted services to consumers, including by use of coupons;

(3) Advertising that CCA considers to be "sensational," "undignified," and not in "good taste;" and

(4) Implying that they possess "unusual expertise" without meeting additional experience and educational requirements that a recognized chiropractic accrediting agency has approved.

The complaint also alleges that in furtherance of the combination or conspiracy, CCA coerced its members to comply with its Ethical Code by, among other things:

(1) Threatening members who violate the Ethical Code with expulsion from CCA;

(2) Threatening, in the CCA quarterly journal and at CCA meetings, members who advertise free or discounted

services that CCA will attempt to influence health insurance companies to disallow or reduce reimbursements to their patients; and

(3) Threatening, in the CCA quarterly journal and at CCA meetings, members who violate the Ethical Code that CCA will report them to chiropractic malpractice insurance carriers.

According to the complaint, CCA's actions have restrained competition among chiropractors with respect to price, quality, and other terms of service. The complaint further alleges that the actions deprived consumers of truthful, nondeceptive information about the availability, price, and quality of chiropractic services, as well as the benefits of free and open competition among chiropractors.

The Proposed Consent Order

The proposed order would require CCA to cease and desist from prohibiting, regulating, or interfering with its members offering free services or services at discounted fees and its members' advertising, including (1) advertising free services or services at discounted fees, including by use of coupons; (2) advertising that CCA considers to be "sensational;" "undignified," or not "in good taste;" and (3) implying that they possess "unusual expertise," provided, however, that CCA may restrict members' claims of specialization, unless additional experience and educational requirements have been met that are approved by a recognized chiropractic accrediting agency. The order would also prohibit CCA from inducing, suggesting, urging, encouraging, or assisting others to take any of the actions prohibited by the order. Nothing in the order, however, prohibits CCA from adopting maintaining, and enforcing reasonable ethical guidelines that prohibit advertising or other communications that CCA reasonably believes would be false or deceptive within the meaning of section 5 of the Federal Trade Commission Act.

The proposed order would require CCA to distribute a copy of the order, accompanying complaint, and an explanatory announcement to its members and to each applicant for CCA membership for five years after the order becomes final. CCA would also have to publish those documents in the CCA quarterly journal. The proposed order would require CCA to remove from its Ethical Code, Bylaws, and any other existing CCA policy statement or guideline, any provision, interpretation, or policy statement that is inconsistent with the proposed order and distribute revised versions of those documents to its members, personnel, agents, and representatives. Finally, the proposed order would require CCA to file written compliance reports with the Commission, maintain and make available for Commission inspection certain documents, and give the Commission advance notice of any proposed changes in CCA such as dissolution or reorganization.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 91–12115 Filed 5–21–91; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), of the statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently by 55 FR 38162–3, September 17, 1990) is amended to reflect changes within the National Institute of Mental Health (NIMH), ADAMHA. These changes involve adding a new function involving rural mental health research activities within the Division of Applied and Services Research, NIMH.

Section HM–B, Organization and Functions, Alcohol, Drug Abuse, and Mental Administration (HM) is amended as follows:

Under the heading *Division of Applied and Service Research (HMME),* following the semicolon after item (3)(g), delete all remaining words and add the following words: "(4) directs, plans, supports and conducts programs on research, research demonstrations, and resource development on special problems unique to those living in rural areas; and (5) serves as the PHS lead in planning for alcohol, drug abuse, and mental health services during national disasters."

Dated: May 13, 1991.

Frederick K. Goodwin,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 91–12087 Filed 5–21–91; 8:45 am]

BILLING CODE 4160–17–M

Social Security Administration

[Social Security Ruling SSR 91–3p]

Title II: Determining Entitlement to Disability Benefits for Months Prior to January 1991 for Widows, Widowers and Surviving Divorced Spouses Claims

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling 91–3p. The Ruling explains how the Social Security Administration will apply the 5-step sequential evaluation process and consider residual functional capacity in determining disability for widows, widowers, and surviving divorced spouses for months prior to January 1991.

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Joanne K. Castello, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235 (301) 965–1711.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552 (a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 422.406(b)(1).

Social Security Rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings are based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General Counsel, and other policy interpretations of the law and regulations.

Although Social Security Rulings do not have the force and effect of the law or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 422.406(b)(1), and are to be relied upon as precedents in adjudicating other cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the Federal Register to that effect.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806 Special Benefits for Disabled Coal Miners; 93.807 Supplemental Security Income.)

Dated: May 13, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

Policy Interpretation Ruling

Title II: Determining Entitlement to Disability Benefits for Months Prior to January 1991 for Widows, Widowers and Surviving Divorced Spouses Claims

Purpose: To explain the processes to be used to determine entitlement to disability benefits for widows, widowers and surviving divorced spouses (hereafter referred to as widows) on the basis of the deceased spouse's earnings record under sections 202(e) and (f) and 223(d) of title II of the Social Security Act (the Act) for months prior to January 1991. Specifically, this Ruling describes how the Social Security Administration (SSA) will apply the sequential evaluation process and consider a widow's residual functional capacity in determining entitlement to benefits payable for months prior to January 1991.

Citations (authority): Section 223(d) of the Social Security Act; Regulations No. 4, subpart P, §§ 404.1511(b), 404.1520, 404.1525, 404.1526, 404.1545, 404.1546, 404.1572, 404.1577, and 404.1578.

Introduction: Section 5103 of the Omnibus Budget Reconciliation Act (OBRA) of 1990 (Pub. L. 101–508) made the standard for determining disability in widows' claims the same as the standard applied to other title II disability claims. This OBRA provision is effective for purposes of determining entitlement to disability benefits for widows for months after December 1990, based on applications filed on or after January 1, 1991, or pending on that date.

In order to be entitled to widow's benefits based on disability, the widow must also meet certain nondisability requirements in the statute; such as, the widow must be at least age 50 and less than age 60 and the disability must have begun not later than 7 years after either the insured died or the widow was last entitled to mother's or father's benefits. Prior to the enactment of OBRA, the Act provided a special standard for determining disability for widows. Section 223(d)(2)(B) specified that widow's benefits based on disability were to be awarded only when the widow's "impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity."

This special statutory standard is still applicable with respect to benefits payable for months prior to January 1991. The process used in determining disability for widows under the pre-OBRA standard is contained in 20 CFR 404.1577 and 404.1578 which state that only the claimant's physical and mental impairments are considered, and not the claimant's age, education, and work experience. Specifically, section 404.1578 provides that a widow will be found disabled if all the following conditions are met: (1) The claimant is not engaging in substantial gainful activity; (2) the claimant's impairment(s) meets the duration requirement; and (3) the claimant's "impairment(s) has specific clinical findings that are the same as those for any impairment in the Listing of Impairments in appendix 1 or are medically equivalent to those for any impairment shown there." Under SSA's interpretation of the regulations, the claimant's residual functional capacity has not been specifically considered in determining whether this test was satisfied. (Residual functional capacity is defined in 20 CFR 404.1545 as what the claimant can still do in a work setting despite the physical or mental limitations caused by his or her impairment(s).)

Since October 1989, seven United States Courts of Appeals have invalidated the pre-1991 process described above as being underinclusive in its evaluative criteria. These courts have held that the Act requires a consideration of functional limitations in determining entitlement to widow's benefits based on disability. A number of these decisions have further indicated that the regulations, as applicable with respect to benefits payable for months prior to January 1991, could allow for a consideration of functional limitations or residual functional capacity in widows' cases, but it is the Agency's interpretation of those regulations which is incorrect.

As a result of these court decisions, affecting widows in approximately two-thirds of the States, which found the pre-1991 approach to be underinclusive, SSA has reevaluated its interpretation of the regulations for determining entitlement to widow's disability benefits payable for months prior to January 1991. In response to this clear trend in the courts, this Ruling is being issued to provide a uniform national interpretation of the regulations for determining entitlement to widow's benefits payable for months prior to January 1991. This action to revise the way widow's benefits are decided is consistent with the legislative history of the Social Security Disability Benefits Reform Act of 1984. The Conference Report for that legislation states that, "The conferees reaffirm the congressional intent that the Secretary resolve policy conflicts promptly in order to achieve consistent uniform administration of the program. . . . It is clearly undesirable to have major differences in statutory interpretation between the Secretary and the courts remain unresolved for a protracted period of time." H.R. Rep. No. 98–1039, 98th Cong., 2 Sess. 37–38 (1984).

Under this Ruling, residual functional capacity assessments will be used in determining whether a widow is disabled in a manner similar to the manner in which residual functional capacity assessments are used in determining whether other adult claimants, including widows under the OBRA standard, are disabled. In view of the limited applicability of this Ruling (i.e., for widow's disability benefits payable for months prior to January 1991) and our interest in providing widows with the most expeditious and accurate determinations of their claims possible, the process discussed below is, to the extent possible, patterned after the existing disability determination process (i.e., the sequential evaluation process) to avoid the creation of entirely new and untested methodologies.

Policy Interpretation: The five-step sequential evaluation process described in 20 CFR 404.1520 will be applied when adjudicating a widow's claim for disability benefits. If application of this process results in a finding of disability at step three (meets or equals a listed impairment in appendix 1), the widow will be found entitled to benefits for all months (subject to the established onset date and any closed period determinations), including those before January 1991, in which the nondisability requirements for widow's benefits are satisfied. If the application of the five-step sequential evaluation process results in a finding that the widow is able to engage in substantial gainful activity at any step in the process, i.e., at step one (currently engaging in substantial gainful activity), step two (no severe impairment), step four (able to engage in past relevant work) or step five (able to engage in past relevant work) or step five (able to enagage in other work) for all or part of the period, the widow will be denied benefits for those months of potential entitlement

including those before January 1991, subject to any closed period determinations, because the widow is not disabled under either the pre-OBRA or OBRA standard. This denial for months prior to 1991 is appropriate because the pre-OBRA standard is clearly more restrictive than the OBRA standard: Inability to do any gainful activity as opposed to inability to engage in substantial gainful activity. By definition, a claimant who can engage in substantial gainful activity can also engage in any gainful activity.

If application of the five-step sequential evaluation process results, at step five, in a finding that the widow is unable to engage in substantial gainful activity, an additional determination will be needed regarding the widow's entitlement to disability benefits for months prior to January 1991, i.e., her abilty to engage in any gainful activity. SSA will make this additional determination utilizing the residual functional capacity assessment used in conjunction with steps four and five of the sequential evaluation process, but without considering age, education, and work experience.

If the residual functional capacity assessment shows that the widow does not retain the functional capacity to perform a range of work comparable to the full range of sedentary work, the widow will be found disabled and entitled to benefits for all months of potential entitlement prior to January 1991 (subject to the established onset date and any closed period determinations). To assess whether the range of work is comparable to the full range of sedentary work, SSA will use the guidelines for determining, by residual functional capacity, the person's remaining occupational base. The guidelines are discussed in Social Security Rulings 83–12, 83–14, and 85–15, which deal with exertional impairments, nonexertional impairments, and combinations of extertional and nonexertional impairments. If the widow retains the functional capacity to perform a range of work comparable to the full range of sedentary work or more, then the widow can only begin receiving benefits for months after December 1990 subject to any closed period determinations. Denial on this basis for months prior to January 1991 is consistent with the applicable statutory standard since a widow who is able to perform a range of work comparable to the full range of sedentary work is obviously functional capable of engaging in any gainful activity, i.e., the pre-OBRA standard.

Effective Date: This Ruling is effective on publication in the **Federal Register**, and applies to all claims pending administratively on or after the effective date with respect to the issue of entitlement to widow's disability benefits payable for months prior to January 1991. Of course, consistent with standard SSA operating procedures, any final court order requiring adjudication of a disabled widow's claim in a manner different from this Ruling will be followed by SSA. We will issue separate procedures, if necessary, detailing how to address any such court order. In addition, if a determination or decision was made between the date of the applicable Court of Appeals' decision which required a consideration of functional limitations in widows' cases in the First (*Cassas* v. *Secretary of Health and Human Services*, 893 F.2d. 454 (1st Cir. January 11, 1990)), Second (*Kier* v. *Sullivan*, 888 F.2d. 244 (2nd Cir. October 1989)), Third (*Finkelstein* v. *Sullivan*, 924 F.2d. 483 (3rd Cir. January 23, 1991)), Fourth (*Bennett* v. *Sullivan*, 917 F.2d. 157 (4th Cir. October 25, 1990)), Seventh (*Marcus* v. *Sullivan*, 926 F.2d. 604 (7th Cir. February 21, 1991)), Ninth (*Ruff* v. *Sullivan*, 907 F.2d. 915 (9th Cir. July 9, 1990)), or Tenth (*Davidson* v. *Secretary of Health and Human Services*, 912 F.2d. 1246 (10th Cir. August 29, 1990)) Circuit and the effective date of this Social Security Ruling, a claimant may request application of this Social Security Ruling to his or her claim if he or she first demonstrates that application of the Ruling could change the prior determination or decision. This additional applicablity is being provided to make this Ruling applicable to the extent to which the published Acquiescence Rulings for those decisions in the First, Second, and Ninth Circuits were applicable prior to their rescission and the extent to which Acquiescence Rulings for those decisions in the Third, Fourth, Seventh, and Tenth Circuits would have been applicable under 20 CFR 404.985 had they been published before the issuance of this national Ruling. Under 20 CFR 404.988 and 404.989, a change of legal interpretation or administrative ruling does not justify a finding of good cause required to reopen a final determination or decision more than 12 months after and within 4 years of the date of the notice of the intial determination.

[FR Doc. 91–12145 Filed 5–21–91; 8:45 am]

BILLING CODE 4190–29–M

Rescission of Social Security Acquiescence Ruling 90–6(1)

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Rescission of Social Security Acquiescence Ruling 90–6(1)—*Cassas* v. *Secretary of Health and Human Services*, 893 F.2d 454 (1st Cir. 1990), reh'g denied April 9, 1990.

SUMMARY: In accordance with 20 CFR 404.985(e) and 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 90–6(1) (55 FR 38398).

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Bob Young, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965–1634.

SUPPLEMENTARY INFORMATION: A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 404.985(e) (3) and (4), a Social Security Acquiescence Ruling may be rescinded as obsolete, if a Federal law is enacted that removes the basis for the holding in the decision by a circuit court that was the subject of the Acquiescence Ruling, or if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of the circuit court holding for which the Acquiescence Ruling was issued.

On September 18, 1990, we issued Acquiescence Ruling 90–6(1) (55 FR 38398) to reflect the holding in *Cassas* v. *Secretary of Health and Human Services*, 893 F. 2d 454 (1st Cir. 1990), reh'g denied April 9, 1990, that residual functional capacity must be considered in determining entitlement to widow's and widower's benefits based on disability. The Acquiescence Ruling applied solely to claims for widow's or widower's benefits based on disability.

Section 5103 of Public Law 101–508 changed the standard for widow's and widower's benefits based on disability to the same standard as used for wage earners and title XVI adult claimants. This change is effective with respect to benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The enactment of this

provision removes at least partially, the basis for the Circuit Court's holding in *Cassas*.

In addition, concurrent with the rescission of this Ruling, we are issuing Social Security Ruling 91–3p explaining how we will adjudicate claims for widow's and widower's benefits based on disability for months prior to January 1991. Because the Social Security Ruling provides a uniform national interpretation of the regulations under which we will use residual function capacity assessments in determining whether a widow or widower is disabled for months prior to 1991, we are rescinding the current Acquiescence Ruling.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income)

Dated: May 13, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 91–12147 Filed 5–21–91; 8:45 am]

BILLING CODE 4190–29–M

Rescission of Social Security Acquiescence

AGENCY: Social Security Administration, HHS.

ACTION: Notice of rescission of Social Security Acquiescence Ruling 90–5(2)—*Kier* v. *Sullivan*, 888 F.2d 244 (2d Cir. 1989), *reh'g denied*, January 22, 1990.

SUMMARY: In accordance with 20 CFR 404.985(e) and 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 90–5(2) (55 FR 38400).

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Bob Young, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965–1634.

SUPPLEMENTARY INFORMATION: A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 404.985(e) (3) and (4), a Social Security Acquiescence Ruling may be rescinded as obsolete, if a Federal law is enacted that removes the basis for the holding in the decision by a circuit court that was the subject of the Acquiescence Ruling, or if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of a circuit court holding for which the Acquiescence Ruling was issued.

On September 18, 1990, we issued Aquiescence Ruling 90–5(2) (55 FR 38400) to reflect the holding in *Kier* v. *Sullivan*, 888 F.2d 244 (2d Cir. 1989), *reh'g denied*, January 22, 1990, that residual functional capacity must be considered in determining entitlement to widow's and widower's benefits based on disability. The Acquiescence Ruling applied solely to claims for widow's or widower's benefits based on disability.

Section 5103 of Public Law 101–508 changed the standard for widow's and widower's benefits based on disability to the same standard as used for wage earners and title XVI adult claimants. This change is effective with respect to benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The enactment of this provision removes, at least partially, the basis for the Circuit Court's holding in *Kier*.

In addition, concurrent with the rescission of this Ruling, we are issuing a Social Security Ruling 91–3p explaining how we will adjudicate claims for widow's and widower's benefits based on disability for months prior to January 1991. Because the Social Security Ruling provides a uniform national interpretation of the regulations under which we will use residual functional capacity assessments in determining whether a widow or widower is disabled for months prior to 1991, we are rescinding the current Acquiescence Ruling.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income.)

Dated: May 13, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 91–12146 Filed 5–21–91; 8:45 am]

BILLING CODE 4190–29–M

Rescission of Social Security Acquiescence

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Rescission of Social Security Acquiescence Ruling 90–7(9)—*Ruff* v. Sullivan, 907 F.2d 915 (9th Cir. 1990).

SUMMARY: In accordance with 20 CFR 404.985(e) and 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Commissioner of Social Security gives notice of the rescission of Social Security Acquiescence Ruling 90–7(9) (55 FR 38402).

EFFECTIVE DATE: May 22, 1991.

FOR FURTHER INFORMATION CONTACT: Bob Young, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (301) 965–1634.

SUPPLEMENTARY INFORMATION: A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of the case or is unsuccessful on further review.

As provided by 20 CFR 404.985(e) (3) and (4), a Social Security Acquiescence Ruling may be rescinded as obsolete, if a Federal law is enacted that removes the basis for the holding in the decision by a circuit court that was the subject of the Acquiescence Ruling, or if we subsequently clarify, modify or revoke the regulation or ruling that was the subject of a circuit court holding for which the Acquiescence Ruling was issued.

On September 18, 1990, we issued Acquiescence Ruling 90–7(9) (55 FR 38402) to reflect the holding in *Ruff* v. *Sullivan*, 907 F.2d 915 (9th Cir. 1990), that residual functional capacity must be considered in determining entitlement to widow's and widower's benefits based on disability. The Acquiescence Ruling applied solely to claims for widow's or widower's benefits based on disability.

Section 5103 of Public Law 101–508 changed the standard for widow's and widower's benefits based on disability to the same standard as used for wage earners and title XVI adult claimants. This change is effective with respect to benefits for months after December 1990 for which applications are filed on or after January 1, 1991, or are pending on such date. The enactment of this provision removes, at least partially, the basis for the Circuit Court's holding in *Ruff*.

In addition, concurrent with the rescission of this Ruling, we are issuing Social Security Ruling 91-3p explaining how we will adjudicate claims for widow's and widower's benefits based

on disability for months prior to January 1991. Because the Social Security Ruling provides a uniform national interpretation of the regulations under which we will use residual functional capacity assessments in determining whether a widow or widower is disabled for months prior to 1991, we are rescinding the current Acquiescence Ruling.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security—Survivor's Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income.)

Dated: May 13, 1991.

Gwendolyn S. King,

Commissioner of Social Security.

[FR Doc. 91-12148 Filed 5-21-91; 8:45 am]

BILLING CODE 4190-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-010-91-4212-13; A-20616]

Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Exchange of public lands in Coconino County, Arizona.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Gila & Salt River Meridian

T. 39 N., R. 7 E., sec. 7, lots 6 & 7, S½S½ (that portion between the wilderness boundary, U.S. Highway 89 A, Vermillion Cliffs Lodge, and Badger Creek Homeowners Association).

Containing 44.0 acres.

In exchange for a portion of these lands, the Federal Government will acquire a tract of non-Federal land in Coconino County from Tamarisk Enterprises, Inc., described as follows:

Gila & Salt River Meridian

A portion of T. 39 N., R. 7 E., sec. 7, N½SW¼SE¼.

Containing approximately 3.95 acres.

Disposal of the above described public land will be contingent upon termination of the C&MU Classification.

The purpose of the exchange is to acquire the non-Federal land to augment the historical and recreational potential of the bordering public lands. The exchange is consistent with the Bureau's planning for the lands involved. The management programs of the BLM and the public interest will be well served by making the exchange.

The value of the lands to be exchanged will be approximately equal, and the acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The terms and conditions applicable to the exchange are:

(1) A right-of-way thereon for ditches and canals contracted by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; U.S.C. 945).

(2) Patent will be subject to the existing power transmission line Right-of-Way AR-035054.

(3) Patent will be subject to all valid and existing rights.

(4) All minerals will be reserved to the United States.

The publication of this notice in the Federal Register will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange, including the environmental analysis, is available for review at the combined Resource Areas Office, 225 North Bluff, St. George, UT 84770.

For a period of 45 days, interested parties may submit comments to the District Manager, Arizona Strip District Office, Bureau of Land Management, 390 North 3050 East, St. George, UT 84770.

Dated: May 8, 1991.

G. William Lamb,

District Manager.

[FR Doc. 91-12113 Filed 5-21-91; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-00-4212-12; AZA-25124]

Public Land Exchange, Mohave County, AZ

AGENCY: Bureau of Land Management—Interior.

ACTION: Notice of realty action—exchange of public lands, Mohave County, Arizona.

SUMMARY: BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership, and to acquire lands with valuable wildlife habitat, recreational and cultural values, and outstanding scenic qualities. All or part of the following described federal lands are being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Mohave County, Arizona

T. 16 N., R. 19 W.,
Sec. 18, N½ (portion);
T. 16 N., R. 20 W.,
Sec. 6, All;
Sec. 15, N½ (portion);
Sec. 17, N½ (portion);
Sec. 18, N½, N½S½ (portion).
T. 16½ N., R. 20 W.,
Sec. 30, All;
Sec. 32, All.
T. 16 N., R. 20½ W.,
Sec. 1, All;
Sec. 3, Lots 1–5, SE¼NE¼, E½SE¼;
Sec. 10, Lots 1–4, E½E½;
Sec. 11, E½, NW¼, N½SW¼, SE¼SW¼;
Sec. 12, All;
Sec. 13, N½S½ (portion), N½.
T. 16½ N., R. 20½ W.,
Sec. 22, Lots 1–5, SE¼NE¼, E½SE¼;
Sec. 23, All;
Sec. 25, All;
Sec. 26, All;
Sec. 27, Lots 1–4, E½E½;
Sec. 34, Lots 1–4, E½E½;
Sec. 35, All.

Containing 9732.12 acres, more or less.

In exchange for these lands, the United States will acquire the following described land from Antigua Development Corporation.

Gila and Salt River Meridian, Mohave County, Arizona

T. 21 N., R. 20 W.,
Sec. 11, N¼ (portion);
Sec. 11, W½SW¼ (portion).

Containing 133.99 acres, more or less.

Detailed information concerning this exchange can be obtained from the Kingman Resource Area Office.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publiction of this Notice will segregate the affected public lands from appropriation under the public land laws, except exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect shall also exclude appropriation of the subject public land under the mining laws, subject to valid existing rights.

The segregation of the above described lands will terminate upon issuance of a document conveying such lands or upon publication in the Federal Register of a notice of termination of the segregation; or the expiration of two

years from the date of publication, whichever occurs first.

For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Elaine F. Marquis, Area Manager, Bureau of Land Management, Kingman Resource Area, 2475 Beverly Avenue, Kingman, Arizona 86401 (602) 757–3161.

Dated: May 9, 1991.

Henri R. Bisson,

District Manager.

[FR Doc. 91–12046 Filed 5–21–91; 8:45 am]

BILLING CODE 4310–32–M

[CO–930–4920–10–4669; COC–52206]

Proposed Withdrawal; Opportunity for Public Meeting, Colorado

May 10, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of Energy has requested withdrawal of public land near Maybell, Colorado, for 5 years. The land is proposed as a permanent disposal site for radioactive uranium mill tailings. If this site is designated for permanent disposal, administrative jurisdiction will be transferred to the Department of Energy for management. This notice will segregate the land from operation of the public land laws, including location and entry under the mining laws for up to 2 years. The land will continue to be open to mineral leasing.

DATES: Comments on this proposed withdrawal or request for a public meeting must be received on or before August 20, 1991.

ADDRESSES: Comments and meeting requests should be sent to the Colorado State Director, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, Bureau of Land Management, Colorado State Office, (303) 239–3706.

SUPPLEMENTARY INFORMATION: The Department of Energy has filed application to withdraw the following described public land from settlement, sale, location or entry under the public land laws, including the mining laws, subject to valid existing rights, pursuant to the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714:

Sixth Principal Meridian

Maybell Site

T. 7 N., R. 94 W.,
Sec. 19, lots 5 and 6, and W½NE¼, E½NW¼, NE¼SW¼, and NW¼SE¼.

The area described contains approximately 334.66 acres in Moffat County.

The purpose of this withdrawal is to segregate the land and provide protection until requirements are completed for a permanent transfer of administrative jurisdiction to the Department of Energy under the authority of the Uranium Mill Tailings Radiation Control Act of 1978; 92 Stat. 3021, 42 U.S.C. 7801, as amended.

Effective on the date of publication, these lands are segregated from all forms of appropriation under the public land laws, including the mining laws. The land remains open to mineral leasing subject to concurrence by the Department of Energy, the Nuclear Regulatory Commission, and the Department of the Interior. The lands will remain open to surface uses which are compatible with the project until the withdrawal is final.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with this proposed withdrawal. If the authorized officer determines that a meeting should be held, the meeting will be scheduled and conducted in accordance with Bureau of Land Management Manual, section 2351.16B.

All persons who desire to submit comments, suggestions, or objections or who desire a public meeting for the purpose of being heard on this proposed action must submit a written request to the Colorado State Director within 90 days of the publication of this notice.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated from operation of the public land laws as specified above unless the application is denied or cancelled or the transfer of administrative jurisdiction takes place prior to that date.

The temporary segregation of this land in connection with the application shall not affect the administrative jurisdiction over the land and will not authorize any use of the land by the Department of Energy.

Robert S. Schmidt,

Chief, Branch of Realty Programs.

[FR Doc. 91–12102 Filed 5–21–91; 8:45 am]

BILLING CODE 4310–JB–M

Minerals Management Service

Outer Continental Shelf (OCS) Advisory Board—Scientific Committee (SC); Meeting

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law 92–463, 5 U.S.C. appendix I, and the Office of Management and Budget Circular A–63, Revised.

The SC of the OCS Advisory Board will meet on Wednesday, June 19, and Thursday, June 20, 1991, at the Barratt Inn (Best Western), 4616 Spenard Road, Anchorage, Alaska 99517–3299, telephone (907) 243–3131. Below is a description of meetings that will occur related to the SC:

The SC will meet in plenary session from 8 a.m. to 5 p.m. on Wednesday, June 19 and Thursday, June 20, 1991. The agenda will cover the following principal subjects (others may be added later):

- Committee business and resolutions.
- Environmental Studies Program Status Review.
- MMS Environmental Monitoring Studies Workshop.
- Means for communicating scientific information to different audiences.
- Discussion on Natural Resources Damage Assessment and access to scientific information.
- The role of the SC in reviewing environmental studies.

In conjunction with the SC meeting, the MMS will hold a Monitoring Studies Workshop from 8 a.m. to 5 p.m. on Tuesday, June 18, 1991. The agenda for the workshop will cover the following subjects:

- Accomplishments of completed marine environmental monitoring studies sponsored by the MMS.
- The MMS regional perspectives on marine environmental monitoring issues.
- Goals of future MMS marine environmental monitoring studies.
- National scale environmental monitoring programs conducted by other Federal Agencies.

Both meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the SC plenary session.

All inquiries concerning the SC meeting should be addressed to Mr. John Goll, Chief, Environmental Policy and Programs Division. All inquiries concerning the Monitoring Studies Workshop should be addressed to Dr. Thomas Ahlfeld. Environmental Studies Branch.

Their address is the Minerals Management Service, Environmental Policy and Programs Division, Mail Stop 4310, 381 Elden Street, Herndon, Virginia 22070, telephone (703) 787–1717.

Dated: May 13, 1991.

Thomas Gernhofer,

Associate Director for Offshore Minerals Management.

[FR Doc. 91–12103 Filed 5–21–91; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 9, 1991. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, PO Box 37127, Washington, DC 20013–7127. Written Comments should be submitted by June 6, 1991.

Carol D. Shull,

Chief of Registration, National Register.

LOUISIANA

Ascension Parish

Bocage, LA 942 S of Marchandville, Darrow vicinity, 91000705

Caddo Parish

Byrd C.E., High School, 3201 Line Ave., Shreveport, 91000704

Flesch House, 415 Sherwood Rd., Shreveport, 91000703

Long, Huey P., House, 2403 Laurel St., Shreveport, 91000701

Masonic Temple, 1805 Creswell St., Shreveport, 91000702

St. Mark's Episcopal Church, 875 Cotton St., Shreveport, 91000700

MONTANA

Custer County

Carriage House Historic District, Roughly bounded by Main, N. 9th, Palmer, N. 10th, Orr and N. 13th Sts. and Montana Ave., Miles City, 91000720

NEW YORK

Cayuga County

Cayuga County Courthouse and Clerk's Office, 152—154 Genesee St., Auburn, 91000721

US Post Office, Former, and Federal Counthouse, 151—157 Genesee St., Auburn, 91000722

PENNSYLVANIA

Montgomery County

Horsham Friends Meeting, Jct. of Meeting House and Easton Rds., Horsham, 91000723

TEXAS

Washington County

Burton Commercial Historic District (Burton MPS), Roughly bounded by Railroad, Live Oak, Brazos and Burton, including area S of Railroad between Washington and Texas Sts., Burton, 91000709

Burton Farmers Gin (Burton MPS), Main St. SE of Burton St., Buton, 91000712

Burton High School (Burton MPS), Jct. of Main St. and FM 390, Burton, 91000711

Hodde Drugstore (Burton MPS), Main St. SE of Burton St., Burton, 91000713

Kneip—Bredthauer House (Burton MPS), SE corner of Colorado and Cedar, Burton, 91000719

Laas, Dr. Charles, House (Burton MPS), NE corner of Live Oak and Colorado Sts., Burton, 91000717

Neumann, William, House (Burton MPS), Navasota St. W of Washington St., Burton, 91000710

Nienstedt, Herbert, House (Burton MPS), NE corner of Brazos and Washington Sts., Burton, 91000718

Nienstedt, William, House (Burton MPS), SE corner of Brazos and Texas Sts., Burton, 91000715

Sanders, William Edward, House (Burton MPS), Railroad St. SE of US 290, Burton, 91000716

Wehring Shoe Shop and Residence (Burton MPS), Main St. SE of Burton St., Burton, 91000714

WASHINGTON

Pierce County

Silver Creek Ranger Station (USDA Forest Service Buildings in Oregon and Washington Built by the CCC MPS), WA 410 on eastern border of Mt. Rainier National Park, Mt. Baker—Snoqualmie National Forest, Crystal Mountain vicinity, 91000707

Whatcom County

Koma Kulshan Ranger Station (USDA Forest Service Buildings in Oregon and Washington Built by the CCC MPS), Forest Rd. 11, W of Baker Lake, Mt. Baker National Forest, Concrete vicinity, 91000708

Wild Goose Pass Tree, Address Restricted, Glacier vicinity, 91000706

WISCONSIN

La Crosse County

Samuels' Cave, Address Restricted, Barre Mills vicinity, 860003275

[FR Doc. 91–12055 Filed 5–21–91; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development and Economic Cooperation; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the One Hundredth and Sixth Meeting of the Board for International Food and Agricultural Development and Economic Cooperation (BIFADEC) on June 19, 12:30 p.m. to 5 p.m. and June 20, 8:45 a.m. to 11:30 a.m.

The purposes of the Meeting are: (A) To hear and discuss A.I.D. reactions to the recommendations of the BIFADEC Task Force on Development Assistance and Cooperation; (B) to review the status of the new AID Initiatives—in the Environment, Democracy, Partnership for Business and Development, the Family and Development, Toward Strategic Management, and Evaluation—and consider what role U.S. colleges and universities might play; (C) to discuss the Foreign Assistance Act rewrite process; (D) and to consider how to enhance relationships with U.S. college and university alumni in the developing world.

The June 19, 1991, meeting will be held in the Department of State, Administrator's Conference Room, room 5951, State Department Building. The June 20, 1991, meeting will also be held in the Administrator's Conference Room, room 5951, State Department Building. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent the time available for the meeting permits.

The Bureau for Diplomatic Security has implemented new procedures for being in the Department of State building. All persons, visitors and employees, are required to wear proper identification at all times while in the building. Please let the BIFAD Staff know (at tel. no. 663–2575) that you expect to attend the meeting and on which days. Provide your full name, name of employing company of organization, address and telephone number not later than Monday, June 17, 1991.

A BIFADEC Staff member will meet you at the Department of State entrance at 21st Street (and Virginia Avenue) with your visitor's pass.

Due to the strict security at the Department of State, (even though you

are pre-cleared) visitors will be required to present a valid identification and photograph to the receptionist before they can be admitted to the building.

Curtis Jackson, Bureau of Science and Technology, Office of Research and University Relations, Agency for International Development is designated as AID Advisory Committee Representative at this Meeting. It is suggested that those desiring further information write to Dr. Jackson, in care of the Agency for International Development, room 309, SA–18, Washington, DC 20523, or telephone him on (703) 875–4005.

Dated: May 16, 1991.

Ralph H. Smuckler,

Executive Director, Agency Center for University Cooperation in Development.

[FR Doc. 91–12084 Filed 5–21–91; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–324]

Certain Acid-Washed Denim Garments and Accessories; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Bon Jour International, Ltd/. Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on May 13, 1991.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202–252–1000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

WRITTEN COMMENTS: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original 14 copies of all such comments must be filed with the Secretary to the Commission, 500 E Street, SW., Washington, DC20436, no later than 10 days after publication of this notice in the **Federal Register.** Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, Telephone 202–253–1802.

Issued: May 13, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–12139 Filed 5–21–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–323]

Certain Monoclonal Antibodies Used for Therapeutically Treating Humans Having Gram Negative Bacterial Infections

Notice is hereby given that the prehearing conference in this matter will commence at 9 a.m. on June 17, 1991, in Courtroom C (room 217), U.S. International Trade Commission Building, 500 E St. SW, Washington, DC, and the hearing will commence immediately thereafter.

The Secretary shall publish this notice in the **Federal Register.**

Issued: May 15, 1991.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 91–12141 Filed 5–12–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–303]

Certain Polymer Geogrid Products and Processes Therefor

Order

Having considered complainant's motions of May 10, 1991, *it is hereby ordered That:*

1. The briefing scheduled pursuant to the Commission's order of May 2, 1991, for May 16, 1991, and May 23, 1991, is suspended until ten (10) and seventeen (17) days, respectively, after the Commission rules on complainant's alternative motion to either terminate the investigation for mootness and vacate the initial determination or to withdraw the complaint and vacate the initial determination.

2. Complainant's motion to expedite the responses of the respondents and the Commission investigative attorney to complainant's May 10, 1991, motions is denied.

3. Commission action on complaint's May 10, 1991, alternative motion to terminate the investigation for mootness and vacate the initial determination or to withdraw its complaint and vacate the initial determination is deferred pending consideration of the responses of the respondents and the Commission investigative attorney.

4. The Secretary shall serve copies of this Order on each party of record to this investigation.

Issued: May 15, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–12140 Filed 5–12–91; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–514 (Preliminary)]

Shop Towels From Bangladesh

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Bangladesh of

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Acting Chairman Anne E. Brunsdale did not participate in this determination.

shop towels,[3] provided for in subheading 6307.10.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 29, 1991, a petition was filed with the Commission and the Department of Commerce by counsel for Milliken & Co., LaGrange, GA, alleging that an industry in the United States is materially injured and is threatened with futher material injury by reason of LTFV imports of shop towels from Bangladesh. Accordingly, effective May 29, 1991, the Commission instituted preliminary antidumping investigation No. 731–TA–514 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 5, 1991 (56 FR 14121). The conference was held in Washington, DC, on April 19, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on May 13, 1991. The views of the Commission are contained in USITC Publication 2379 (May 1991), entitled "Shop Towels from Bangladesh: Determination of the Commission in Investigation No. 731–TA–514 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: May 15, 1991.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91–12138 Filed 5–21–91; 8:45 am]

BILLING CODE 7020–02–M

[3] For purposes of this investigation, shop towels are defined as absorbent industrial wiping cloths made from a loosely woven fabric. The fabric may be either 100 percent cotton or a blend of materials. Shop towels are primarily used for wiping machine parts and cleaning ink, grease, oil, or other unwanted substances from machinery or other items in industrial or commercial settings.

S–051999 0053(03)(21–MAY–91–13:06:58)

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31856]

Georgetown Railroad, Co.—Acquisition & Operation Exemption—Belton Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, exempts Georgetown Railroad Company (GRR) from the prior approval requirements of 49 U.S.C. 11343, *et seq.*, to purchase and operate approximately 6.277 miles of rail line, adjacent real property, and certain rail assets of Belton Railroad Company, subject to standard labor protective conditions and an historic preservation condition. The exemption is related to the notice of exemption in Finance Docket No. 31857.

DATES: The exemption will be effective on May 29, 1991. Petitions to reopen must be filed by June 17, 1991.

ADDRESSES: Send pleadings referring to Finance Docket No. 31856 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Betty Jo Christian, Steptoe & Johnston, 1330 Connecticut Avenue, NW., Washington, DC 20036–1795.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 275–1721].

Decided: May 15, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91–12142 Filed 5–21–91; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Proposed Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Greater Greensburg Sewage Authority*, Civil Action No. 91–0761 (W.D. Pa.) is available to the public for review and comment. The proposed consent decree resolves litigation in this matter with respect to the Greater Greensburg Sewage Authority ("GGSA") which is alleged to have been in violation of applicable effluent limitations in its National Pollutant Discharge Elimination System permit issued pursuant to the Clean Water Act. 33 U.S.C. 1342. The terms of the proposed decree are summarized in this notice to facilitate public review, and a copy of the proposed decree is being made available at the Department of Justice in Washington, DC and at the Office of the United States Attorney in Pittsburgh, Pennsylvania at the addresses below. The public is invited to submit comments concerning the decree to the Department of Justice, at the address specified below.

The decree arose out of allegations that GGSA had on numerous occasions violated the applicable provisions of its permit pursuant to which it discharges pollutants into the navigable waters of the United States from its sewage treatment plant in Westmoreland County, Pennsylvania. The decree provides that GGSA will adopt a program to control wet and dry weather discharges and to bring its treatment facility into complete compliance with its permit and the Clean Water Act by December 31, 1991. The decree also provides for a civil penalty of $160,000.

The Department of Justice will receive comments relating to the proposed decree until 30 days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Greater Greensburg Sewage Authority*, DOJ Ref. No. 90–5–1–1–3194. The proposed consent decree may be examined at the office of the United States Attorney, Western District of Pennsylvania, 633 USPO and Courthouse, 7th Avenue and Grant Street, Pittsburgh, Pennsylvania 15219. Copies of the consent decree may also be examined and obtained in person at the Environmental Enforcement Section Document Center, 1333 "F" Street, NW., suite 600, Washington, DC 20004.

(Telephone 202–347–7829). A copy of the consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $8.00 (25 cents per page reproduction costs) payable to "Consent Decree Library."

Richard B. Stewart,

Environment and Natural Resources Division.

[FR Doc. 91–12108 Filed 5–21–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on May 10, 1991 a proposed consent decree in *United States* v. *Harrison Contracting, Inc.* Civ. Action No. 89–M–24, was lodged with the United States District Court for the District of Colorado. The action was brought under sections 112 and 113(b) of the Clean Air Act, 42 U.S.C. 7412 and 7413(b), for violations of the National Emissions Standards for Hazardous Air Pollutants codified at 40 CFR part 61.

The parties to the consent decree are United States and Harrison Contracting, Inc. ("Harrison"). The proposed consent decree requires Harrison to pay civil penalties in the amount of $132,500.00, implement a future compliance program, and dismiss with prejudice Harrison's counterclaims against the United States.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. The proposed Consent Decree may be examined at the Office of the United States Attorney, 633 17th Street, Suite 1600, Denver, Colorado 80202 and at the Region VIII office of the United States Environmental Protection Agency, 999 18th Street, Denver, Colorado 80202. The proposed Consent Decree may also be examined at the Environmental Enforcement Section Document Center, 1333 F Street, NW., Suite 600, Washington, DC 20004, (202) 347–7829. A copy of the proposed consent decree may be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $3.50 (25 cents per page reproduction costs) payable to Consent Decree Library.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–12110 Filed 5–21–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, and pursuant to section 122(d)(2) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9622(d)(2) ("CERCLA"), notice is hereby given that on May 9, 1991, a proposed Partial Consent Decree in *United States* v. *Intel Corporation and Raytheon Company* was lodged with the United States District Court for the Northern District of California. This Consent Decree provides for partial remediation of a groundwater contamination site in Mountain View, California (the "Site"), and reimbursement of past and future costs incurred by the United States in connection with the Site.

The Partial Consent Decree resolves the United States' claims against Intel and Raytheon for injunctive relief and cost recovery under sections 106 and 107 of CERCLA.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Intel Corporation and Raytheon Company*, DOJ Ref. No. 90–11–2–244.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Northern District of California, 450 Golden Gate Avenue, San Francisco, California 94102, or at the Office of the Regional Counsel, Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA. 94103. The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202–347–2072). A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclosed a check in the amount of § 66.25 (25 cents per page reproduction costs) payable to Consent Decree Library.

Richard B. Steward,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–12109 Filed 5–21–91; 8:45 am]

BILLING CODE 4410–10–M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States of America* v. *Morgan, et al.*, No. H–90–390 (PCD) (D. Conn.), has been lodged with the United States District court for the District of Connecticut.

The proposed consent decree concerns alleged violations of the Clean Water Act, 33 U.S.C. 1311, as a result of the discharge of fill material into approximately 15 acres of open water and freshwater wetlands located in Suffield, Hartford County, Connecticut, which constitute "waters of the United States." The consent decree requires the defendants, William D. Morgan, Jr., Charles G. Christie, and Winding Brook Turf Farm, Inc., a Connecticut corporation, to pay a $35,000 civil penalty, restore the wetlands, and agree to certain land use restrictions in the wetlands and adjoining uplands.

The Department of Justice will receive, for a period of thirty (30) days from the date of publication of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Attention: Charles R. Meyer, P.O. Box 23986, Washington, DC 20026–3986 and should refer to *United States* v. *Morgan, et al.*, DJ Reference No. 90–5–1–1–3481.

The consent decree may be examined at the Clerk's Office, United States District Court, U.S. Courthouse Room 224, 450 Main Street, Hartford, Connecticut 06103.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–12107 Filed 5–21–91; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that on April 4, 1991 a consent decree in *United States* v. *R & Y, Inc., et al.*, Civil Action No. A88–97 (D. Alaska) was lodged with the United States District Court for the District of Alaska.

The proposed consent decree concerns alleged violations of sections 301 and 404 of the Clean Water Act, 33 U.S.C. 1311 and 1344, as a result of the discharge of dredged and fill material into wetlands located in Tract B, and

Lot 7 of 6800 Industrial Park Subdivision in Anchorage, Alaska. The Site of the violations is owned by R & Y, Inc., and Josef Ressel and is depicted by a map attached to the consent decree lodged with the Court. The fill materials consisted of soil and rock and were discharged into wetlands areas by the defendants without authorization from the U.S. Army Corps of Engineers, in accordance with 33 U.S.C. 1344.

The consent decree requires the defendants to remove all unauthorized fill material, and to restore the area to its original condition by specified grading and revegetation. The decree further requires R & Y, Inc., Josef Ressel, and Edward Young, jointly and severally, to pay a civil penalty of $7,500.00 within 30 days of entry of the consent decree.

The Department of Justice will receive until May 31, 1991, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Attention: Robert Lefevre, Trial Attorney, room 7204, 10th St. & Constitution Avenue, NW., Washington, DC 20530, and should refer to *United States* v. *R & Y, Inc., et al.*, Civil Action No. A88–97 (D. Alaska), DJ Reference No. 90–5–1–1–2842.

The consent decree may be examined at the Clerk's Office, United States District Court, 222 West Seventh Avenue, Anchorage, Alaska 99513–7564.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 91–12108 Filed 5–21–91; 8:45 am]

BILLING CODE 4410–01–M

Federal Bureau of Investigation

Meeting; Advisory Policy Board National Crime Information Center

The Advisory Policy Board of the National Crime Information Center (NCIC) will meet on June 5–6, 1991, from 9 a.m., until 5 p.m. at the College of Charleston Conference Center, 160 Calhoun Street, Charleston, South Carolina 29425.

The topics to be discussed will include the progress of NCIC 2000 Phase II, the progress of the Identification Division automation project, and other operational matters.

The meeting will be open to the public with approximately 20 seats available for seating on a first-come, first-served basis. Any member of the public may file a written statement with the Advisory Policy Board before or after the meeting. Anyone wishing to address a session on the meeting should notify the Advisory Committee Management Officer, Mr. William A. Bayse, FBI, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, or hand-delivered note. It should contain the name, corporate designation, along with a capsulized version of the statement and an outline of the material to be offered. A person will be allowed not more than 15 minutes to present a topic, except with the special approval of the Chairman of the Board.

Inquiries may be addressed to Mr. David F. Nemecek, Committee Management Liaison Officer, NCIC, Federal Bureau of Investigation, Washington, DC 20535, telephone number 202–324–2606.

Dated: May 10, 1991.

Kier T. Boyd,

Deputy Assistant Director, Technical Services Division, FBI.

[FR Doc. 91–12056 Filed 5–21–91; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Use of Alternative Dispute Resolution and Negotiated Rulemaking Procedures

AGENCY: Office of the Secretary, Labor.

ACTION: Request for comments on proposed Departmental policy.

SUMMARY: The Department is developing a policy to implement two important and recently enacted amendments to the Administrative Procedure Act. These are the Administrative Dispute Resolution Act (ADR) and the Negotiated Rulemaking Act (Neg-Reg). Both of these acts authorize and encourage agencies to use arbitration, mediation, negotiated rulemaking, and other consensual methods of dispute resolution.

Section 3(a) of the ADR requires the Department to adopt a policy as to how it intends to implement the statute in each of the following areas: (a) Formal and informal adjudications; (b) rulemakings; (c) enforcement actions; (d) issuing approvals and variances; (e) contract administration; (f) litigation brought against or by any part of the Department; and (g) other Departmental actions. The Department is seeking comments at this time so that the affected public may be involved at the outset in the development of procedures to implement both ADR and Neg-Reg in the Department of Labor.

DATES: Comments are due by July 22, 1991.

ADDRESSES: Send comments to Roland Droitsch, Deputy Assistant Secretary for Policy, U.S. Department of Labor, room S–2312, Francis Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone 202–523–6197.

FOR FURTHER INFORMATION CONTACT: Roland Droitsch, Deputy Assistant Secretary for Policy, U.S. Department of Labor. Telephone 202–523–6197.

SUPPLEMENTARY INFORMATION: In response to a requirement of the Administration Dispute Resolution Act, Public Law 101–552, the Department intends to develop a general policy which encourages greater use of alternative dispute resolution techniques whenever the parties involved agree to them and it is practical to do so in light of other statutory requirements. Among the alternative dispute resolution techniques mentioned in the law is the use of negotiated rulemaking under appropriate circumstances, the criteria for which are set forth in more detail in a separate enactment, the Negotiated Rulemaking Act, Public Law 101–648.

The scope of these two new statutes is broad. In enacting the ADR, Congress expressed concern that administrative proceedings have become too formal and lengthy, and asserted that alternative procedures may, in at least some instances, be faster, less contentious, and more economical. However, ADR techniques will not be appropriate in every situation; the statute indicates, for example, they should not be used for precedent setting cases, those where a formal record is essential, and those bearing on significant policy questions. Within such limitations, the Department plans to explore extensive use of ADR techniques, including whether any of its current procedures and rules need to be modified to allow for greater use of ADR.

In enacting the Neg-Reg statute, Congress indicated its concern that traditional rulemaking procedures may discourage affected parties from communicating openly with each other and with Federal agencies, and encourages them to assume extreme conflicting positions which often results in costs and time-consuming litigation. While agencies have been able to experiment with alternative techniques to avoid these consequences, the Neg-Reg Act amended the Administrative Procedure Act to clearly establish a process for negotiating a proposed rule.

The Department will develop its ADR policy with full consultation with the

Administrative Conference of the United States and the Federal Mediation and Conciliation Service as required by section 3(a) of the ADR Act. To this end, the Department has already designated its ADR Specialist (the Assistant Secretary for Policy) to serve as liaison with those agencies and as coordinator of the Department's ADR implementation. A full survey of existing Departmental practices is planned.

Commenters are encouraged to provide specific comments that relate to activities of the Department; and most particularly, to bring to the attention of the Department any experience to date with ADR or Neg-Reg activities of the Department, areas of the Department's operations which might readily benefit from the use of such techniques, areas in such techniques should be limited or not used at all, or any other matter which they believe would be of interest to the Department as it develop its policy in these areas.

Signed at Washington, DC, this 17th day of May 1991.

Debra A. Bowland,

Acting Assistant Secretary for Policy.

[FR Doc. 91-12165 Filed 5-21-91; 8:45 am]

BILLING CODE 4510-23-M

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: June 12, 1991, 9:30 a.m.-12 noon, Rm. S-2217, FPBldg., Department of Labor, 200 Constitution Ave., NW., Washington, DC 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. section 552(c)(1). The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For futher information, contact: Fernand Lavallee, Director, Trade Advisory Group, Phone: (202) 523-2752.

Signed at Washington, DC this 16th day of May, 1991.

Shellyn G. McCaffrey,

Deputy Under Secretary, International Affairs.

[FR Doc. 91-12166 Filed 5-21-91; 8:45 am]

BILLING CODE 4510-28-M

Employment and Training Administration

[TA-W-25,587]

CRL Components West Allis, WI; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on March 25, 1991 in response to a worker petition which was filed by the Allied Industrial Workers of America, Local 765, on March 25, 1991 on behalf of workers at CRL Components, West Allis, Wisconsin.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this care would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 15th day of May 1991.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 91-12164 Filed 5-21-91; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 91-43]

NASA Advisory Council, Space Science and Applications Advisory Committee, Exploration Science Working Group; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Science and Applications Advisory Committee, Exploration Science Working Group.

DATES: June 4, 1991, 8:30 a.m. to 5 p.m.

ADDRESSES: The Technical and Administrative Services Corporation (TADCORPS), Capital Gallery Building, 600 Maryland Avenue SW., Suite 235, East Wing, Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Dr. Carl B. Pilcher, Code S, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1509).

SUPPLEMENTARY INFORMATION: The Exploration Science Working Group (EXSWG) reports to the Space Science and Applications Advisory Committee (SSAAC) and consults with the advises the NASA Office of Space Science and Applications (OSSA) on identifying and addressing science issues associated with human exploration missions to the Moon and Mars. The EXSWG will meet with representatives of the Exploration Outreach Synthesis Group to discuss interactions between EXSWG and the Synthesis Group and future EXSWG activities. The EXSWG is chaired by Dr. David C. Black and is composed of 19 members. The meeting will be open to the public up to the seating capacity of the room (approximately 50 people including members of the EXSWG). It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Type of Meeting: Open.

Agenda: Tuesday, June 4, 1991.

8:30 a.m.—Opening Remarks.

9 a.m.—Presentation and Examination of Exploration Outreach Synthesis Group Report.

3 p.m.—Writing and Review of EXSWG Conclusions on Exploration Outreach Synthesis Group Report.

5 p.m.—Adjourn.

Dated: May 16, 1991.

Danalee Green,

Director, Management Controls Office.

[FR Doc. 91-12160 Filed 5-21-91; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

Meeting Announcement

AGENCY: The National Commission on Severely Distressed Public Housing.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92-463, as amended, the National Commission on Severely Distressed Public Housing announces a forthcoming meeting of the Commission.

DATES: June 2 & 3, 1991, 9 a.m. to 3:30 p.m.

ADDRESSES: Atlanta Housing Authority, 739 West Peachtree Street, NE., Atlanta, GA.

FOR FURTHER INFORMATION CONTACT: Carmelita Pratt, Administrative Officer, The National Commission on Severely Distressed Public Housing, 7th & D Street, SW., Washington, DC 20407 (202) 708-5702.

TYPE OF MEETING: Open.

AGENDA: Approval of Charter and Memorandum of Understanding, Discussion of Meeting Schedule, Approval of Budget and Staffing, Discussion of Goals of the Commission.

Due to scheduling difficulties, this notice could not be published 15 days prior to this meeting as required by Federal Advisory Committee Act.

Carmelita R. Pratt,

Administrative Officer.

[FR Doc. 91-12044 Filed 5-21-91; 8:45 am]

BILLING CODE 6820-07-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 June 21, 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 Mrs. Anne C. Doyle, National Endowment for the Arts, Administrative Services Division, room 203, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-682-5401).

FOR FURTHER INFORMATION CONTACT: Mrs. Anne C. Doyle, 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: State and Regional Program FY 1992 Guidelines.

Frequency of Collection: Biennially; Triennially.

Respondents: State or local governments.

Use: The requested information is needed to enable the Endowment to determine whether applicants meet eligibility requirements and criteria, and to provide the Endowment with information on past performance of applicant agencies.

Estimated Number of Respondents: 22.

Average Burden Hours per Response: 12.

Total Estimated Burden: 264.

Anne C. Doyle,

Management Analyst, Administrative Services Division, National Endowment for the Arts.

[FR Doc. 91-12067 Filed 5-21-91; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-687]

Consideration of Amendment to Cintichem, Inc. License and Opportunity for Hearing; Cintichem, Inc.

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Special Nuclear Materials License No. SNM-639 issued to Cintichem, Inc. for the use of special nuclear material at its facility located in Tuxedo, New York.

The licensee requested the amendment in a letter dated April 17, 1991, which referenced a decommissioning plan, an environmental report and a radiological accident analysis that had previously been submitted to the Commission on October 19, 1990.

The amendment would authorize the licensee to perform decommissioning of the: (a) Laboratory/hot cell building (Building 2) and associated structures; (b) areas in the reactor building (Building 1) and associated structures subject to this license amendment; and (c) the waste storage building (Building 6) and associated structures, in accordance with the licensee's decommissioning plan.

Buildings 1, 2, and 6 contain radioactivity and radioactive components, and waste generated as a result of operation of Cintichem's reactor facility from 1961 thru 1990. On February 9, 1990, the licensee reported the identification of an unmonitored release of radioactively contaminated water from the reactor building to an on-site retention pond. It was determined that this release had resulted from the failure of part of a concrete wall in the gamma pit (the gamma pit is a water filled pool which is used for the temporary storage of radioactive materials). Cintichem voluntarily ceased operation of the reactor facility on February 9, 1990.

On February 12, 1990, the licensee informed the Commission that another concrete vessel on site (the hold-up tank, which is located in Building 1 and is used to allow the decay of short-lived isotopes in the reactor coolant), also apparently had developed a leak.

On February 13, 1990, the Commission issued an order requiring that the Cintichem facility remain shutdown until existing leaks at the facility were identified and repaired.

In a letter dated May 31, 1990, the Commission was informed that Cintichem had decided to decommission the reactor and radiochemical processing facilities and was preparing a decommissioning plan. On January 14, 1991, the Commission noticed in the **Federal Register** (56 FR 1422, Monday, January 14, 1991) that the Commission was considering the issuance of an Order authorizing Cintichem to dismantle the reactor facility, dispose of the waste and terminate License No. R-81 in accordance with the licensee's application dated October 19, 1990.

On April 17, 1991 the Commission received a request from the licensee to amend special nuclear materials license SNM-639 to decommission the facilities and areas associated with the activities carried out under this license.

Prior to issuance of the proposed amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended, and the Commission's regulations.

Because the facility holds two licenses issued by the Commission, it was determined that decommissioning activities pursuant to the termination of special nuclear material license SNM-639 were also subject to the requirements of 10 CFR Part 2 and any person whose interests might be affected by these proceedings must be given the opportunity to file a request for a hearing.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, informal Hearing Procedures for Adjudications in Materials Licensing Proceedings, of the Commission's Rules of Practice for Domestic Licensing Proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205, a request for a

hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** Notice. The request for hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In addition to meeting other applicable requirements of 10 CFR part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

a. The interest of the requestor in the proceeding;

b. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

c. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

d. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Each request for a hearing must also be seved, by delivering it personally or by mail to:

1. The applicant, Cintichem, Inc. to the attention of Mr. J.J. McGovern, President/Plant Manager, P.O. Box 816, Tuxedo, New York 10987; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Any hearing that is requested and granted will be held in accordance with the Commisison's Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings in 10 CFR part 2, subpart L.

For further details with respect to the proposed action, see the licensee's request for license amendment dated April 17, 1991, which is available for inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC.

Dated at Rockville, Maryland this 15th day of May, 1991.

For the Nuclear Regulatory Commission.

John H. Austin,

Chief, Decommissioning and Regulatory Issues Branch, Division of Low-Level Waste Management and Decommissioning, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 91-12152 Filed 5-21-91; 8:45 am]

BILLING CODE 7590-01-M

Combustion Engineering, Inc.; Correction to Notice of Receipt of Application for Design Certification

On May 8, 1991, the Nuclear Regulatory Commission published a Notice in the **Federal Register** concerning Combustion Engineering, Inc., Receipt of Application for Construction Permit and Facility Operating License (56 FR 21395); however, the title should have read: Combustion Engineering, Inc., Receipt of Application for Design Certification.

Dated at Rockville, Maryland this 15th day of May 1991.

For the Nuclear Regulatory Commission.

Charles L. Miller,

Director, Standardization Project Directorate, Division of Advanced Reactors and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 91-12170 Field 5-21-91; 8:45 am]

BILLING CODE 7590-01-M

RESOLUTION TRUST CORPORATION

Disclosure of Asset-Related Information

AGENCY: Resolution Trust Corporation.

ACTION: Request for Comments.

SUMMARY: The Resolution Trust Corporation ("RTC") is soliciting comments from the public on certain issues regarding the disclosure of information related to the sale of assets owned or controlled by the RTC. Comments are solicited to assist RTC in the development of a policy statement regarding disclosure of such information.

DATES: Comments must be received by June 21, 1991.

ADDRESSES: Comments should be sent to Executive Secretary, Resolution Trust Corporation, 801 17th Street, NW., Washington, DC 20434.

FOR FURTHER INFORMATION CONTACT: John C. Binkley, Special Assistant to the Executive Secretary, at (202) 416-7450.

SUPPLEMENTARY INFORMATION:

Background

The RTC was established by Congress in August 1989 to contain, manage, and sell failed savings institutions, and to recover taxpayer funds through the management and sale of the institutions' assets. The law establishing RTC, the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub. L. 101-73), requires, among other things, that RTC conduct its operations in a manner which maximizes the return from the sale of assets of failed institutions, yet which minimizes the impact of such transactions on local real estate and financial markets. The RTC also has certain responsibilities to keep the taxpayers and citizens informed of its activities, to the maximum extent practicable. RTC management is concerned that in an effort to provide maximum information about its activities, disclosure of certain information regarding its sales may adversely affect its ability to maximize recoveries, as the law requires. To assist in the development of a disclosure policy regarding asset-related information, the RTC is hereby seeking public comment on a number of relevant issues.

This solicitation of comments is not made in connection with the promulgation of a substantive rule or regulation, as provided for by the Administrative Procedure Act (5 U.S.C. 551 et seq.), but is made to assist the RTC in the development of a general policy statement regarding the voluntary release of information. Accordingly, if a policy is developed, it will not be determinative of the rights of the RTC, of the rights of requesters, or of the rights of submitters of information under the Freedom of Information Act (5 U.S.C. 552). Any policy statement adopted would constitute only a guide to the staff of the RTC and the public on the kinds of asset-related information that the RTC will generally decide to release. Such policy would also provide for the retention by the RTC of the discretion to withhold, at any time, information of the kind which had theretofore been routinely released, or to disclose, at any time, information which had theretofore been routinely withheld, as circumstances warrant.

All information submitted in response to this solicitation for comments will be reviewed unless the volume of information submitted would make review impractical. However, the RTC may or may not use such information as the basis for any policy which might subsequently be adopted.

Request for Comments

Although the RTC has not heretofore adopted a policy, it has made tentative determinations regarding the likelihood of disclosure of such information. It is

presently anticipated that the RTC will routinely decide to disclose the following: the amount of money paid for any asset sold by the RTC, the lowest amount bid or offered for that asset, and the number of bids or offers received for the purchase of any asset offered for sale. It is presently anticipated that the RTC will rountinely decide to decline to disclose any amount bid or offered for the purchase of an asset that has been sold, other than the purchase price and the lowest bid or offer.

Considering the foregoing, the following issues are of particular importance and public comment is sought thereon:

1. Identities of Purchasers

(a) Should the identities of the purchasers of various assets offered for sale by the RTC be disclosed to the public? If so, why? If not, why not?

(b) Should the answer to 1(a) depend upon the particular type or category of asset sold? That is, would it make a difference—and why would there be a difference—depending upon whether the asset sold were:

(1) Loans,

(2) Real estate owned,

(3) Subsidiary corporations,

(4) Servicing agreements,

(5) Furniture, fixtures and equipment, or

(6) Securities.

2. Identities of Losing Bidders

(a) Should the identities of the losing bidders for various assets offered for sale by the RTC be disclosed to the public? If so, why? If not, why not?

(b) Should the answer to 2(a) depend upon the particular type or category of asset offered for sale? That is, would it make a difference—any why would there be a difference—depending upon whether the asset offered were:

(1) Loans,

(2) Real estate owned,

(3) Subsidiary corporations,

(4) Servicing agreements,

(5) Furniture, fixtures and equipment, or

(6) Securities.

3. Effect of Disclosure on Bids and Offers

(a) Do you believe that the disclosure of any of the information discussed above (i.e., the amount of the purchase price, the identity of the purchaser, the amounts of losing bids, the identities of losing bidders) would affect the number of parties submitting bids or making offers for assets? Would disclosure of any of this information affect the prices bid or offered?

(b) If you personally were a potential offeror for any of these types of assets, how would our determination on any of the issues outlined above affect your decision as to whether you would submit an offer, or the amount of your offer?

(c) Would your answer be different, depending upon the type of asset offered (loans, real estate owned, etc.)?

By order of the Board of Directors.

Dated at Washington, DC, this 7th day of May 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91–12038 Filed 5–21–91; 8:45 am]

BILLING CODE 6714–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

May 16, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Americus Trust for American Home Products Corp.
Prime Component, No Par Value (File No. 7–6826)
Americus Trust for American Telephone & Telegraph Co.
Prime Component Series 2, No Par Value (File No. 7–6827)
Americus Trust for Amoco Corp.
Prime Component, No Par Value (File No. 7–6828)
Americus Trust for Arco Chemical Co.
Prime Component, No Par Value (File No. 7–6829)
Americus Trust for Bristol-Myers Co.
Prime Component, No Par Value (File No. 7–6830)
Americus Trust for Chevron Corp.
Prime Component, No Par Value (File No. 7–6831)
Americus Trust for Coca Cola Co.
Prime Component, No Par Value (File No. 7–6832)
Americus Trust for DuPont (E.I.) De Nemours
Prime Component, No Par Value (File No. 7–6833)
Americus Trust for Ford Motors Co.
Prime Component, No Par Value (File No. 7–6834)
Americus Trust for General Electric
Prime Component, No Par Value (File No. 7–6835)
Americus Trust for General Motors Corp.
Prime Component, No Par Value (File No. 7–6836)
Americus Trust for GTE Corp.
Prime Component, No Par Value (File No. 7–6837)
Americus Trust for Hewlett-Packard
Prime Component, No Par Value (File No. 7–6838)
Americus Trust for Int'l Business Machines Co.
Prime Component, No Par Value (File No. 7–6839)
Americus Trust for Johnson & Johnson
Prime Component, No Par Value (File No. 7–6840)
Americus Trust for Merck & Co.
Prime Component, No Par Value (File No. 7–6841)
Americus Trust for Mobil Corp.
Prime Component, No Par Value (File No. 7–6842)
Americus Trust for Phillip Morris Companies
Prime Component, No Par Value (File No. 7–6843)
Americus Trust for Procter & Gamble Co.
Prime Component, No Par Value (File No. 7–6844)
Americus Trust for Sears, Roebuck & Co.
Prime Component, No Par Value (File No. 7–6845)
Americus Trust for Union Pacific Corp.
Prime Component, No Par Value (File No. 7–6846)
Americus Trust for Xerox Corp.
Prime Component, No Par Value (File No. 7–6847)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 6, 1991, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the appropriations if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–12068 Filed 5–21–91; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-29195; File No. SR-GSCC-91-01]

Self-Regulatory Organizations; Government Securities Clearing Corp.; Proposed Rule Change Relating to Conversion of Yield Trades to Priced Trades at Time of Comparison

May 15, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 2, 1991, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would make specific conforming changes to GSCC's rules that would allow GSCC to automatically convert yield trades into priced trades at the time of their comparison on a yield basis, based on an assumed coupon. This will: (1) allow such yield trades to be netted and novated (and marked-to-market)—in the same manner as are final money trades—as early as on the night after the trade is entered into (assuming that the trade is compared on a yield basis); and (2) eliminate the need for double submission of when-issued trades.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC 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. GSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

New Treasury Note and Bond issues are actioned on a Yield-to-maturity basis, reflecting the rate of return realized if the security is held to maturity and if coupon interest payments are reinvested at such yield. Firms that trade notes and bonds in the secondary market on a when-issued basis during the time period from announcement to auction do so based on the then current market yield without knowledge of what the coupon actually will be. (During that period, such firms can use a standard Treasury Department conversion formula and an assumed coupon rate to derive the prices of trades that they have done in a security on a yield basis; this might be done, for example, for internal surveillance purposes in order to monitor the firm's credit exposure.) After the auction is completed and the coupon rate is established, each successful auction bidder is charged a price for the securities that it has bid on that is calculated so that the yield to maturity on the securities equals the yield that was bid.

Currently, when-issued trades submitted to GSCC are eligible for the net only if they have been compared by GSCC post-auction on a final price basis. GSCC is proposing the rule change in order to make available to netting members the protection and efficiencies provided by netting as soon as possible after the trading among such members in eligible securities commences.

Initially, only Treasury Notes and Bonds will be eligible for yield-to-price conversion. Data will continue to be accepted in yield format at any time prior to maturity date. Yield data will be converted and compared with data submitted on a price basis from auction date until maturity date.

GSCC will derive a standard yield-to-price conversion formula using the Treasury Department's Formulas. The coupon rate used prior to auction will be an assumed one that will be calculated based on a par-weighted average yield, adjusted down to the nearest ⅛th, derived using recent compared trade data. The assumed coupon rate will be recalculated daily, and will be revised automatically if a movement of ⅛th of a point or more occurs, or otherwise as deemed appropriate by GSCC. Of course, on an auction date, the price will be calculated based on the actual coupon.

The system value of a converted trade will be calculated pre-auction (for the purpose of calculating a member's forward mark allocation requirement) based on par value, the assumed coupon/price, and accrued interest (if applicable).

The calculation of the assumed price will take into account commission. Yield trades should be submitted with commission data; however, GSCC understands that certain firms may initially not be able to do so. In general, in order to avoid generating uncompared trades as the result of either a lack submission of a commission amount or a mistake in the submission of a commission amount, if the data submitted on a yield basis involving a trade between a broker member and a dealer member meet all of the criteria for comparison other than the information submitted regarding commission, and the dealer has submitted a commission amount that does not match the commission amount submitted by the broker, the trade will be compared based on the commission amount being equal to that submitted by the broker. Notwithstanding the above, a dealer member may specify criteria required for a valid comparisons to occur.

The comparisons by GSCC of a yield trade involving unmatched commission amounts—while evidencing a valid, binding, and enforceable contract between the member-parties to the trade to the same degree as if the commission amounts matched—will not constitute a final, binding determination on those firms as to the correct commission amount. Broker members will have an ongoing obligation to their dealer member counterparties to respond promptly to such dealers' commission difference inquiries, and to act in good faith to resolve all alleged differences.

Members' comparison output will contain appropriate indication that a trade has been converted from yield to price status. The fee to be charged to members for the conversion of data submitted on a yield basis to priced data will be determined by the Board in the near future.

Initially, members will be permitted to choose to not participate in the conversion process. Such members will have to continue to resubmit trade data post-auction on a final money basis. As regards participating Netting Members, forward net settlement positions comprised in whole or part of converted trades pre-auction will be included in the calculation of such members' required Clearing Fund deposits and forward mark allocation amounts, in the same manner as if data on the trade had been submitted post-auction on a priced basis. As regards non-participating Netting Members, GSCC will calculate on each business day during the pre-auction period their required Clearing Fund deposit and forward mark allocation amounts as if they were participating, and will, for the protection of other members, expressly reserve the right to collect Clearing Fund deposits

and forward mark allocation monies from such members as if they were participating, if such members' margin requirements break certain pre-established parameters.

The proposed rule change would make available to netting members the protections and efficiencies provided by netting as soon as possible after the trading in the eligible securities commences. Thus, it is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not perceive that the proposed rules changes impact on, or impose a burden on, competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rules changes have not yet been solicited or received. GSCC will notify members of the rule filing, and will solicit comments, by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

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 reason for so finding, or (ii) as to such period that the self-regulatory consents, the Commission will:

(A) By order approve such proposed rule change, or

B) Institute proceedings to determine whether the proposed rule change would 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 Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principle office of GSCC. All submissions should refer to File No. SR-GSCC-91-01 and should be submitted by June 12, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-12072 Filed 5-21-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

May 16, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Duracell International, Inc.
Common Stock, $.01 Par Value (File No. 7-6815)
Manpower, Inc.
Common Stock, $.01 Par Value (File No. 7-6816)
Haemonetics Corporation
Common Stock, $.01 Par Value (File No. 7-6817)
Telefonos de Mexico S.A. De C.V.
American Depositary Shares representing 20 Series L Shares, No Par Value (File No. 7-6818)
Alafirst Bancshares, Inc.
Common Stock, $.01 Par Value (File No. 7-6819)
GBC Bancorp
Common Stock, No Par Value (File No. 7-6820)
Hanger Orthopedic Group, Inc.
Common Stock, $.01 Par Value (File No. 7-6821)
Home Oil Company Limited
Common Stock, No Par Value (File No. 7-6822)
Identix Incorporated
Common Stock, $.01 Par Value (File No. 7-6823)
Lifetime Products, Inc.
Common Stock, $.01 Par Value (File No. 7-6824)
Provena Foods, Inc.
Common Stock, No Par Value (File No. 7-6825)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 6, 1991, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-12069 Filed 5-21-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for hearing; Pacific Stock Exchange, Inc.

May 16, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following security:

Duracell International, Inc.
Common Stock, $.01 Par Value (File No. 7-6848)

This security is listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 6, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair

and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-12070 Filed 5-21-91; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

May 16, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Patriot Premium Dividend Fund I
Common Stock, No Par Value (File No. 7-6810)

Patriot Select Dividend Trust
Common Stock, No Par Value (File No. 7-6811)

Van Kampen Merritt Intermediate Term High Income Fund
Common Stock, $0.01 Par Value (File No. 7-6812)

Telefonos de Mexico S.A.
American Depositary, No Par Value (File No. 7-6813)

Manpower Incorporated
Common Stock, $.01 Par Value (File No. 7-6814)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 6, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-12071 Filed 5-21-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29190; File No. SR-PHLX-91-06]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Filing of Proposed Rule Change Relating to Applicant Access-Regulation 5

Pursuant to section (b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 25, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "EXCHANGE") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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 Exchange, pursuant to Rule 19b-4 of the Act, proposes to amend Regulation 5—Guest, enacted as a rule of order and decorum under PHLX Rule 60. The proposal contemplates awarding "Applicant" status to prospective members for whom an application for membership has been filed and for whom the personal background check has been completed, but whose membership will not become final until the subsequent three week posting period has been completed. Applicant status grants unescorted access to the trading floor of the Exchange by way of an Applicant Access Card for a period of twenty business days and also qualifies the Applicant to be issued an Applicant floor badge. After the twenty day period has expired, the access card is automatically terminated and the applicant must reapply to the chairman (or designee) of the Committee on Admissions for a new access card. A copy of proposed Regulation 5 is attached as Exhibit A.

II. Self-Regulatory Organization's Statements Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

The PHLX proposes the addition of this regulation, as a Regulation of Order and Decorum under PHLX Rule 60, in order to ensure the integrity of its security system by requiring prospective members to comply with certain requirements before securing access to the trading floor. Specifically, under the present wording of Regulation 5, a prospective member, just as all visitors, must be signed in by either a member, associated person of a member or an Exchange official in order to access the trading floor, and then must be continuously accompanied by such person while on the floor. (*See* PHLX Rule 60, Regulations of Order and Decorum, Regulation 5—Guests.)

The PHLX proposes to add an additional provision to Regulation 5 pertaining specifically to a prospective member who is often a "visitor" for many days before membership is secured. In this regard, a prospective member shall be required to file an application with the Office of the Secretary, which will trigger certain clearance procedures by both the Secretary's Office as well as the Examinations Department to verify personal integrity and financial viability. These procedures normally require approximately ten business days to complete, during which time the prospective member remains in a "visitor" status, requiring signature for entry and accompaniment pursuant to Regulation 5. Once the clearance is completed, however, the applicant will be issued an Applicant Access Card and Badge, both identifying such person as an "APPLICANT". At this time, the applicant may access the floor and remain there without accompaniment. This access will continue for twenty business days, at which time the Applicant Access Card automatically expires and access is denied, returning the prospective member to a "visitor" status. This twenty day period corresponds to the time period normally required for the posting process for membership. If this process is not

complete within 20 days, the applicant may reapply for access to the Chairman of the Admissions Committee, resulting in the reactivation of the Applicant Access Card and reissuance of the Applicant Badge.

In order to implement this procedure, the PHLX will charge a fee of $25.00 each for the Applicant Access Card and the Applicant Badge.

The Exchange's security will be increasingly fortified by the creation of this new class of access cards and floor badges. The PHLX believes that this procedure will reduce the amount of time that prospective members spend on the floor as "visitors". Thereby, accountability is increased because an application and preliminary clearance are required. Prospective members will favor seeking applicant status in order to gain access without having to arrange for a signature and escort from a member/associated person or Exchange official. These persons will be relieved from burden of continuously escorting prospective members, at least once such applicant status is achieved. Moreover, members on the floor, and more importantly, members of the Admissions Committee, will be able to identify applicants by their badge and observe them for purposes of a three week observation period generally imposed by the Committee in order to ensure that applicants are familiar with trading floor logistics, rules, procedures and practices. And finally, in the infrequent instance where an Applicant has been approved for floor membership status but then fails to secure a business purpose requiring presence on the floor (i.e. ROT, floor broker, specialist), the Admissions Committee will now be notified by way of the expired access card and will thus monitor the status of such persons and their applications.

The proposed rule change is consistent with the Act, and, in particular, with section 6(b)(5), which requires exchange rules to be designed to promote the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

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 PHLX 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 Section 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to File No. SR–PHLX–91–06 and should be submitted by June 12, 1991.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 13, 1991.

Margaret H. McFarland,

Deputy Secretary.

Exhibit A—Text of Amended Regulation 5; New text italicized; deleted text bracketed

Regulation 5—VISITORS AND APPLICANTS [GUESTS]

Non-member *visitors* [guests] will be permitted on the trading floor at the discretion of the respective floor committee (Options, FCO or Floor Procedures). All *visitors* [guests] must be signed in by a member or Exchange official and accompanied at all times by a member, associated person of a member or an Exchange official. *As a visitor, the applicant must be escorted by a representative of a member firm at all times while on the trading floor, and failure to do so shall result in a violation of this regulation by such member firm.*

Once an applicant has filed an application with the Office of the Secretary, the applicant may be admitted as a visitor for ten business days, after which an application for an Applicant Access Card/Floor Badge must be submitted. Twenty-one days after the Access Card is issued, it will automatically expire; an applicant may apply to the Chairman of the Admissions Committee or his designee for a twenty-day extension.

1st Occurrence	Official Warning.
2nd Occurrence	$50.00.
3rd Occurrence	$100.00.
4th Occurrence	$200.00.
5th and Thereafter	Sanction Discretionary with Business Conduct Committee.

[FR Doc. 91–12073 Filed 5–21–91; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Rel. No. 18149; International Series Rel. No. 271; 812–7708]

Mutual Risk Management Ltd.; Notice of Application

May 15, 1991.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANT: Mutual Risk Management Ltd. ("MRM").

RELEVANT 1940 ACT SECTIONS: MRM seeks an order under section 6(c) or alternatively, under section 3(b)(2).

SUMMARY OF APPLICATION: MRM seeks a conditional order under section 6(c) permitting it to offer and sell its equity securities in the United States without registering as an investment company under the 1940 Act. Alternatively, MRM seeks an order under section 3(b)(2) declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities.

FILING DATES: The application was filed on April 5, 1991 and amended on May 10, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicant with a copy of the request, personally or by

mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 6, 1991, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, c/o Richard E. O'Brien, Esq., Dunnington, Bartholow & Miller, 666 Third Avenue, New York, NY 10017.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272–3035, or Max Berueffy, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. MRM was incorporated under the laws of Bermuda in 1977. MRM provides risk financing and insurance risk management services through its United States and foreign subsidiaries. MRM's principal business is its Insurance Profit Center ("IPC") program which is conducted primarily through Legion Insurance Company ("Legion") in the United States and wholly-owned insurance company subsidiaries of MRM in Bermuda and Barbados (the "IPC Companies").

2. All of the common stock of each IPC Company is owned by either of two wholly-owned subsidiaries of MRM, Mutual Holdings Ltd. or Mutual Holdings (U.S.) Ltd. (collectively, "Mutual Holdings"). Typically, a client (the "insured") enters into an agreement with Mutual Holdings pursuant to which the insured is issued a discrete series of Mutual Holdings preferred stock. Each series of such preferred stock pays dividends based on the performance of the insured's particular IPC program. At the conclusion of the IPC program, the series of preferred stock is redeemed.

3. Under the IPC program, Legion or an unaffiliated insurance company issues an insurance policy to the insured, and the insured pays the premium therefor. One of the IPC Companies then reinsures the portion of that policy representing the risk retained by the insured. The IPC Company receives the premium from the issuer of the original policy, invests the premium on behalf of the insured, and administers claims under the policy.

4. The IPC program allows MRM's clients to self-insure a portion of their risks. Clients thereby avoid pooling their risks with those of other insureds in the hope that their risk management costs will decrease. Participants in the IPC programs typically are corporations or professional or trade associations which would generate $750,000 or more in premiums annually under traditional insurance arrangements. Currently, there are approximately 200 holders of Mutual Holdings preferred stock, representing the current number of active IPC programs.

5. For its service in connection with the IPC programs, MRM receives (a) income from premiums on any insurance policy issued by Legion (b) brokerage commissions for arranging insurance and reinsurance (c) an annual administrative fee typically equal to 1% of the assets in each IPC program (d) fees for coordinating claims administration and (e) fees based upon the investment income returned to the insured through the Mutual Holdings preferred stock.

6. In addition to the IPC program, MRM receives income for designing and managing captive insurance companies, risk management consulting, and for insurance brokerage operations.

7. MRM's insurance company subsidiaries in Barbados and Bermuda are licensed and regulated as insurance companies by those countries. Bermuda insurance companies, for example, are governed by the Insurance Act, 1978, as amended by the Insurance Amendment Acts 1981, 1983 and 1985 (the "Bermuda Act") and related regulations. The Bermuda Act and the regulations impose solvency and liquidity standards and auditing and reporting requirements, and grant to the Bermuda Minister of Finance extensive powers to supervise, investigate and intervene in the affairs of insurance companies. Legion, MRM's United States subsidiary, is licensed in 47 states.

Applicant's Legal Analysis

1. MRM states that currently, it is excepted from the definition of an investment company by section 3(c)(1) of the 1940 Act because its outstanding securities are beneficially owned by not more than one hundred persons and it is not making and does not presently propose to make a public offering of its securities. However, MRM could no longer rely on section 3(c)(1) if it proposed to offer and sell its common stock to United States investors in order to facilitate the expansion of its United States operations and to strengthen its presence in the United States.

2. Section 6(c) of the 1940 Act authorizes the SEC to issue conditional or unconditional exemptions from any provision of the 1940 Act or rule thereunder if the exemption is "necessary or appropriate in the public interest" and is "consistent with the protection of investors and the purposes fairly intended by the policy and provisions of [the 1940 Act]". MRM submits that the application meets those requirements.

3. MRM seeks an order permitting it to offer and sell its common stock in the United States without registering as an investment company under the 1940 Act. Section 3(c)(3) of the 1940 Act provides an exception from the definition of investment company for any "insurance company." Section 3(c)(6) provides, among other things, that no company primarily engaged in the insurance company business through majority-owned subsidiaries shall be an investment company. Section 2(a)(17) provides that, when used in the 1940 Act, "insurance company" means a company organized as an insurance company and subject to supervision by the insurance commissioner or a similar official or agency of a State. Because many of the insurance companies owned by MRM are not subject to domestic insurance regulation, MRM does not come within the exceptions set out in sections 3(c)(3) and 3(c)(6), and thus could be deemed an "investment company" required to register under the 1940 Act in connection with the issuance of its equity securities in the United States.

4. The Commission has proposed amendments to rule 6c-9 under the 1940 Act. Investment Company Act Release No. 17682 (Aug. 17, 1990); 55 FR 34569 (Aug. 23, 1990). In its present form, Rule 6c-9 provides a conditional exemption from the 1940 Act that permits foreign banks and their finance subsidiaries to offer and sell debt securities and non-voting preferred stock without registering under the 1940 Act. The proposed amendments would, among other things, extend the exemption from registration under the 1940 Act to foreign insurance holding companies and foreign insurance companies offering or selling their securities in the United States. A foreign insurance holding company must come within the definition of "qualifying holding company" to rely on the proposed amended rule. Proposed amended rule 6c-9 defines a "qualifying holding company" as a company that is (a) organized or incorporated under the

laws of a country other than the United States, or a political subdivision of a country other than the United States (b) primarily engaged in the banking or insurance businesses through wholly- or majority-owned foreign banks or foreign insurance companies and (c) not operated for the purpose of evading the provisions of the 1940 Act. MRM states that it comes within that definition. Moreover, MRM has agreed to comply with rule 6c-9 as it is proposed to be amended and as it may be reproposed, adopted, or amended in the future in connection with the issuance and sale of its equity securities in the United States.

5. Section 3(a)(3) of the 1940 Act defines an "investment company" as any issuer which "is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." MRM believes that its ownership of investment securities may bring it within that definition.

6. MRM also requests, pursuant to section 3(b)(2), that the Commission find and issue an order declaring that it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding, or trading in securities either directly, through majority-owned subsidiaries, or through controlled companies conducting similar types of businesses.

7. MRM states that, based on the standards set forth in Investment Company Act Rel. No. 10937 (Nov. 13, 1979), it is primarily engaged in a business other than that of investing, reinvesting, owning, holding or trading in securities.

8. MRM represents that since its incorporation in 1977, it has devoted substantially all of its resources to the business of designing and implementing risk management programs and to insurance activities. Furthermore, MRM has consistently represented to both its clients and its shareholders that it is primarily engaged in risk management and insurance services. MRM's officers devote substantially all of their business time to developing and implementing MRM's risk management programs and other insurance-related businesses. Neither the directors nor the officers of MRM devote significant effort to investment activities. Finally, MRM states that it derives approximately 90% of its revenue from its risk management programs and from premiums earned on insurance policies. Less than 10% of MRM's revenue is derived from investment income.

9. MRM also states that it has no substantial economic interest in the securities held for its clients in connection with its risk management programs. MRM thus argues that such securities should not be deemed "investment securities." MRM also points out that its insurance subsidiaries hold bonds and notes only in connection with their insurance business.

Applicant's Condition

MRM agrees that if the requested order is granted under section 6(c), it will comply with proposed amended rule 6c-9 under the 1940 Act as it is currently proposed and as it may be reproposed, adopted or amended in the future.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-12137 Filed 5-21-91; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2503]

Louisiana; (With Contiguous Counties in Arkansas, Mississippi & Texas); Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated May 9, 10, and 12, 1991, to the President's major disaster declaration of May 3, to include the parishes of Assumption, Bienville, Caddo, Catahoula, Franklin, Grant, Lafourche, Natchitoches, Rapides, St. Mary, St. Martin, Terrebonne, Webster, and Winn in the State of Louisiana as a disaster area as a result of damages caused by severe storms, tornadoes, and flooding beginning on April 27.

In addition, applications for economic injury loans from small businesses located in the contiguous parishes of Allen, Ascension, Avoyelles, Bossier, Concordia, DeSoto, Evangeline, Iberia, Iberville, Jefferson, Lafayette, Point Coupee, Red River, Sabine, St. James, St. Landry, St. John The Baptist, St. Charles, and Vernon in the State of Louisiana; the counties of Lafayette and Miller in the State of Arkansas; and the counties of Cass, Harrison, Marion, and Panola in the State of Texas may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is July 2, 1991, and for economic injury until the close of business on February 3, 1992.

The economic injury numbers are 729900 for Louisiana, 730100 for Arkansas, and 731800 for Texas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-12079 Filed 5-21-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2499]

Louisiana (With Contiguous Counties in Texas & Arkansas); Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with amendments dated May 9 and 10, 1991, to the President's major disaster declaration of April 23, to include the parishes of Catahoula, Claiborne, Morehouse, Natchitoches, and West Carroll in the State of Louisiana as a disaster area as a result of damages caused by severe storms and flooding beginning on April 12, 1991.

In addition, applications for economic injury loans from small businesses located in the contiguous parishes of Avoyelles, Caldwell, Concordia, East Carroll, Franklin, Grant, LaSalle, Ouachita, Rapides, Richland, Tensas, and Union in the State of Louisiana, and the counties of Ashley, Chicot, and Union in the State of Arkansas may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is June 22, 1991, and for economic injury until the close of business on January 23, 1992.

The economic injury numbers are 729900 for Louisiana and 730100 for Arkansas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91-12080 Filed 5-21-91; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2504]

Oklahoma (and Contiguous Counties in Kansas); Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on May 8, 1991, and an amendment thereto on May 10, 1991, I find that the Counties of Garfield, Noble, Osage, Pawnee, Rogers, and Washington in the State of Oklahoma constitute a disaster area as a result of damages caused by severe storms and tornadoes on April 26–27, 1991. Applications for loans for physical damage may be filed until the close of business on July 7, 1991, and for loans for economic injury until the close of business on February 10, 1992, at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155, or other locally announced locations. In addition, applications for economic injury loans from small businesses located in the contiguous counties of Alfalfa, Craig, Creek, Grant, Kingfisher, Logan, Major, Mayes, Nowata, Payne, Tulsa, and Wagoner in the State of Oklahoma, and Montgomery County in the State of Kansas may be filed until the specified date at the above location.

Any counties contiguous to the above-named primary counties and not listed herein have previously been named as contiguous or primary counties for the same occurrence.

The interest rates are:

	Percent
For physical damage:	
Homeowners with Credit Available Elsewhere	8.000
Homeowners Without Credit Available Elsewhere	4.000
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	9.125
For economic injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 250412 and for economic injury the numbers are 731200 for Oklahoma and 730400 for Kansas.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91–12081 Filed 5–21–91; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2497

Texas; Amendment #2; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated May 8, 1991, to the President's major disaster declaration of April 12, to establish the incident period as April 5–6, 1991.

All other information remains the same, i.e., the termination date for filing applications for physical damage is June 11, 1991, and for economic injury until the close of business on January 13, 1992.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 15, 1991.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 91–12082 Filed 5–21–91; 8:45 am]

BILLING CODE 8025–01–M

Region VI Advisory Council Meeting

The U.S. Small Business Administration Region VI Advisory Council, located in the geographical area of Albuquerque, will hold a public meeting at 8:45 a.m. on Wednesday, June 12, 1991, at the SBA Office, 625 Silver SW, Suite 320, Albuquerque, New Mexico, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Tom W. Dowell, District Director, U.S. Small Business Administration, 625 Silver SW, Suite 320, Albuquerque, New Mexico 87102, telephone (505) 766–1886 or FTS 474–1886.

Dated: May 15, 1991.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 91–12083 Filed 5–21–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 1398]

Advisory Committee on Historical Diplomatic Documentation; Meeting

The Advisory Committee on Historical Diplomatic Documentation will meet on June 18, 1991, at 9:30 a.m. in Room 6800 of the Department of State.

The Advisory Committee advises the Bureau of Public Affairs, and in particular the Office of the Historian, concerning the preparation of the documentary series entitled Foreign Relations of the United States and other responsibilities of that Office.

In accordance with section 10(d) of the Advisory Committee Act (Pub. L. 92–463), it has been determined that discussions during the meeting will necessarily involve consideration of matters recognized as not subject to public disclosure under 5 U.S.C. 552b(c)(1). The meeting of the Advisory Committee will involve the examination and discussion of classified documents being considered for publication in the series Foreign Relations of the United States. The meeting will also involve the discussion of classified Department of State guidelines for declassification review and disclosure of Department records accessioned by the National Archives. These materials are properly classified and are specifically authorized under criteria established by Executive Order 12356 to be kept secret in the interests of national defense and foreign policy. The meeting will therefore be closed.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisor Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520, telephone (202) 663–1123.

Dated: May 13, 1991.

William Z. Slany,

Executive Secretary.

[FR Doc. 91–12047 Filed 5–21–91; 8:45 am]

BILLING CODE 4710–11–M

[Public Notice 1401]

Advisory Committee to the United States Section Inter-American Tropical Tuna Commission; Partially Closed Meeting

Notice of meeting published in 56 FR, May 14, 1991, Page 22191, is being amended due to a change in meeting location.

The Advisory Committee to the United States Section of the Inter-American Tropical Tuna Commission will meet on June 4, 1991, at the National Marine Fisheries Service Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, California. The morning session, open to the public, will be from 9:30 a.m. to 12 Noon. The

afternoon session, closed to the public, will be from 1:30 p.m. to 5 p.m.

Requests for further information on the meeting should be directed to Mr. Brian S. Hallman, Deputy Director, Office of Fisheries Affairs (OES/OFA), room 5806, U.S. Department of State, Washington, DC 20520–7818. Mr. Hallman can be reached by telephone on (202) 647–2335.

May 15, 1991.

David A. Colson,

Deputy Assistant Secretary, Oceans and Fisheries Affairs.

[FR Doc. 91–12057 Filed 5–21–91; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Airspace Docket No. 90–AWA–13]

Proposed Establishment of Long Beach Airport Radar Service Area and Alteration of John Wayne Airport/ Orange County Airport Radar Service Area; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is proposing to establish an Airport Radar Service Area (ARSA) at Long Beach/Daugherty Field, CA and to alter the southwest confines of the John Wayne Airport/Orange County ARSA to accommodate the adjoining Long Beach ARSA. An informal airspace meeting has been scheduled to provide the opportunity to gather additional facts relevant to the aeronautical effects of the proposal and to provide interested persons an opportunity to discuss objections to the proposal. All comments received at this meeting will be considered prior to the issuance of a Final Rule.

TIME AND DATE: Thursday, August 8, 1991, 7 p.m.

Comments must be received on or before Friday, August 16, 1991.

PLACE: Theater, Building #6, Los Alamitos Armed Forces Reserve Center, End of Lexington Drive/South of Katella, Los Alamitos, CA.

ADDRESSES: Send or deliver comments in triplicate to: Federal Aviation Administration, Airspace Docket No. 90–AWA–13, Attention: Air Traffic Division, System Management Branch AWP–530, P.O. Box 92007 WPC, Los Angeles, CA 90009.

CONTACT PERSON FOR MORE INFORMATION: Mr. Bud Riebel, System Management Branch, AWP–531, telephone (213) 297–1180.

SUPPLEMENTARY INFORMATION:

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by a representative of the FAA Western-Pacific Region. Representatives from the FAA will present a formal briefing on the proposed ARSA design. All other participants will be given an opportunity to deliver comments or make a presentation.

(b) Any person wishing to make a presentation to the FAA Team will be asked to sign in and estimate the amount of time needed for such a presentation. This will permit the Team to allocate an appropriate amount of time to each presenter. The Team may allocate the time available for each presentation in order to accommodate all speakers. The meeting may be adjourned at any time if all persons present have had the opportunity to speak.

(c) Any person who wishes to present a position paper to the Team, pertinent to the topic of the Long Beach ARSA/ Altered John Wayne/Orange County ARSA, may do so. Persons wishing to hand out pertinent position papers to the attendees should present three copies to the presiding officer. There should be additional copies of each handout available for other attendees.

(d) The meeting will not be formally recorded, however, informal tape recordings of presentations may be made to ensure that each respondent's comments are noted accurately. A summary of the comments at the meeting will be made available to all interested parties.

Materials relating to the proposed Long Beach ARSA/Altered John Wayne/Orange County ARSA will be accepted at the meeting. Every effort will be made to hear every request for presentation consistent with a reasonable closing time for the meeting. Written materials may also be submitted to the Team until August 16, 1991.

Agenda

Opening Remarks and Discussion of Meeting Procedures.
Briefing on Proposed Long Beach ARSA and altered John Wayne/Orange County ARSA.
Public Presentations.
Closing Comments.

Issued in Los Angeles, CA, on May 10, 1991.

Richard R. Lien,

Manager, Air Traffic Division, Western Pacific Region.

[FR Doc. 91–12092 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–13–M

Proposed Establishment of the San Onofre Military Operations Area, Camp Pendleton, California

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meetings.

SUMMARY: The FAA is proposing to establish a Military Operations Area (MOA) over Camp Pendleton's existing Restricted Area R–2533. This non-regulatory action will segregate non-hazardous military activity from Instrument Flight Rules (IFR) traffic and identify for Visual Flight Rules (VFR) traffic where these training activities exist.

Two informal airspace meetings have been scheduled to provide the opportunity to gather additional facts relevant to the aeronautical effects of the proposal, and provide interested persons an opportunity to make comments. All comments received from such meetings will be considered prior to the final proposal.

DATES: Meeting times and dates: 7 p.m. to 10 p.m. local, Tuesday, August 20, 1991 and Thursday August 22, 1991.

PLACE: August 20, 1991 (only), Los Alamitos Armed Forces Reserve Center, End of Lexington Drive/South of Katella, Los Alamitos, CA 90720–5001; August 22, 1991 (only), National University (Mission Valley Campus), Chamberline Hall, 4085 Camino Del Rio South, San Diego, CA 92108.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Bowman, Airspace Specialist, System Management Branch, AWP–530, Federal Aviation Administration, P.O. Box 92007, WWPC, Los Angeles, Ca 90009; telephone: (213) 297–0433.

Meeting Procedures

(a) The meetings will be informal in nature and will be conducted by the FAA Western-Pacific Region. Representatives from the FAA and from MCB Camp Pendleton will present formal briefings on the proposal. All other participants will be given an opportunity to make a presentation.

(b) Any person desiring to make a presentation to the Team will be asked to sign in prior to the start of the meeting. The Team will allocate the time

available for each presentation in order to accommodate all speakers. Each meeting will end promptly at 10 p.m.

(c) Any person desiring to submit a position paper to the Team, pertinent to the airspace proposal, may do so in triplicate. These papers will be included in the study file.

(d) The meetings will not be formally recorded, however, the chairperson shall prepare a memorandum for the study file, listing attendees and a digest of the discussions held.

Agenda

Opening Remarks and Discussion of Meeting Procedures.
Presentation of the Airspace Proposal.
Presentation of the Affects to Air Traffic.
Public Presentations.
Closing Comments.

Issued in Los Angeles, California, on May 10, 1991.

Richard R. Lien,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 91–12096 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

Cooperative Agreement Announcement; Discretionary Cooperative Agreement to Support Research on Vehicle-Based Driver Status/Performance Monitoring

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

ACTION: Announcement of discretionary cooperative agreement to support research on vehicle-based driver status/performance monitoring.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces the discretionary cooperative agreement program to support research studies on vehicle-based driver performance monitoring, and solicits applications for projects under this program.

DATES: Applications must be received on or before July 8, 1991.

ADDRESSES: Applications must be submitted to Peter Schultz, Office of Contracts and Procurement (NAD–30), National Highway Traffic Safety Administration, 400 Seventh St., SW, room 5301, Washington, DC 20590; and must reference Solicitation Number DTNH22–91–Y–07266.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Peter Schultz, Office of Contracts and Procurements, at (202) 366–9561. Programmatic questions relating to this cooperative agreement program should be directed to Dr. Ronald R. Knipling, Office of Crash Avoidance Research (NRD–52), at (202) 366–4733.

SUPPLEMENTARY INFORMATION:

Background and Objectives

The National Highway Traffic Safety Administration is responsible for devising strategies to save lives and reduce injuries and property damage through the prevention and reduction in severity of motor vehicle crashes. The NHTSA Office of Crash Avoidance Research conducts and manages research intended to:

- Analyze driver-vehicle interaction.
- Identify specific vehicle designs, components, or parameters associated with driver performance errors and resulting crashes.
- Develop and evaluate vehicle-based crash avoidance countermeasure concepts and devices.

Driver performance monitoring systems are one class of vehicle-based crash avoidance countermeasures. The NHTSA Office of Crash Avoidance Research wishes to support the development of practical vehicle-based countermeasures designed to detect reduced performance of drivers due to drowsiness, fatigue, inattention, or other causes and to provide an appropriate warning signal to the reduced-performance driver and/or other drivers.

The present interest is in systems that detect reduced performance (e.g., symptomatic of drowsiness or fatigue) as opposed to reckless driving behavior and erratic performance. The most extreme manifestation of driver reduced performance is blackout ("asleep at the wheel"). Future NHTSA/OCAR research efforts will address the feasibility of detecting erratic driving performance (e.g., unsafe driving acts) and determining the appropriate and safe vehicle response to the detection of such driver performance. However, the currently-conceived experimentation will focus on reduced performance rather than erratic performance.

Compared to most other crash scenarios, the reduced driver performance crash is generally characterized by a relatively slow unfolding of the crash causal sequence. For example, the time between the initial loss of driver consciousness/control and impact is likely to be several seconds or more. In addition, there are likely to be prior brief episodes of loss of driver consciousness/control before the final performance failure that results in a crash. Thus, the reduced driver performance crash is probably more amenable than most other crash types to prevention through the use of appropriate detection and warning systems.

The number of crashes caused by reduced driver performance can be estimated from several studies and accident databases, although the problem is known to be significant. In one survey [1] of 1,500 drivers conducted in 1973, 69 percent of drivers indicated that they had experienced drowsiness while driving. Of these drivers, 10 percent had been involved in crashes involving drowsiness, while another 10 percent had been involved in near-crashes involving drowsiness. One finding of this survey was that 31 percent of the drivers who had experienced drowsiness were initially unaware of the onset of their drowsiness.

Based on statistics from the 1988 NHTSA General Estimates System (GES), it is estimated that 78,000 drivers are involved in crashes due to drowsiness, asleep-at-the-wheel, or fatigue. Thus, of the 1988 total of 6,877,000 crashes, about 1.1 percent involved a drowsy or fatigued driver. This estimate is probably conservative since the GES is based only on data coded on police crash reports that may not always capture such contributing factors.

The 1979 NHTSA-sponsored in-depth Tri-Level Study of the Causes of Traffic Accidents estimated that critical driver non-performance (i.e., blackout, dozing) was a direct cause of 2.1 percent of crashes. Like the GES estimate, the Tri-Level estimate is probably conservative.

Previous research has indicated the feasibility of a reduced driver performance detection system that could be used on Interstate and other divided highways where traffic density is low to moderate. For example, Dingus et al (1987)[2] reported one drowsiness discriminant analysis algorithm that correctly identified reduced-performance drivers in 28 of 38 trials (74 percent). The false alarm rate (non-drowsy driver identified as drowsy) was only 4 percent (6 of 142 trials). Driver performance monitoring systems might employ measures of driver performance,

[1] Tilley, D., Erwin C., and Gianturco, D., Drowsiness and driving: Preliminary report of a population survey. Society of Automotive Engineers. *International Automotive Engineering Congress*, Detroit, MI, Report No. 730121, 1973. [NOTE: Interested applicants are responsible for locating the research literature cited in this announcement; reprints are not available from NHTSA.]

[2] Dingus, T.A., Hardee, H.L, and Wierwille, W.W., Development of models for on-board detection of driver impairment, *Accid. Anal. & Prev., 19*, No.4. Pp. 271–283, 1987.

behavior, and psychophysiology such as steering wheel position and rotational velocity, accelerator position, yaw deviation, lateral acceleration, heart rate, seat movements, and one-hand-on-the-wheel frequency. Devices installed in vehicles may use the above measures to detect driver drowsiness and provide a warning signal to re-alert the driver or possibly to alert other drivers of the danger at hand.

Using driving simulators, Nissan Motor Company has developed a drowsy driver detection system [3] that works based on steering patterns. Drowsy driver steering patterns are characterized by more and longer-duration periods of non-steering and higher magnitude initial steering inputs following the non-steering interval. The referenced Nissan research report [3] did not cite quantitative effectiveness or potential operational benefits.

Additional research needs to be performed to enhance detection accuracy and to assess quantitatively the potential merits of equipping motor vehicles with a driver performance monitoring capability. The following performance elements should be integrated, as appropriate, into the proposed research effort:

1. Review academic and industry research performed to date on the problem of reduced driver performance as a causal or contributing factor in motor vehicle crashes.

2. Review the current state of all work on driver performance monitoring detection, including the physiological basis of fatigue/drowsiness (of various forms or types) and how it is manifested in human performance.

3. Select candidate measures of driver performance and/or psychophysiology, including those already demonstrated to be sensitive indicators.

4. Perform experiments directed at evolving better performance monitoring algorithms. The experimental apparatus used (e.g., research simulator) should have demonstrated validity for highway driving.

5. Using data from these experiments, derive and document enhanced detection algorithms and evaluate their accuracy.

6. Assemble experimental prototype equipment with the capability of performing the detection algorithms developed in Item 5 above and which can be installed in vehicles for field-testing purposes.

7. After consultation with NHTSA personnel, develop a plan for a small-scale controlled field test of prototype driver drowsiness detecting equipment using a representative vehicle fleet.

8. Report on research findings and lessons learned. Delineate outstanding R&D and implementation issues relevant to reduced performance detection. In addition, address similar issues that might be encountered in efforts to develop vehicle-based erratic driver performance detection systems.

[3] Iizuka, H., Yanagishima, T., Kataoka, Y., Seno. T., The development of drowsiness warning devices, Tenth International Technical Conference on Experimental Safety Vehicles, July 1–4, 1985, Oxford, England.

NHTSA Involvement

NHTSA, Office of Crash Avoidance Research, will be involved in all activities undertaken as part of the cooperative agreement program. NHTSA will:

1. Provide, on an as-available basis, one professional staff person, to be designated as the Contracting Officer's Technical Representative (COTR), to participate in the planning and management of the cooperative agreement and coordinate activities between the organization and NHTSA.

2. Make available information and technical assistance from government sources, within available resources and as determined appropriate by the COTR. This shall include statistical analyses performed by the government of state and national accident databases that may be used to assess driver drowsiness problem size.

3. Provide liaison with other government agencies and organizations as appropriate; and

4. Stimulate the exchange of information and ideas between the cooperative agreement recipient and other interested parties both within and outside NHTSA.

5. Review and approve each phase of the work before the subsequent phase shall begin.

Period of Support

NHTSA plans to support the research efforts described in this notice through the award of at least one cooperative agreement. NHTSA reserves the right to make multiple awards depending on the merits of the applications received.

Contingent on the availability of funds and satisfactory performance, cooperative agreement(s) will be awarded to eligible organization(s) for project periods of up to three years. Projects shall be organized in one-year phases with NHTSA review and approval of each phase before work can begin on the subsequent phase. No cooperative agreement awarded as a result of this notice shall exceed $400,000 total.

Eligibility Requirements

To be eligible to participate in this cooperative agreement program, an applicant must be an educational institution or research organization. For-profit research organizations may apply; however, no profit factor shall be allowed.

Application Procedure

Each applicant must submit one original and two copies of its application package to: National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30), 400 Seventh St., SW., room 5301, Washington, DC 20590. Only complete application packages received on or before July 8, 1991 shall be considered. Submission of three additional copies will expedite processing, but is not required.

Application Contents

The application package must be submitted with OMB Standard Form 424 (Rev. 4–88, including 424A and 424B), with the required information filled in and the certified assurances included. While the Form 424–A deals with budget information, and section B identifies budget categories, the available space does not permit a level of detail which is sufficient for a meaningful evaluation of proposed costs. A supplemental sheet should be provided which presents a detailed breakdown of the proposed costs, as well as any costs which the applicant proposes to contribute in support of this effort.

Applicants shall include a program narrative statement which addresses the following:

1. A description of the research to be pursued which addresses:

a. The objectives, goals, and anticipated outcomes of the proposed research effort;

b. The relation of the proposed research to the traffic safety problem of reduced driver performance and/or existing or potential crash avoidance countermeasures;

c. The equipment and measurement protocols to be used for the research;

d. Sources and demographic characteristics of human subjects to be used;

e. The procedures to be used for experimentation (including control and measurement of experimental variables), and statistical analysis and modeling;

f. The approach and schedule to be used for presentation of research findings to the government and to the scientific community, and for

government review and approval of individual phases of the project.

2. The proposed program director and other key personnel identified for participation in the proposed research effort, including a description of their qualifications and their respective organizational responsibilities.

3. A description of general and specialized driver-vehicle interaction research facilities and equipment currently available or to be obtained for use in the conduct of the proposed research effort.

4. A description of the applicant's previous experience or on-going research program that is related to this proposed research effort.

Application Review Process and Criteria

Initially, all applications will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains all the information required by the Application Contents section of this notice.

Each complete application from an eligible recipient will then be evaluated by a Technical Evaluation Committee. The applications will be evaluated using the following criteria:

1. The potential of the proposed research effort to make an innovative and/or significant contribution to:

- The basic understanding of driver performance and associated specific performance decrements.
- The measurement and algorithmic analysis of specific performance decrements associated with reduced driver performance.
- The development of instrumentation (including software) for a driver performance monitoring crash avoidance countermeasure.

2. The applicant's understanding of the purpose and unique problems presented by the research objectives of this cooperative agreement program as evidenced in the description of their proposed research effort.

3. The technical merit of the proposed research effort, including the feasibility of the approach, planned methodology, and anticipated results.

4. The adequacy of test facilities and equipment identified to accomplish the proposed research effort.

5. The adequacy of the organizational plan for accomplishing the proposed research effort, including the qualifications and experience of the research team, the various disciplines represented, and the relative level of effort proposed for professional, technical, and support staff.

Terms and Conditions of the Award

1. The protection of the rights and welfare of human subjects in NHTSA-sponsored experiments is established in NHTSA Orders 700–1 and 700–3. Any recipient must satisfy the requirements and guidelines of the NHTSA Orders 700 series prior to award of the cooperative agreement. A copy of the NHTSA Orders 700 series may be obtained from the information contact designated in this notice.

2. Prior to award, the recipient must comply with the certification requirements of 49 CFR part 29—Department of Transportation Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).

3. Reporting Requirements:

a. *Written Research Reports:* The recipient shall submit semiannual research reports which shall be due 30 days after the reporting period, and a final research report within 90 days after the completion of the research effort. An original and three copies of each of these research reports shall be submitted to the COTR.

b. *Oral Briefings:* The recipient shall conduct semiannual oral presentations of research results for the COTR and other interested NHTSA personnel. For planning purposes, assume that these presentations will be conducted at the NHTSA Office of Crash Avoidance Research, Washington, DC. An original and three copies of briefing materials shall be submitted to the COTR.

4. During the effective period of the cooperative agreements(s) awarded as a result of this notice, the agreement(s) shall be subject to NHTSA's General Provisions for Assistance Agreements; the cost principles of OMB Circular A–21, A–122, or FAR 31.2, as applicable to the recipient, and the requirements of 49 CFR part 20 and part 29.

George L. Parker,

Associate Administrator for Research and Development.

[FR Doc. 91–12074 Filed 05–21–91; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

International Standards on the Transport of Dangerous Goods; Public Meeting

AGENCY: Research and Special Programs Administration (RSPA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that RSPA will conduct a public meeting (1) to exchange views on proposals submitted to the fourth session of the United Nations' Sub-Committee of Experts on the Transport of Dangerous Goods, and (2) to report the results of the Working Group meeting of the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP).

DATES: June 25, 1991 at 9:30 a.m.

ADDRESSES: Room 4234, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Frits Wybenga, International Standards Coordinator, Office of Hazardous Materials Transportation, Department of Transportation, Washington, DC 20590; (202) 366–0656.

SUPPLEMENTARY INFORMATION: This meeting will be held in preparation for the fourth session of the Sub-Committee of Experts on the Transport of Dangerous Goods to be held July 1 to 12, 1991, in Geneva. During this meeting the U.S. position on proposals submitted to the fourth session of the Sub-Committee will be discussed. Topics to be covered include packaging and classification issues relating to explosives; performance packaging test requirements for non-bulk packagings; classification of specific dangerous goods; and other proposed amendments to the United Nations Recommendations on the Transport of Dangerous Goods.

A second purpose for the meeting will be to review the results of the Working Group meeting of the International Civil Aviation Organization's (ICAO) Dangerous Goods Panel (DGP) which met to prepare draft amendments to the ICAO Technical Instructions for the Safe Transport of Dangerous Goods by Air. These draft amendments will be the basis for further discussions on amendments to the Technical Instructions by the thirteenth session of the Dangerous Goods Panel at a meeting in Montreal, Canada on October 15–25, 1991. If adopted, the amendments to the Technical Instructions will become effective on January 1, 1993. The draft amendments deal with virtually all aspects of dangerous goods transport, including listing and classification, packaging requirements, requirements for infectious substances (particularly diagnostic substances and biological products), requirements for gases, requirements for self-reactive substances and the use of portable tanks for transporting certain dangerous goods by aircraft.

The public is invited to attend without prior notification.

Documents

Copies of documents submitted to the fourth session of the UN Sub-Committee meeting and, when available, a copy of the ICAO working group report may be obtained from RSPA for a nominal fee. A listing of these documents is available on the Hazardous Materials Information Exchange (HMIX), RSPA's computer bulletin board. Documents may be ordered by filling out an on-line request form on the HMIX or by contacting RSPA's Dockets Unit (202–366–4453). For more information on the use of the HMIX system, contact the HMIX information center; 1–800–PLANFOR (782–6367); in Illinois, 1–800–367–9592; Monday through Friday, 8:30 a.m. to 5 p.m. Central time.

After the meeting, a summary of the public meeting will also be available from HMAC, Suite 250, 1110 Vermont Ave., NW., Washington, DC 20005; telephone number (202) 728–1460.

Issued in Washington, DC, on May 17, 1991.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 91–12167 Filed 5–21–91; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

May 16, 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.

Internal Revenue Service

OMB Number: New.
Form Number: None.
Type of Review: New collection.
Title: Survey to Verify Issuance of 1099's by County Human Services Agencies in Ohio.
Description: Section 6305 of the Technical Miscellaneous Revenue Act of 1988 provided for treating certain service providers as other than employees for employment tax purposes if several conditions were met. One of the conditions were that information returns be issued to service providers. The legislation requires Treasury to study compliance with issuing information returns.
Respondents: State or local governments.
Estimated Number of Respondents: 88.
Estimated Burden Hours Per Respondent: 2 hours.
Frequency of Response: Other (one-time survey).
Estimated Total Reporting Burden: 176 hours.
Clearance Officer: Garrick Shear (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–12149 Filed 5–21–91; 8:45 am]

BILLING CODE 4830–01–M

Office of Thrift Supervision

Colonial Federal Savings Bank; Notice of 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 Colonial Federal Savings Bank, Cranston, Rhode Island, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12120 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

[AC–24; OTS No. 4722]

First Federal Savings Bank, Campbellsville, KY; Final Action; Approval of Conversion Application

Notice is hereby given that on May 13, 1991, the Office of the Chief Counsel, Office of Thrift Supervision, acting pursuant to delegated authority, approved the application of First Federal Savings Bank, Campbellsville, Kentucky for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and Area Director, Office of Thrift Supervision, 525 Vine Street, 7th Floor, Cincinnati, Ohio 45202.

Dated: May 14, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12118 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Assoc. of Creston, F.A.; 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 First Federal Savings and Loan Association of Creston, F.A., Creston, Iowa, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12121 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

First Federal Savings and Loan Assoc. of Fargo, F.A.; Fargo, ND; 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 First Federal Savings and Loan Association of Fargo, F.A., North Dakota, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12122 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

[AC–23; OTS No. 3021]

First Federal Savings Bank, Hendersonville, NC; Final Action; Approval of Conversion Application

Notice is hereby given that on May 13, 1991, the Office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to delegated authority, approved the application of First Federal Savings Bank, Hendersonville,

North Carolina for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and Regional Director, Office of Thrift Supervision of Atlanta, 1475 Peachtree Street, NE., Atlanta, Georgia 30309.

Dated: May 14, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12119 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

[AC–26; OTS No. 2732]

First Federal Savings Bank of Kokomo, Kokomo, IN; Final Action; Approval of Conversion Application

Notice is hereby given that on May 14, 1991, the Office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to delegated authority, approved the application of First Federal Savings Bank of Kokomo, Kokomo, Indiana for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and Deputy Regional Director, Office of Thrift Supervision, 8250 Woodfield Crossing Blvd., Suite 305, Indianapolis, Indiana 46240.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12117 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

[AC–27; OTS No. 3530]

First Federal Savings and Loan Association of New Smyrna, New Smyrna Beach, FL: Final Action; Approval of Conversion Application

Notice is hereby given that on May 14, 1991, the designee of the Chief Counsel, Office of Thrift Supervision, acting pursuant to the authority delegated to him, approved the application of First Federal Savings and Loan Association of New Smyrna, New Smyrna Beach, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office of Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and Office of Thrift Supervision, Southeast Region, 1475 Peachtree Street, NE., Atlanta, Georgia 30309.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12116 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

Office of Thrift Supervision

First Federal Savings Assoc. of Newton, Newton, KS; 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 First Federal Savings Association of Newton, Newton, Kansas on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12123 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

Guaranty Federal Savings Assoc.; Appointment of Conservator

Notice if hereby given that, pursuant to the authority contained in 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 Guaranty Federal Savings Association, Warner Robins, Georgia on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12124 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

Mercantile Federal Savings Bank; Appointment of Conservator

Notice is hereby given that, pursuant to the authority contained in 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 Mercantile Federal Savings Bank, Southaven, Mississippi on April 19, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12125 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

Vermilion Federal Savings Bank; Notice of 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 Vermilion Federal Savings Bank, Abbeville, Louisiana, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12126 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

Capitol Federal Bank for Savings; 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 Receivor for Capitol Federal Bank for Savings, Chicago, Illinois, OTS Number 1774, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12130 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

Colonial Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Colonial Bank, Cranston, Rhode Island (OTS No. 8404), on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–12131 Filed 5–21–91; 8:45 am]

BILLING CODE 6720–01–M

First Bankers Trust and Savings Association, 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 has duly replaced the Resolution Trust Corporation as Conservator for First Bankers Trust and Savings Association, F.A., Midland, Texas ("Association"), with the Resolution Trust Corporation as sole Receiver for the Association on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-12144 Filed 5-21-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association of Creston; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Creston, Creston, Iowa, OTS No. 2557, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-12132 Filed 5-21-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association of Fargo; Fargo, ND; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings and Loan Association of Fargo, Fargo, North Dakota, OTS No. 1263, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-12127 Filed 5-21-91; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Bank of Newton, Newton, KS; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for First Federal Savings Bank of Newton, Newton, Kansas, OTS No. 5909, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-12129 Filed 5-21-91; 8:45 am]

BILLING CODE 6720-01-M

Guaranty Federal Savings Bank; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(A) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Guaranty Federal Savings Bank, Warner Robins, Georgia, OTS No. 7852, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-12128 Filed 5-21-91; 8:45 am]

BILLING CODE 6720-01-M

Vermilion State Savings Bank, S.S.B.; Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2)(C) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Vermilion State Savings Bank, S.S.B., Abbeville, Louisiana, OTS No. 7168, on May 10, 1991.

Dated: May 15, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91-12133 Filed 5-21-91; 8:45 am]

BILLING CODE 6720-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 99
Wednesday, May 22, 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).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:03 a.m. on Friday, May 17, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: May 17, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91–12320 Filed 5–20–91; 2:37 pm]

BILLING CODE 6714–01–M

RESOLUTION TRUST CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the following changes will be made to the open meeting agenda of the Resolution Trust Corporation Board of Directors scheduled to follow the adjournment of the FDIC open meeting beginning at 2:00 p.m. on Tuesday, May 21, 1991 in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC:

The following subject will be withdrawn from the agenda:

Memorandum re: Proposed policy regarding the payment of real estate taxes on RTC properties.

The following subject will be added to the agenda:

Memorandum re: Temporary rule change governing the Affordable Housing Disposition Program.

Requests for further information concerning the meeting may be directed to Mr. John M. Buckley, Jr., Executive Secretary of the Corporation, at 202–416–7282.

Dated: May 20, 1991.

Resolution Trust Corporation.

John M. Buckley, Jr.,

Executive Secretary.

[FR Doc. 91–12333 Filed 5–20–91; 3:59 pm]

BILLING CODE 6714–01–M

Corrections

Federal Register
Vol. 56, No. 99
Wednesday, May 22, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 646

[Docket No. 910488-1088]

Snapper-Grouper Fishery of the South Atlantic

Correction

In rule document 91-9646, beginning on page 18742, in the issue of Wednesday, April 24, 1991. make the following correction:

On page 18743-18775, in the third column, in ammendatory instruction 3, in the second line "July 23" should read "July 18".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201 and 331

[Docket No. 90N-0339]

Drug Labeling; Sodium Labeling for Over-the-Counter Drugs; Proposed Amendment

Correction

In proposed rule document 91-9671 beginning on page 19222 in the issue of Thursday, April 25, 1991, make the following corrections:

1. On page 19222, in the first column, under **SUPPLEMENTARY INFORMATION**, in the fifth line, after "foods" insert "on" and remove "and".

2. On page 19223, in the second column, in the full first paragraph, in the sixth line and in the tenth line from the end, "46024" should read "46204".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 866

[Docket No. 91N-0063]

Immunology and Microbiology Devices; Revocation of the Exemption from Premarket Notification; Blood Culturing System Devices

Correction

In proposed rule document 91-9747 beginning on page 19333 in the issue of Friday, April 26, 1991, make the following correction:

On page 19334, in the third column, in the first full paragraph, in the second line, after "manufacturer" insert "or".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N-0072]

Superpharm Corp.; Withdrawal of Approval of Abbreviated New Drug Application for Ibuprofen Tablets

Correction

In notice document 91-10484 beginning on page 20433 in the issue of Friday, May 3, 1991, make the following correction:

On page 20433, in the third column, under **SUPPLEMENTARY INFORMATION**, in the sixth line, "70-798" should read "70-708".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Nominations for Members on Public Advisory Committees in the Center for Drug Evaluation and Research

Correction

In notice document 91-10372 beginning on page 20229 in the issue of Thursday, May 2, 1991, make the following corrections:

1. On page 20229, in the third column, the subject heading is corrected to read as set forth above.

2. On page 20230, in the first column, under **SUMMARY**, in the eighth line, "met" should read "meet".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[OIS-012-N]

Medicare Program; Quarterly Listing of Program Issuances

Correction

In notice document 91-8705 beginning on page 15083, in the issue of Monday, April 15, 1991, make the following corrections:

In table II on page 15086:

1In Trans. No. 243, in the first line, insert "Outpatient" after "Guidelines,".

2In Trans. No. 311, in the fifth line, "Derror" should read "Error".

3Trans. No. 605 is inaccurate, after the second line, insert "Charges for Heart Acquisition Services"; the third line under Trans. No. 605 beginning with the word "Charges" is the first entry for Trans. No. 606.

BILLING CODE 1505-01-D

federal register

Wednesday
May 22, 1991

Part II

Department of Housing and Urban Development

Office of the Secretary

24 CFR Part 30
Civil Money Penalties, Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 30

[Docket No. R-91-1489; FR-2734-F-02]

RIN 2501-AA90

Civil Money Penalties

AGENCY: Office of the Secretary, HUD.
ACTION: Final rule.

SUMMARY: This rule implements sections 107, 108, 109, 110, 111, 134 and parts of sections 102, 103, 112, and 126 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989) ("Reform Act"). All of these sections authorize the Department of Housing and Urban Development (HUD) to impose civil money penalties for unlawful conduct in connection with a broad array of departmental programs. The purpose of the rule is to strengthen HUD's controls over the conduct of participants in its programs.

EFFECTIVE DATE: June 21, 1991.

FOR FURTHER INFORMATION CONTACT: With respect to general application and procedural aspects, contact Samuel B. Rothman, Office of the General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500, telephone number (202) 708–4184; Telecommunications Devices for the Deaf (TDD) number (202) 708–3259. With respect to violations under § 30.315 contact John Garrity, Director, Urban Homesteading Program, Room 7158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–0324; TDD number (202) 708–2565. With respect to violations under §§ 30.320, 30.325, 30.335 and 30.340, contact William G. Heyman, Director, Office of Lender Activities and Land Sales Registration, room 9146, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–1824; TDD number (202) 708–4594. With respect to violations under § 30.330, contact Guy Wilson, Vice President, Office of Mortgage-backed Securities, room 6224, Government National Mortgage Association, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–2772; TDD number (202) 708–3649. With respect to violations under §§ 30.300, 30.305 and 30.310, contact Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–3815; TDD number (202) 708–1112. (None of the listed telephone numbers is a toll-free number. However, TDD numbers may be reached through a toll-free relay number, 1–800–877–8339.)

SUPPLEMENTARY INFORMATION:

Introduction

This rule implements the Department of Housing and Urban Development Reform Act of 1989 in the following ways:

(a) As to section 102 of the Reform Act, this rule provides the procedural framework for imposing civil money penalties on applicants for HUD assistance who fail to make required disclosure to HUD in connection with their efforts to obtain assistance. Regulations (to be codified at 24 CFR part 12) specifying the proscribed conduct were published on March 14, 1991 (56 FR 11032).

(b) As to section 103, this rule provides the procedural framework for imposing civil money penalties on HUD employees who disclose information regarding the selection process in connection with applications for certain assistance prior to the availability of that information to the public. Proposed regulations (to be codified at 24 CFR part 4) specifying the proscribed conduct were published on November 23, 1990 (55 FR 49012). A final rule to implement section 103 was published on May 13, 1991.

(c) As to section 107, this rule provides the procedural framework for imposing civil money penalties on mortgagees and lenders involved in HUD programs. The rule also specifies the types of proscribed conduct for which lenders and mortgagees may be made subject to penalties.

(d) As to sections 108 and 109, this rule provides the procedural framework for imposing civil penalties upon owners of properties comprising five or more residential units (multifamily mortgagors) when those properties are subject to mortgages insured, co-insured, or held by the Secretary. Sections 108 and 109 apply to mortgagors of Federal Housing Administration (FHA) projects and to projects financed under section 202 of the Housing Act of 1959. The rule also specifies the types of proscribed conduct for which multifamily mortgagors may be subject to penalties.

(e) As to section 110, this rule provides the procedural framework for imposing civil money penalties on issuers and custodians who have been approved for participation in the programs of the Government National Mortgage Association (GNMA). The rule also specifies the types of proscribed conduct for which issuers and custodians may be subject to penalties.

(f) As to section 111, this rule provides the procedural framework for imposing civil money penalties on any person who violates the Interstate Land Sales Full Disclosure Act. Because the violations for which a person may be subject to penalties under the Land Sales Act pertain to any violation of the Land Sales Act, its regulations, or orders issued under the Land Sales Act, persons who are affected by this rule should refer to the Land Sales Act (15 U.S.C. 1702) and the relevant regulations at 24 CFR parts 1710, 1715 and 1720.

(g) As to section 112, this rule provides the procedural framework for imposing civil money penalties on persons who fail to make appropriate disclosures concerning expenditures to influence decisions of HUD officials. A proposed rule specifying proscribed conduct by such persons was published on June 1, 1990 (55 FR 22722). A final rule creating a new part 86 of title 24 of the Code of Federal Regulations and implementing section 112 was published on May 17, 1991.

(h) As to section 126, this rule provides the procedural framework for imposing civil money penalties on persons who improperly use or convey property that has been transferred to them under HUD's Urban Homestead Program pursuant to section 810 of the Housing and Community Development Act of 1974. The persons who may be subject to sanction for violating section 810 are states, units of general local government and public agencies and qualified community organizations designated by those local government units, and their transferees.

Although the Reform Act is silent with respect to public agencies and qualified community organizations designated by states, section 810 of the 1974 Act includes such entities in the Urban Homestead Program. The Department may seek a technical amendment to section 126 of the Reform Act that conforms it to the scope of section 810 of the 1974 Act. If that amendment should be enacted, the Department will make the corresponding regulatory change.

(i) As to section 134, this rule provides the procedural framework for imposing civil money penalties on any dealer or loan broker who makes, or causes a borrower to make, a false statement to the Secretary or to a financial institution in connection with an application for a property improvement loan or advance

of credit under title I of the National Housing Act. The rule also specifies the types of proscribed conduct for which dealers and brokers may be subject to penalties.

Overview

Part 30 primarily comprises procedural rules. However, in cases where the Reform Act established civil money penalties in connection with existing programs, specifically authorizing penalties for conduct in large part already considered unlawful by HUD, practices violative of these existing programs are included in this rule. After a period of operation the Department may evaluate this arrangement to consider moving these substantive portions of the rule to the respective parts in the Code of Federal Regulations covering these programs.

By contrast, this rule is exclusively procedural with respect to the completely new sanctions created under the Reform Act. For example, the requirement that consultants and lobbyists now register and report to HUD is implemented in 24 CFR part 86; any conduct that might give rise to the imposition of a civil penalty upon a consultant or other person who attempts to influence an official HUD decision will appear only in the soon-to-be published part 86.

Summary of Subparts

The final rule is divided into five subparts (in contrast to the four subparts in the proposed rule; see 55 FR 37290, September 10, 1990). A new subpart has been added to describe a notice procedure prior to a recommendation requesting that a Complaint for a civil money penalty be filed. Subpart B contains this new text; the remaining subparts have been redesignated accordingly.

Subpart A is one of general application and includes the definitions to be used in this part. The number of defined terms is limited; the reason for this limitation is that other relevant terms are defined elsewhere in HUD regulations. This subpart also makes clear that a civil money penalty is not an exclusive sanction, and that, potentially, it can be a cumulative sanction. Thus, the Secretary, for example, may elect to pursue a civil penalty and a debarment, or a civil penalty and an injunction against a person who commits a violation under subpart D.

Subpart B contains provisions that were added to the rule in response to public comments. Before a HUD official may recommend to a civil money penalty panel (see discussion of subpart C) that it file a Complaint seeking a penalty, the official must first furnish the target of the proposed penalty with notice of the Department's intent to seek that sanction and permit a 30-day period for a response. This period may be used also for settlement negotiations.

Subpart C now contains the provisions creating the four civil money penalty panels that evaluate cases for which civil penalties may be imposed and decide whether or not to file a Complaint seeking penalties. All panels will be staffed by high-level officials, whose decisions must have been determined by majority vote (though provision is made for officers at the Assistant Secretary level to delegate their functions). The final rule also corrects the titles of certain HUD officials who comprise the membership of the Housing and the Departmental panels. The criteria for determining the amount of a penalty and the maximum amount of each penalty also are set forth in this subpart.

One panel will deal with FHA housing programs, property improvement loans and housing for the elderly and handicapped under section 202 of the Housing Act of 1959. This panel is known as the Housing Civil Penalties Panel (HCPP).

A second panel, known as the Government National Mortgage Association Civil Penalties Panel (GCPP), will evaluate cases for violations by issuers and custodians in the GNMA programs.

The third panel, known as the Departmental Civil Penalties Panel (DCPP), will hear cases that deal with alleged violations by employees who improperly disclose information regarding the selection of an applicant for assistance prior to the final selection of the applicant. (Generally, the type of assistance covered in this context is assistance for which there is competition among applicants.) This panel also will evaluate cases in which applicants for assistance have failed to make certain disclosures in connection with their applications. (As in the case of HUD employees, the type of assistance covered generally entails some competitive process.) Additionally, this panel will evaluate cases in which persons who have made expenditures to influence official HUD decisions have failed to register with the Department or failed to make certain reports to the Department. Finally, this panel will consider cases involving violations in the conveyance or use of properties made available under HUD's Urban Homesteading program.

The fourth panel is the Mortgage Review Board (the Board, or MRB). Its composition was established by section 142(c) of the Reform Act, which is implemented by 24 CFR part 25. (The Board's composition and voting requirements are found at § 25.4.) The Department has had a Mortgagee Review Board in operation under regulatory authority for several years. The major change that accompanied the statutory creation of the MRB is its new authority to seek civil money penalties. Since the Board and the Housing Civil Penalties Panel have concurrent jurisdiction in some areas, the Department has decided that where overlapping jurisdiction exists, the HCPP will act when only a civil money penalty is sought and that the MRB will act when both a civil money penalty and another administrative sanction which the Board is authorized to impose are sought.

Subpart D comprises a series of lists of violations which may subject the alleged violator to civil penalties. No penalty will be imposed for a violation alleged to have been committed before December 15, 1989, the effective date of the Reform Act. However, any history of offenses, including those that occurred before that date, may be used by a civil penalties panel in reaching its recommendation for the amount of a penalty. With respect to Reform Act section 102, dealing with accountability of applicants for assistance, and section 112, dealing with the registration of consultants, HUD will not seek to impose penalties until the effective date of the rule. The Reform Act specifies such an effective date for applicability of these sections. In the opposite direction, section 126 of the Reform Act authorizes the imposition of a civil money penalty for a violation related to a transfer of property after January 1, 1981. Comment was specifically invited to address this particular statutory authorization; none was received.

Normally, each separate event that gives rise to a violation will be treated as a separate violation. In the case of a continuing violation, each day will be considered a separate violation. Continuing violations will be determined on the basis of a case-by-case evaluation.

It is important to keep in mind that a violation, to be actionable, must have been a material violation, knowingly committed. The Department considers this standard to be the equivalent of gross negligence, i.e., wanton conduct or reckless disregard for required conduct or conduct from which intent may be inferred. Thus, the mere failure to perform an act or the improper performance of an act per se will not

constitute a violation for purposes of this part.

Subpart E, comprising the procedural rules, remains divided into seven functional segments. The first segment is one of general applicability. It provides that the procedural rules apply not only to violations of programs authorized by the Reform Act but also to any other comparable statutory authoirity HUD might receive in the future, unless there is some other applicable specific statute or regulation. (After publication of this rule for comment, Congress passed an amendment to the Real Estate Settlement Procedures Act (RESPA) that authorizes the imposition of civil money penalties upon certain servicers of mortgage loans that fail to provide borrowers with status reports of their loan-related escrow accounts.) (See 12 U.S.C. 2609(d), as enacted by section 942 of the Cranston-Gonzalez National Affordable Housing Act, Pub. L. 101–625.) The general provisions also provide that civil penalties proceedings will be presided over by an administrative law judge (ALJ) and delineate the ALJ's authority. Among other provisions of this subpart are those governing representation of parties, requirements for form, filing and service of documents, and the procedure for obtaining, and the issuance of, subpoenas for all purposes.

The next functional segment deals with pleadings and motions. After a civil penalties panel has decided to propose a penalty, it must do so through the filing of a Complaint with the Office of Administrative Law Judges. The filing of such a Complaint is the initiation of formal proceedings, and directives as to serving the Complaint on the respondent, the respondent's Answer and other pre-hearing actions are prescribed.

Discovery is the subject of the next segment, which provides for depositions, written interrogatories, production of documents and other things, and admissions by parties. The rules prescribe the procedure for taking, using and objecting to the use of depositons or parts of depositions. Provision also is made for objecting to interrogatories and other discovery methods. Finally, this segment provides a method whereby a party may obtain relief for an opponent's failure to cooperate in discovery.

A discrete segment has been allotted to pre-hearing procedures. A pre-hearing statement may be ordered by the ALJ. Such a statement is roughly comparable to a pretrial order in Federal district court practice and will contain such information as (1) stipulated facts, (2) facts in dispute, (3) issues involved and (4) identification of witnesses and exhibits. A pre-hearing conference also may be ordered for the traditional purposes of simplifying and clarifying issues, amending pleadings, stipulating to authenticity of documents and exchanging proposed exhibits.

A separate segment is provided for hearings, which generally will be on the record with oral testimony. However, by agreement the parties may stipulate to a hearing on the written record if there are no material issues of law or fact. Common standards of admissibility in administrative proceedings are provided in the evidence section, relevance being the hallmark. "Preponderance of the evidence" is the standard of proof. Proceedings will be recorded and transcribed, and briefs may be submitted at the close of a hearing.

An extensive procedure is provided in the event that a respondent fails to answer a Complaint and a default judgment is entered against the respondent. If the respondent can demonstrate in a notice to the Secretary that extraordinary circumstances were the cause of the failure to answer, the Secretary may remand the matter to the ALJ with a direction that the respondent be permitted to file an answer.

After a hearing, the ALJ issues an initial decision. Any party is allowed 15 days after the decision is received to appeal to the Secretary. The secretary or his or her designee will review the notice of appeal and, within 30 days, will determine whether to hear the case in full. If the Secretary declines to hear the case, then the initial decision becomes final on the date the decision to decline is filed with the ALJ's docket clerk. If the secretary accepts the case for review, then the Secretary's decision after review becomes final on the date it is filed with the ALJ's docket clerk.

Within 20 days after the Secretary's final decision has been filed, a respondent may appeal that decision by filing a petition for review with the appropriate United States Court of Appeals. If the respondent receives an adverse ruling from the Court of Appeals or does not appeal an adverse ruling from the Secretary, the Secretary may collect from a recalcitrant respondent by seeking a judgment in the U.S. District Court and may ask for attorney fees and other expenses incurred in connection with that action. The validity of the Secretary's decision imposing the penalty is not subject to review by the district court. As an alternative method of collection, the Secretary may utilize administrative offset to the extent legal and feasible.

Discussion of Public Comments

Twelve persons submitted comments on the proposed rule. Of the comments received, five topics were the most discussed: (1) That there should be a pre-Complaint notice and negotiation period prior to the issuance of a Complaint for Civil Money Penalties; (2) that there should be coordination among the various HUD components that take enforcement actions; (3) that factors such as "intent," "causation" or "damage to HUD" should be a requisite to a decision to seek a civil money penalty; (4) that conduct prior to December 15, 1989 (the effective date of the Reform Act) be excluded from consideration in the penalty process; and (5) that mitigating factors be specified in the section dealing with criteria for determining the amount of the penalty to be sought. These matters are discussed in detail below, but the short response to those comments are: (1) That there will be a pre-Complaint notice and negotiation period; (2) that the Department will undertake coordination of enforcement actions to the extent feasible; (3) that "intent," "causation" or "damage to HUD" are irrelevant to the type of sanction embodied in a civil money penalty and will not be adopted; (4) that conduct prior to December 15, 1989 will be considered in the determination of the amount of penalty and, in fact, is statutorily mandated; and (5) that mitigating factors, whether or not specified, should be and will be considered in the process for determining whether to seek a penalty and the amount of a penalty to be sought.

Discussion of Definitions, Section 30.10

Comment. The definition of "knowing or knowingly" should be amended to include "constructive knowledge" and "willfulness." Gross negligence is too low a threshold for establishing a violation. A variation of the above stated that intent should be a requisite for the recognition of a violation.

Response. The Department does not find these comments to be persuasive. First, the rule defines "knowing or knowingly" using the same language as in the Reform Act. Second, the Department is unsure as to what is intended by the suggestion for "constructive knowledge," but in any event finds that constructive knowledge would be a lower threshold than that required by the statute, since constructive knowledge could be imputed to HUD participants by virtue of the publication of regulations and the

availability of handbooks and other issuances of general release. In using gross negligence as an equivalent to the "knowing/knowingly" definition, the Department was seeking to aid participants in understanding what the definition means. That is, mere negligence will not trigger action by the Department. On the other hand, willfulness or intentional conduct would not only trigger such an action but would be evaluated within the context of a criminal proceeding as well as and administrative one. The definitional alternatives lie between negligence and intent. In other words, one element of establishing a violation can be ascertained when a person has actual knowledge of a requirement but refuses to comply with that requirement, or has some knowledge that a requirement exists but chooses not to obtain sufficient information about the requirement or obtains only selective information concerning the requirement; or chooses to take action without inquiring as to the existence of a requirement when a reasonable person would have done otherwise. In some cases intent may be inferred, depending on the degree of the violator's knowledge.

Comment. "Material or materially" should be defined in terms of an ultimate financial loss to HUD or the government.

Response. A civil money penalty is not intended to be compensatory, nor is it intended to be a criminal sanction. A civil money penalty is essentially a civil fine intended to dissuade the offending violator from engaging in unlawful conduct in the future. Therefore, ultimate financial loss is not a predicate for imposing a civil money penalty. Accordingly, the Department does not adopt the comment.

Comment. The definition of "loan broker" should be recited in the rule since the definition referred to has not been published.

Response. The comment is appropriate since there is no assurance that the definition will appear in another rule at the time this rule becomes effective. Accordingly, "loan broker" has been substantively defined in the rule.

Discussion of Civil Money Penalty Panels, Proposed Section 30.100 (Final Section 30.200)

In the final rule the provisions governing the civil money penalty panels are set forth in subpart C and are designated numerically as the 30.200 series. Subpart B will contain provisions for a pre-Complaint notice procedure, which is discussed below.

Comment. No provision has been made for coordinating civil money penalties with other sanctions.

Response. The Department will make its best effort to coordinate all administrative sanctions. Coordination is currently implemented with respect to participants in FHA and GNMA programs. The Department anticipates being able to coordinate feasibly any sanctions that deal with employees, applicants for assistance, and lobbyists and consultants because of the likelihood of the overlapping effects of the improper conduct and the fact that the Office of Ethics has oversight of those activites.

Comment. Who makes recommendations to the panels?

Response. The Department does not believe that it is feasible, necessary or appropriate that a published rule identify the office or officer who might make a recommendation to a panel. However, it is likely that the recommending office or officer will be known to the intended respondent simply because of earlier contact between the intended respondent and the HUD official regarding the alleged violations.

Comment: Panels should hold hearings, keep a formal record of their proceedings and issue written opinions.

Response. Except for the MRB, the penalty panels are not adjudicatory, and there is no need for them to hold hearings, to keep formal records or to issue written opinions. Their function is to assure that the various program offices within the Department have compiled a record that will support the filing of a Complaint proposing a penalty. Panels will be composed of ranking officials whose time devoted to panel duties will be severely taxed. They will be able to review the record in a case, but will not be in a position to hear testimony or adversary arguments.

Comment. Panels should be charged with the responsibility to determine "whether" to impose a penalty rather than to determine "the amount to be imposed."

Response. In fact, the panels will do so. A panel's ultimate responsibility is to dispose of a recommendation for a penalty before it by declining to go forward or to file a Complaint setting forth allegations of fact and requesting the imposition of a specified penalty. A respondent will have had an opportunity to dispute or to settle a charge prior to a panel's consideration of a recommendation and a further opportunity to contest the action before an administrative law judge if the case reaches that stage.

Comment. There should be a requirement that intended respondents be notified of any action before or at the time a recommendation to a panel is made and allow a period of time for negotiation and settlement. (Some persons referred to existing MRB pre-notice procedures.)

Response. The comment is accepted, and the provisions for such a requirement are set forth at Subpart B of the final rule. The Department agrees that informal and less expensive alternatives to adjudication are a preferred means for accomplishing enforcement objectives. The procedure embodied in the rule requires that a Department official who intends to recommend to a panel that a penalty be imposed shall provide notice to the respondent of the intention to refer the matter to a panel and to allow a 30-day period within which the respondent may negotiate a settlement of the alleged violation(s). The settlement section permits a comprehensive treatment and is intended to cover as broad a scope as is legal and feasible.

Discussion of the Name and Composition of Panels, Proposed Section 30.105 (Final Section 30.205)

Comment. The standard that panel redelegations not be made below the Office Director level that was proposed to apply to the Departmental Civil Penalties Panel should apply to all panels; the names of the panels' designees should be published; and the same panel members should be involved throughout a given case.

Response. The Department believes that applying the same standard regarding redelegation to all panels has merit and adopts that suggestion. However, the Department sees no useful purpose in publishing the names of designees. Although the Department will make every effort to assure that the same panel composition continues throughout the duration of a given case, it would be infeasible to impose that condition. The panels are not adjudicatory bodies. Normally, it is not contemplated that a panel will have more than a day or two to devote to a case. The panel will review a presentation made by a recommending official and decide whether the presentation warrants the filing of a Complaint. With the exception of settlement decisions, a panel's involvement, as a practical matter, is expected to end with the filing of a Complaint or its decision not to file.

Discussion of Jurisdiction of Panels, Proposed Section 30.110 (Final Section 30.210)

Comment. The rule should provide for one panel to have exclusive jurisdiction in cases where an overlapping violation might be found. (This comment was based on the premise that if a violation of an FHA requirement was determined, that there likely would be a violation of a GNMA requirement.)

Response. First, it is not necessarily the case that an FHA violation also would constitute a GNMA violation. Second, although a lender might have violated both FHA and GNMA requirements, those requirements may involve different issues. The Department believes that alleged violations should be considered separately by the panel most familiar with the issues involved. For example, a mortgagee charged with misusing custodial funds as a GNMA issuer should appear before the GCPP, even though it also may be alleged that the same mortgagee assessed mortgagors improper fees after endorsement, which is an FHA violation. In any event, the Department believes the potential for a problem area is covered by the coordination of enforcement efforts between FHA and GNMA and the new pre-Complaint notice that will be afforded respondents. Should a double violation situation arise, a respondent may bring that to the Department's attention prior to the time one or more panels make a decision. If the matter should escape the attention of both parties, it may be brought before the administrative law judge (ALJ), who has the authority to consolidate cases (See § 30.405(b)). GNMA's view is that it generally will act on violations involving the operation of the GNMA program and not act on violations affecting the underlying mortgages and mortgage insurance programs.

Discussion of the Criteria for Determining the Amount of a Penalty, Proposed Section 30.115 (Final Section 30.215), and the Calculation of the Penalty, Proposed Section 30.120

Comment. Delete § 30.120 because it is unnecessary.

Response. Section 30.120 has been deleted and its substance merged into § 30.215, as needed.

Comment. Consideration of a violator's conduct prior to December 15, 1989, the effective date of the Act, was improper because it would be violative of the statutory provision limiting the Reform Act's sanctions to actions occurring after its adoption.

Response. Conduct prior to the effective date of the Reform Act may be considered in appropriate cases. The Reform Act directs the Secretary to consider various factors in determining the amount of a penalty, among which is "any history of prior offenses (*including offenses occurring before enactment of this section*)." (Emphasis added). See, for example, section 108(d)(3) of the Reform Act. Thus, although a sanction may not be sought for conduct preceding the Reform Act, that conduct may be factored into the penalty calculation in connection with offending conduct occurring after the effective date of the Reform Act.

Comment. "Intent" should be a factor for a panel to consider.

Response. As stated in the discussion on the definition of "knowing," there is no basis in the Reform Act to require "intent" as a requisite factor in the penalty calculation. However, a panel (or the ALJ) certainly may infer intentional conduct from a set of facts or circumstances, and such an inference is reasonably included in the factor, "[t]he gravity of the offense." (See § 30.215(b)(1).)

Comment. The guidelines that the Department will use in calculating the amount of the penalty should be published, either for comment or as a notice.

Response. The Department has not decided whether to publish guidelines regarding penalty calculations but will evaluate the desirability of doing so after some experience with the penalty process.

Comment. Specific factors to be considered in the determination of the amount of a penalty, most in the way of mitigation, should be added to the list of those published. Among the factors suggested were damage to HUD or the government, the use of other sanctions, the violating employee's rank or level of knowledge or both, the role of HUD staff interpretations of technical issues, and the extent of lender controls/self-governance/recognition and correction of the problem. One person suggested that detection of a violation and voluntary reporting to HUD should obviate any penalty.

Response. As to factors in mitigation, the Department agrees that they should be considered, despite the lack of a statutory mandate to do so. Indeed, consideration of mitigating factors is inherent in the decisional process. Toward that end, but given the panels' limited fact finding role, the Department believes that a recital of mitigating factors would be inappropriate. Rather, the Department is adding to this section two general factors that will enable the panels (or the ALJ) to give the fullest consideration to all aspects of the cases before them. Those factors are the "degree of culpability" and "such other matters as justice may require." See § 30.215(b)(8) and (9).

Discussion of the Amount of the Penalty, Proposed Section 30.125 (final Section 30.225).

Comment. There was an objection to the concept of continuing violations and a recommendation that notice of a violation should be provided to a charged party before a continuing violation may be considered.

Response. Continuing violations are recognized in the Reform Act. The new pre-Complaint notice procedure will cover all alleged violations and afford ample time for a charged party to rebut any type of alleged violation, including allegations with respect to its duration.

Comment. There should be a limit on the amount of penalty sought for multiple violations stemming from the same transaction.

Response. The rule adopts the statutory provisions with respect to the maximum amounts of penalties. Discretion (abuse of which is subject to legal sanction) exercised by the panels (or the ALJ) will govern the amount of a penalty when multiple violations are based on the same transaction.

Comment. With respect to multifamily mortgagor violations under proposed § 30.225(a), the penalty could be as high as a foreclosure loss and therefore would be excessive. Also, how would a cap be calculated if there is no foreclosure?

Response. The maximum amount of a penalty in certain cases might well be the amount of a foreclosure loss, exactly what the Act prescribes. It must be remembered, however, that for conduct to be actionable in the first place, the Department must have made an initial determination that the violation was material and knowingly committed.

The Department views the comments on proposed § 30.125 essentially as objections to the objectives of the Reform Act. The Act is intended as a vehicle for the deterrence of wrongdoing, a fact that many commenters seemed to have overlooked.

Discussion of Violations by Lenders and Mortgagees, Proposed Section 30.220 (final Section 30.320).

Comment. The second part of the violation in § 30.220(d), which prohibits a lender's or mortgagee's "(use of) escrow funds for any purpose other than that for which they were received or (the failure) to use escrow funds for the purposes for which they were received," enlarges the statutory prohibition and is

thus improper. The rule should permit excess escrowed funds to be used for payment of late charges, interest, etc., that are permitted under the loan documents.

Response. The statutory prohibition recites only the first part of the violation, i.e., the improper use of escrow funds. However, the statute also directs the Secretary to issue regulations as the Secretary deems appropriate to implement the statute (§ 107(h) of the Reform Act). The second part of the regulatory language is simply a statement of omission rather than of commission and, in the Department's opinion, is a proper exercise of its implied authority. Overall, the prohibition is intended to proscribe any improper use of escrowed funds. If under the loan documents there is authorization for a lender to apply certain escrowed funds to late charges, delinquent interest, etc., then it reasonably may be said that such application is within the contemplated use of the funds.

Comment. The failure to maintain a minimum net worth, as set forth in § 30.220(g)(1), should not be sanctionable if it resulted from economic loss rather than from a voluntary transfer or distribution by the lender or mortgagee.

Response. The Department agrees that a failure to maintain the prescribed minimum net worth should not be sanctionable if the failure is attributable purely to economic loss. The Department has recognized legitimate economic loss as a basis for noncompliance with respect to other sanctions and will continue that policy with respect to civil money penalties. However, the provision in question is one that has been a requirement for lender qualification for several years, and the Department reserves the right to withdraw approval of a mortgagee or lender if its net worth is less than the required amount.

Comment. There are already late charges imposed for late payments and there should not be a further penalty, as set forth in § 30.220(1), unless there is no apparent effort to pay at all; three months or six months could be used as an illustrative period to gauge "no apparent effort."

Response. Existing late charges are intended to cover the additional costs of handling delinquent accounts or compensating the Department for out-of-pocket losses. Moreover, those charges are at a nominal rate. The civil money penalty is a sanction for misconduct. The purposes of the two charges are different, and the authority for them is different. The Department does not find the comment meritorious.

Comment. Some commenters recommended that the rule omit as violations those activities for which the Department has made exceptions to the generally prohibited conduct. Cited specifically in this regard was proposed § 30.220(m), regarding instructions as to signing loan documents in blank.

Response. Although the Department can understand the commenters' concern, the Department believes that exceptions to generally prohibited conduct that the Department recognizes or authorizes, would implicitly waive the requirement for compliance. Common sense supports this rationale. Nevertheless, the Department has amended the cited paragraph to exclude as a violation the signing of loan documents in blank when the Secretary has approved that practice.

Comment. One commenter asked what proposed § 30.220(r) meant? (That subsection makes sanctionable a lender's failure to fund loans that it originated.)

Response. The meaning of the language should be clear to lenders and mortgagees. It refers to a lender's failure to provide funds for a loan for which it solicited or accepted a loan application and for which a borrower has satisfied all conditions of the loan commitment.

Comment. With respect to the "catch-all" provision of § 30.220(s), a handbook violation should be charged only if the violator had actual knowledge of the handbook requirement; handbooks should be put through a rulemaking procedure; untimely distribution of handbooks or conflicts between handbooks and mortgagee letters can prejudice program participants.

Response. The Department has given considerable attention to the handbook violation issue, including the ramifications of 5 U.S.C. 552(a)(2)(ii) of the Administrative Procedure Act (APA). The Department has concluded that handbook violations should be treated the same as other violations and will leave the proposed language of the rule intact. The bases for the Department's conclusion are, first, that the statutory language, which the rule recites, is clear; second, that in enacting the statute Congress undertook a conscious decision with knowledge of APA requirements; third, that in furtherance of its decision Congress predicated the imposition of a penalty upon a violation's having been knowingly committed and defined "knowingly." Moreover, the Department maintains extensive mailing lists of program participants and distributes handbooks and other relevant issuances to them. To the extent that the Department might rely on an outdated handbook or one in conflict with other Departmental directives, the Department will have to assume the risk. The catch-all paragraph is now designated as § 30.320(u); paragraph (t) refers to violations of the Real Estate Settlement Procedures Act, the Equal Credit Opportunity Act and the Fair Housing Act.

Comments. Overall, proposed § 30.220 contains many violations that are "administrative" in nature and should be sanctionable only if a pattern of conduct can be established. An example cited was the failure of a lender to meet a certain requirement as a result of a computer error.

Response. Whether a violation might arise from an "administrative" activity, which the Department assumes to mean a nondiscretionary act, is not the crux of the matter. Administrative problems, left uncorrected, can result in serious consequences. In any event, the Department believes the commenter's concern is addressed by the requirements that a violation must be knowingly made and entail a material act to be actionable. Thus, a violation that would be attributable to a computer error is not likely to be acted upon unless the lender knew or should have known of the violation, did nothing to correct it, and the violation had a significant adverse impact.

Comment. The list of violations in this section is redundant in view of the fact that a violation of most of the Department's regulations could result in a penalty sanction.

Response. The list of violations in this section is redundant in the manner suggested by the commenter. The same comment can be made as to the Act, which lists but a few of many possible violations. The Department considered omitting the non-statutory items in view of the catch-all language in proposed § 30.220(s), but concluded that highlighting the conduct that it believed to be particularly egregious would be helpful to lenders and mortgagees. Therefore, redundancy notwithstanding, the Department has opted to retain a list of violations and has modified it by deleting one violation and adding others. Specifically, the failure to "timely report delinquent mortgagors to credit reporting agencies" has been deleted; the following violations have been listed at § 30.320(p)(3), (4) and (5) respectively: Failing to: "Timely submit proper notification of a change in mortgagor or mortgagee as required in 24 CFR 203.431; Timely submit proper notification of mortgage insurance

termination as required in 24 CFR 203.318; Timely submit proper notification of a change in mortgage servicing as required in 24 CFR 203.502(.)" The Department also has modified § 30.320 to clarify that multifamily mortgagees are covered by this section to the extent that their conduct constitutes a violation of the section. See, for example, §§ 30.320 (n) and (s).

Discussion of Violations by Multifamily Mortgagors, Proposed Section 30.225 (final Section 30.325)

Comment. Proposed § 30.225(a) should be clarified; agreements that might be affected by this paragraph should be only those that are effective after the effective date of the Act; the cause of a mortgagor's failure to comply with its agreement must be considered by the Department in its deliberation whether to seek a penalty. (Proposed § 30.225(a) dealt with a mortgagor's breach of an agreement to use non-project funds for certain stated purposes as a condition of the Department's approval of a transfer of physical assets.)

Response. The final version of this paragraph has been arranged to make clear that the exculpatory condition relates to any of four listed undertakings, not just the fourth. Only agreements entered into after the effective date of the Act will be subject to this provision, and the rule has been changed to reflect this fact. As to the cause of a mortgagor's breach of an agreement described in this paragraph, the Department will consider a number of factors, among which might be the cause of the breach. However, the violation here arises from a mortgagor's having agreed to use non-project funds—usually in exchange for additional financial commitment by the Department. This provision will lend leverage to the Department to assure that mortgagors are sincere in making their commitments to use non-project funds for the purposes set forth in the rule.

Comment. The language of the last sentence of section 108(c)(1) of the Act should be added to § 30.225(b) of the proposed rule to avoid a mortgagor's being penalized for using surplus funds.

Response. Since the use of surplus funds is not a Regulatory Agreement violation upon which this paragraph is based, the addition does not appear necessary. Nevertheless, the Department has no objection to its inclusion and has included it in § 30.325(c).

Comment. The contract violation defense available for violations of proposed § 30.225(a) should apply to the Regulatory Agreement violations in proposed § 30.225(b). (This comment refers to paragraph (c) of proposed § 30.225, which precludes the imposition of a penalty if a material cause of a mortgagor's breach of a contract authorized under paragraph (a) resulted from the Department's failure to comply with the contract.)

Response. The Department disagrees. Although the statutory language regarding the exception is not crystal clear, the Department believes that the provisions of the rule are reasonable and reasonably based on the statute. It may be argued that the exculpatory language that refers to the Department's failure to comply with "existing agreements" means that the language applies only to agreements entered into prior to the effective date of the Act. That interpretation does not make sense if Departmental action may constitute a defense to a mortgagor that breaches its contract and that defense is to have uniform applicability. There would seem to be no basis for the defense to be available to agreements preceding the Act but not those entered into subsequent to the Act. In contrast to the agreements described in paragraph (a), for which the Department would be positioned to change its funding after having agreed to a flexible subsidy loan or a capital improvement loan, the Regulatory Agreement violations listed in paragraph (b) constitute actions for which it is unlikely that the Department's conduct would be a material contributing factor.

Comment. Penalties for Regulatory Agreement violations under proposed § 30.225(b) should apply only to Regulatory Agreements entered into after the effective date of the rule. Otherwise, the conditions under which a mortgagor entered into the Regulatory Agreement will be modified without the mortgagor's consent.

Response. The Department disagrees. Although the violations enumerated in this paragraph are virtually the same as those contained in the Regulatory Agreement, they have been elevated to law by virtue of the Reform Act. Thus, even absent the Regulatory Agreement, the proscribed conduct would be unlawful and subject to penalty.

Comment. "Willfulness" and "control" should be required criteria for sanctionable violations under proposed § 30.225(b); that is, there should be no liability upon a mortgagor for violations that are outside its control.

Response. The Department disagrees. In brief, the Act contains no indication that "willfulness" be a criterion for a violation that may be sanctioned by a penalty (though, as a practical matter, willfulness could be inferred from a knowing violation). "Willfulness" has been discussed in detail above in connection with the definition of "knowing" and "knowingly." Whether conduct that constitutes a violation is within the control of a mortgagor is a question of fact that must be considered at all levels of review or adjudication. Again, the definition of "knowing" would come into play, for knowledge of an event, or the absence of such knowledge, would bear on the control issue. In any event, the Department believes that it is unnecessary to include such a criterion because (1) it is subsumed in other criteria and (2) it is a factor that, with others, will be taken into consideration as a panel, or the ALJ, sees appropriate.

Comment. There should be a statement in proposed § 30.225(b)(5) that compliance with the Fair Housing Amendments of 1988 would not be inconsistent with this section.

Response. As stated in the preamble to the proposed rule, using the Fair Housing Act and proposed § 30.225(b)(4) as an example, the Department intends to harmonize enforcement of civil money penalties with other program objectives. To do otherwise would be self-defeating. The Department has added language at § 30.325(b)(4) that recognizes the efficacy of the Fair Housing Act and the Rehabilitation Act of 1973 with respect to the Secretary's approval of certain modifications made to residential units.

Comment. Include in proposed § 30.225(b)(10) the statutory language of section 108(c)(1)(J) that makes it mandatory on the Department to extend the time to file annual financial reports if the failure to file timely is due to events beyond the control of the mortgagor. The proposed language permits extensions upon approval by the Secretary but does not include the directive mentioned in the Act.

Response. The appropriate change has been made in the final rule.

Comment. The requirement for filing monthly occupancy reports as set forth in proposed § 30.225(b)(11) is an expansion of the statutory language. (This comment apparently relates to the definitional provision of the paragraph stating that "monthly occupancy reports" includes any report that contains information related to occupancy and not only bare occupancy data.)

Response. The Department disagrees with this comment. The proposed language is a reasonable exercise of the Department's authority to implement the statute. The Department may define

terms that are not defined in the statute. Moreover, this very paragraph, as well as the statute, provides that it is a violation for a mortgagor to fail "to provide specific answers to questions * * * relative to income, assets * * * (or) the operation of the project."

Comment. Proposed § 30.225(b)(12) is either incomplete or unclear in that it should predicate a violation not only on the existence of adequate income to make loan and mortgage insurance premium payments but also on the adequacy of income to satisfy all other project obligations, thus enabling a mortgagor to select which project expenses should be met when there is insufficient income to meet all expenses.

Response. The Department finds some merit in this comment but does not believe a blanket exception is warranted. Modifying language has been added to § 30.325(b)(12) of the final rule.

Discussion of Violations by Issuers and Custodians, Proposed Section 30.230 (Final Section 30.330).

Comment. It should be made clear in proposed § 30.230(a)(1) that an issuer's failure to timely pass-through principal and interest, as well as unscheduled recoveries of principal, is not sanctionable if the failure was attributable to the issuer's not having received sufficient income.

Response. The Department recognizes that overall business conditions could affect an issuer's ability to make a pass-through or maintain adequate net worth (see next comment). However, that situation must be considered under proposed § 30.115 as a facet of "(t)he ability to pay the penalty" factor or the newly added "Such other matters as justice may require" factor.

Comment. The minimum net worth requirement of proposed § 30.230(a)(6) should be sanctionable only if the violation results from improper transfers or distributions.

Response. The Department's response is the same as given above regarding an issuer's ability to make pass-throughs. A similar matter is discussed above with respect to lenders and mortgagees under proposed § 30.220(g).

Comment. Proposed § 30.230(c)(2) is too burdensome because issuers cannot determine the imminence of a failure to comply with an agreement or condition of approval. "Impending failure" is too vague a term for reasonable guidance.

Response. The Department agrees that "impending failure" is too abstract a term upon which to base a penalty and has deleted it from the final rule.

Comment. Any charge of a handbook violation under proposed § 30.230(c)(3) should be made only after the respondent has been given notice of the violation and an opportunity to cure it.

Response. The Department agrees. As discussed elsewhere in the Preamble and as implemented in Subpart B of the final rule, there will be a 30-day period prior to the referral of a penalty recommendation to a panel within which time the alleged violations may be withdrawn, cured, or disposed of through a settlement.

Discussion of Continuing Violations, Proposed Section 30.245 (Final Section 30.345)

Comment. Substitute "shall" for "may" with respect to a panel's consideration of the severity of the violation in determining the amount of the penalty. Continuing violations should be confined to those specified by the statute.

Response. The final rule contains the mandatory language regarding consideration of the severity of the violation. However, the Department believes that the persons commenting on continuing violations have misread the statute. Although the statute does not refer to continuing violations in every section that deals with penalties, where continuing violations are mentioned, the context is limiting. That is, after reciting that the penalty authority applies only after the enactment of the section, the statute adds that a continuing violation may be penalized only with respect to that portion of the violative conduct that occurred after the date of enactment. Thus, the statute does not establish the criteria for a continuing violation but rather recognizes that certain types of conduct are more likely than others to give rise to a continuing violation. Nevertheless, the Department has decided at this time to limit this rule's recognition of continuing violations to those that are recognized in corresponding Reform Act provisions. See, for example, section 110(b)(2) of the Act.

Discussion of the Rule's Prospective Application, Proposed Section 30.250 (Final Section 30.350)

Comment. It is statutorily impermissible to allow evidence of violations that occurred prior to December 15, 1989 as a factor in the consideration of the amount of a penalty.

Response. The Department disagrees. As a matter of fact, the statute expressly directs HUD to consider such evidence. A representative statutory provision dealing with factors in determining amount of penalty states that "* * * consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (*including offenses occurring before enactment of this section*), * * *." (emphasis added). See, for example, section 108(d)(3) of the Act. However, pre-enactment evidence may not be used for violations under proposed § 30.205 or § 30.210; therefore, proposed § 30.250(b) is amended accordingly.

Discussion of the Procedural Rules, Proposed Sections 30.300–30.910 (Final Sections 30.400–1010)

Comment. Proposed § 30.305, Administrative law judge. The penalty process should not involve administrative law judges because they are Department employees. Proposed § 30.305(d) should make clear that there is no penalty for failure to defend and that the only penalties are those proposed by a panel.

Response. The proposed section will be retained. Although administrative law judges are employees of the Department for certain organizational purposes, they are independent in all other respects. The decisional independence of administrative law judges is assured by the Administrative Procedure Act, 5 U.S.C. 551, et seq., which provides, among other things, that their appointment, classifications and pay are controlled by the Office of Personnel Management, that they are separated from other agency personnel, that they are removable only for good cause after hearing before the Merit Systems Protection Board, that they are assigned cases in rotation insofar as practicable and that they must make their decisions on the record. Although the Department believes that the language of proposed § 30.305(d) in context applies only to the penalties proposed by a panel, it has made a change to assure that result.

Comment. Proposed § 30.320, Compromise and settlement. This section should contain a 90-day pre-Complaint procedure for negotiation and settlement.

Response. The Department, as stated above in the discussion on civil money penalty panels, is adopting a pre-Complaint notice and negotiation period, though for 30, rather than 90, days.

Comment. Proposed § 30.335, Subpoenas. Respondents should not be required to pay witness fees and mileage for HUD employees, nor for the cost of document production.

Response. The Department's position is that each party, as in other litigation, should bear its own costs.

Comment. Proposed § 30.410, Amendments and supplemental pleadings. HUD should not be able to amend its Complaint as a matter of right; if a Complaint were amended, a respondent should have an additional 15 days in which to respond.

Response. The provision permitting HUD to amend a Complaint as a matter of right applies only if the amendment is made before the respondent files an Answer to the original Complaint. This rule is used widely (see, for example, Federal Rules of Civil Procedure, Rule 15), and there is no harm to the respondent by the procedure. Certainly a respondent should have additional time to answer an amended Complaint. Although the Department believes that the additional time is implicit in the procedure, it has added a new paragraph to express that right (§ 30.505(c)).

Comment. Proposed § 30.510, Use of depositions and proposed § 30.515, Objections to use of depositions. The objections to the use of depositions recognized in proposed § 30.515 should be available to a successor in interest in a subsequent proceeding involving the same subject matter.

Response. The Department agrees and has made the appropriate change.

Comment. Proposed § 30.520, Written interrogatories. There is no basis for limiting the number of interrogatories to 30, and in any event the administrative law judge can deny the right to ask an excessive number of questions.

Response. The Department disagrees. The rationale for the 30-question limit is to preclude the use of interrogatories as an abuse of the discovery process and to curtail requests for irrelevant information or information of little probative value. A number of United States District Courts have adopted the 30-question limit in their local rules; it is even more justifiable for an ALJ tribunal, which is intended to effect an expeditious means of adjudication, to establish such a limit. Just as the ALJ could deny the right to ask an excessive number of questions, he can—and the rule so provides—order an exception to the 30-question limit.

Comment. Proposed § 30.700, Hearings. This section should expressly state that the hearing before an administrative law judge is a *de novo* hearing.

Response. The Department disagrees. Such a statement is unnecessary because the *de novo* nature of the hearing is inherent in the procedures. There is no prior hearing because the panels are not adjudicatory bodies.

Comment. Proposed § 30.810, Finality and Secretarial review. The period within which to request review of an administrative law judge's decision should be expanded from 15 days to 30.

Response. The Department believes that 15 days is sufficient time to file a notice of appeal. The administrative process is designed to be expeditious, and these cases are not anticipated to be so complex as to require an additional period of reflection before a decision is made whether to appeal.

Comment. Proposed § 30.900, Judicial review. The period within which to appeal a decision of the Secretary to a United States Court of Appeals should be expanded from 20 days to 30.

Response. The 20-day period is statutory. See, for example, Section 108(e)(1) of the Reform Act.

Comment. Proposed § 30.905, Collection of penalties. HUD may not ask for fees and expenses in connection with its collection efforts because that action would result in an increase in the statutorily authorized level of penalties.

Response. The Department disagrees. First, fees and expenses would be recoverable to reimburse the Department for the time and effort it spent in its collection action. The rationale for a penalty is completely different and has no bearing on compensating the Department for its administrative expenses. Second, a primary aim of the Reform Act is to preclude the Department from losing money. In fact, the Reform Act specifically authorizes recovery of "attorneys fees and other expenses." See, for example, section 107(e) of the Act. Even if the Reform Act had been silent in this regard, authority for the recovery of fees and expenses is found at 28 U.S.C. 2412 and at 31 U.S.C. 3717.

In addition, the Department made a clarifying amendment to § 30.815(a) to assure that everyone understands that a fee is likely to be charged for copies of hearing transcripts.

Findings and Certifications

There are no new information collection requirements contained in this rule. All referenced information collection requirements have been approved previously by the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Specifically, the requirements of section 30.320(g)(1) are set forth in 24 CFR 203.1–203.7 (OMB Control No. 2502–0005); the requirements of section 30.320(o) are set forth in 24 CFR 203.365, 203.366 and 203.368 (OMB Control No. 2502–0347); the requirements of section 30–325(b)(8)–(11) are set forth in 24 CFR 207.19(f) (OMB Control No. 2502–0324); and the requirements of section 30.330(a)(7) and (c)(2) are set forth in the several GNMA Guaranty Agreements (OMB Control Nos. 2503–0014 and 2503–0008).

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule implements legislation authorizing HUD to impose civil money penalties on certain participants and establishes hearing procedures that are required to be followed before the imposition of the penalty. A penalty may be imposed only upon a knowing and material violation of specified HUD programs criteria which limits further the participants affected.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule does not have substantial, direct effects on States or their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Though there is potential for some effect on States or their political subdivisions because of their participation in HUD programs, the effect is attributable to the authorizing legislation. The primary creation of this

rule is a procedure for administrative review.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. The rule applies to business relationships with HUD and the procedures that apply when persons in those relationships violate HUD requirements. It would have no impact on the family.

This rule was listed as Item No. 1231 in the Department's Semiannual Agenda of Regulations published on April 22, 1991 (56 FR 17360, 17373) in accordance with Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 30

Administrative practice and procedure, Civil money penalties, Reporting and recordkeeping requirements.

Accordingly, subtitle A of title 24 of the Code of Federal Regulations is amended by adding a new part 30, to read as follows:

PART 30—CIVIL MONEY PENALTIES: CERTAIN PROHIBITED CONDUCT

Subpart A—General Provisions

Sec.

Subpart B—Pre-Penalty Notice

Subpart C—Civil Money Penalty Panels

Subpart D—Violations

Subpart E—Procedural Rules

General Provisions

Pleadings and Motions

Discovery

Pre-hearing Procedures

Hearings

Defaults and Decisions

Judicial Review and Collection of Civil Penalties

Authority: Sections 102, 103, 107–112, 126 and 134, Department of Housing and Urban Development Reform Act of 1989, Pub. L. 100–235 (approved December 15, 1989) (12 U.S.C. 1735f–14, 1735f–15, 1701q–1, 1723i, 15 U.S.C. 1717a, and 12 U.S.C. 1703, respectively); sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Subpart A—General Provisions

§ 30.1 Purpose and scope.

This part explains the structure of the enforcement apparatus for imposition of penalties which the Secretary of Housing and Urban Development is authorized to impose by the HUD Reform Act of 1989 (Pub. L. 101–235), and sets forth the procedures for the assessment of penalties. These procedures include administrative hearings and appeals, judicial review and collection of penalties. The procedural rules in subpart E of this part apply to all civil penalty proceedings initiated by the Department unless there are other specific regulations or statutes that govern such proceedings, e.g., 24 CFR part 26.

§ 30.5 Authority and delegation.

The Secretary's authority to impose civil penalties is delegated to the officers identified in subpart C, who may redelegate such authority except the authority to review decisions or orders of the Administrative Law Judge.

§ 30.10 Definitions.

Because this part is primarily procedural, terms not defined in this section shall have the meanings given them in relevant program regulations. In the case of new responsibilities and new terminology established by the Reform Act, comprehensive definitions will be found in 24 CFR part 4 (Prohibition of Advance Disclosure of Funding Decisions), part 12 (Accountability in the Provision of HUD Assistance), and part 86 (Requirements Governing the Lobbying of HUD Personnel).

Agent means any person who acts on behalf of another person and includes officers, directors, partners and trustees.

ALJ means an administrative law judge in HUD appointed pursuant to 5 U.S.C. 3105 or detailed to HUD pursuant to 5 U.S.C. 3344.

Dealer means a seller, contractor or supplier of goods or services having a direct or indirect financial interest in the transaction between the borrower and the lender, and who assists the borrower in preparing the credit application or otherwise assists the borrower in obtaining the loan from the lender.

Department or *HUD* means the Department of Housing and Urban Development.

Government means the United States Government.

Knowing or *Knowingly* means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under subpart C of this part or under 24 CFR parts 4, 12, or 86.

Loan broker means a loan correspondent, which is a financial institution approved by the Secretary to

originate title I direct loans for sale or transfer to a sponsoring financial institution which holds a valid title I contract of insurance and is not under suspension.

Material or *Materially* means in some significant respect or to some significant degree.

Person means an individual, corporation, company, association, authority, firm, partnership, society, state, local government or agency thereof, or any other organization or group of people.

Respondent means any person alleged in a Complaint under § 30.500 to be liable for a civil money penalty.

Secretary means the Secretary of Housing and Urban Development.

§ 30.15 Cumulative remedy.

A civil money penalty may be imposed in addition to other administrative sanctions or any other civil remedy or criminal penalty.

Subpart B—Pre-Penalty Notice

§ 30.100 Notice of intent to request civil money penalty.

Whenever the Department intends to seek a civil money penalty the responsible program official, or his or her designee, shall issue a written notice to any person from whom the Department intends to seek the penalty. The Notice shall inform the person that the Department is considering seeking a civil money penalty, shall state the specific violations with which the person is charged, shall state the amount of the civil money penalty which will be recommended to the relevant civil money penalty panel, and shall offer the person the opportunity to reply in writing to the responsible program official within thirty days after receipt of the notice. The notice shall also provide the address to which the response shall be sent. If the person fails to reply during such time period, the responsible program official may refer the matter to the relevant civil money penalty panel without further notice to the person.

§ 30.105 Response to notice.

The person's response to the notice shall be in a format prescribed by the Secretary. The response shall include a summary, a statement of the facts surrounding the matter, an argument and a conclusion.

§ 30.110 Settlements.

(a) *In general.* The person receiving the Notice may enter into a settlement agreement with the Department through an authorized program official at any time before the matter is referred to the relevant civil money penalty panel for consideration.

(b) *Scope of settlement agreement.* Settlement agreements may include, but are not limited to, provisions for cessation of the alleged violation(s); correction or mitigation of the effects of any violation(s); repayment of sums of money wrongfully or incorrectly paid to the person by a third party, or by HUD; collection of money wrongfully or incorrectly paid by the person to itself or to a third party; indemnification of HUD/FHA for mortgage insurance claims on mortgages originated in violation of HUD/FHA requirements; modification of the proposed amount of the civil money penalty; agreement not to engage in certain activities. Failure of the person to comply with a settlement agreement shall be sufficient cause for immediate referral to the relevant civil money penalty panel or for any other action available administratively or at law or in equity.

Subpart C—Civil Money Penalty Panels

§ 30.200 Establishment of panels.

There are four panels whose purpose it is to review recommendations for and to propose civil money penalties. Three voting members of a panel shall constitute a quorum, except for the Mortgagee Review Board, for which four voting members are required.

§ 30.205 Name and composition.

(a) *Housing.* The Housing Civil Penalties Panel (HCPP) is composed of the Assistant Secretary for Housing as Chairman, the Deputy Assistant Secretary for Operations, the Deputy Assistant Secretary for Multifamily Housing Programs, the Deputy Assistant Secretary for Single Family Housing or their designees, and a designee of the General Counsel who serves in a non-voting, advisory capacity. When a case that involves an alleged violation of any of HUD's nondiscrimination requirements is brought before the HCPP, the HCPP shall include the Assistant Secretary for Fair Housing and Equal Opportunity, or his or her designee. In the absence of the Assistant Secretary for Housing, members shall serve as chairman in the order listed in this paragraph.

(b) *Government National Mortgage Association (GNMA).* The Government National Mortgage Association Civil Penalties Panel (GCPP) is composed of the President of GNMA as chairman, the Executive Vice President, the Vice President of Mortgage-Backed Securities, the Vice President of Asset Management, the Vice President of Finance, or their designees, and a designee of the General Counsel who serves in a non-voting, advisory capacity. The Chairman of the GCPP may appoint up to three additional GNMA officials to this panel to serve only in a non-voting, advisory capacity. In the absence of the President, members shall serve as chairman in the order listed in this paragraph.

(c) *Departmental.* The Departmental Civil Penalties Panel (DCPP) is composed of the Assistant Secretaries for Administration, for Community Planning and Development, for Fair Housing and Equal Opportunity, for Public and Indian Housing, for Housing, for Policy Development and Research, the President of the Government National Mortgage Association (GNMA), or their designees, and a designee of the General Counsel who serves in a non-voting, advisory capacity. The Secretary will appoint a chairman and a vice-chairman annually. The chairman and the vice-chairman will serve until their successors are appointed.

(d) *Mortgagees.* The Mortgagee Review Board (MRB) is composed of the members identified in 24 CFR part 25.

(e) *Designee qualification.* Each panel member's designee is a subordinate of the member and holds position not lower than that of Office Director or its equivalent.

§ 30.210 Jurisdiction of panels.

(a) *Housing Civil Penalties Panel (HCPP).* The HCPP proposes penalties in cases involving violations described in subpart D of this part by:

(1) Mortgagees approved under the National Housing Act and lenders holding contracts of insurance under title I of the National Housing Act, 12 U.S.C. 1702, et seq.

(2) Mortgagors of property that includes five or more living units and is subject to a mortgage insured, co-insured or held pursuant to the National Housing Act, 12 U.S.C. 1702, et seq.;

(3) Mortgagors of property that includes five or more living units and is subject to a mortgage pursuant to section 202 of the Housing Act of 1959, 12 U.S.C. 1701q;

(4) Any person under the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1702, et seq; and

(5) Any dealer or loan broker that provides assistance to a borrower in obtaining a property improvement loan or advance of credit under title I, section 2 of the National Housing Act, 12 U.S.C. 1703.

(b) *Government National Mortgage Association Civil Penalties Panel (GCPP).* The GCPP proposes penalties in

cases involving violations described in subpart D of this part by an issuer or custodian approved under section 306(g) of the National Housing Act, 12 U.S.C. 1721(g).

(c) *Departmental Civil Penalties Panel (DCPP).* The DCPP proposes penalties in cases involving violations described in subpart D of this part by:

(1) Any applicant for assistance within the jurisdiction of the Department, as described in 24 CFR part 12;

(2) Any officer or employee of the Department, as described in 24 CFR part 4; and

(3) Any person who makes an expenditure to influence the decision of any officer or employee of the Department with respect to the award of, or change in, any financial assistance within the jurisdiction of the Department, as described in 24 CFR part 86; and

(4) Any state, unit of general local government, or its designated public agency or qualified community organization, or a transferee of property from any such entity under 12 U.S.C. 1706e with respect to the use or conveyance of such property.

(d) *Mortgagee Review Board (MRB).* The MRB proposes penalties in cases involving violations described in subpart D of this part by mortgagees approved under the National Housing Act and lenders holding contracts of insurance under title I of the National Housing Act, 12 U.S.C. 1702, et seq. However, the MRB will propose a penalty only when the proposal is made in conjunction with other administrative sanctions the MRB is authorized to impose.

§ 30.215 Criteria for determining penalty and amount thereof.

(a) In determining whether to propose a penalty for a violation under subpart D of the HCCP, the GCPP, the DCPP and the MRB shall consider all facts and arguments advanced by a proposed respondent to the official who recommended the penalty, unless the respondent requests otherwise.

(b) Each panel shall establish guidelines to be used in determining the amount of a penalty to be proposed. The guidelines shall include the following factors:

(1) The gravity of the offense;

(2) Any history of prior offenses, including those before the date of enactment of the Reform Act except as to § 30.210(c)(2), Public Law 101–235 (i.e., December 15, 1989);

(3) The ability to pay the penalty;

(4) The injury of the public;

(5) Any benefits received by the violator;

(6) The extent of potential benefit to other persons;

(7) Deterrence of future violations;

(8) The degree of the violator's culpability; and

(9) Such other matters as justice may require.

(10) With respect to a violation under § 30.315, the expenditures made by the violator in connection with any gross profit derived.

(c) In addition to the above factors, the HCPP shall also consider:

(1) Any injury to tenants;

(2) Any injury to lot owners.

§ 30.220 Amount of penalty.

The maximum amounts of penalties determined by the Secretary shall be:

(a) $10,000 for each violation of 24 CFR 12.34.

(b) $10,000 for each violation of 24 CFR 4.100.

(c) For a violation of § 30.315, an amount not to exceed the greater of two times the amount of the gross profit realized by the violator from any impermissible use or conveyance of property made available under section 810 of the Housing and Community Development Act of 1974, as amended, (12 U.S.C. 1706e), or the amount of section 810 funds used to reimburse HUD, the Veterans Administration (VA), the Resolution Trust Corporation (RTC) or the Farmers Home Loan Administration (FmHA) for the property. In the event of an unauthorized use of property still retained by the violator, the gross profit shall include the difference between the amount paid for the property by the violator and its current value as determined by an independent appraiser whose qualifications meet current HUD standards.

(d) $5,000 for each violation of § 30.320, except that the maximum penalty for all violations by any particular mortgagee or lender during any one-year period shall not exceed $1 million. Each violation shall constitute a separate violation with respect to each mortgage or loan application, subject to the aggregate penalty of $1 million.

(e) For a violation of § 30.325(a), an amount not in excess of the amount of the loss the Secretary would experience at a foreclosure sale, or a sale after foreclosure, of the property involved.

(f) $25,000 for a violation of § 30.325(b).

(g) $5,000 for each violation of § 30.330, except that the maximum penalty for all violations by a particular issuer or custodian during any one-year period shall not exceed $1 million. Each violation shall constitute a separate violation with respect to each pool of mortgages.

(h) $1,000 for each violation of § 30.335, except that the maximum penalty for all violations by a particular person during any one-year period shall not exceed $1 million. Each violation of the Interstate Land Sales Full Disclosure Act (Act), or any rule, regulation, or order issued under the Act, shall constitute a separate violation with respect to each sale or lease or offer to sell or lease.

(i) $5,000 for each violation of § 30.340, except that the maximum penalty shall not exceed $1 million for all violations by any dealer or loan broker during any one-year period. Each violation of a provision of § 30.340 shall constitute a separate violation with respect to each mortgage or loan application.

(j) $10,000 for each violation of 24 CFR 86.35, or the total amount received for any services performed for any applicant to which the violation relates, whichever is greater.

§ 30.225 Majority decision.

The decision by any panel to propose a civil money penalty must be supported by a majority vote, and each panel shall maintain a written record of its vote on each case it considers.

§ 30.230 Notice after determination.

If the HCPP, the GCPP, the DCPP, or the MRB determines to propose a penalty, it shall:

(a) Prepare, with the advice of counsel, a Complaint to be filed and served in accordance with §§ 30.500 and 30.425.

(b) In the case of a violation of § 30.320(e) or (f), or of § 30.330(b), also send written notice of its intention to the Attorney General.

Subpart D—Violations

§ 30.300 Applicant's failure to disclose information.

Pursuant to § 30.210(c)(1), the DCPP may propose a civil money penalty on any applicant for assistance, in accordance with 24 CFR 12.34(b).

§ 30.305 Improper disclosure by HUD employees.

Pursuant to § 30.210(c)(2), the DCPP may propose a civil money penalty on any officer or employee of the Department, in accordance with 24 CFR 4.110.

§ 30.310 Failure to register or report by consultants.

Pursuant to § 30.210(c)(3), the DCPP may propose a civil money penalty on

any person, in accordance with 24 CFR 86.35.

§ 30.315 Urban Homestead violations.

Pursuant to § 30.210(c)(4), the DCPP may propose a civil money penalty on any person who knowingly and materially violates section 810 of the Housing and Community Development Act of 1974, as amended (12 U.S.C. 1706e), or the regulations at 24 CFR part 590, in the use or conveyance of property made available under the Urban Homestead Program. Notwithstanding any other provision of this part, such penalties are authorized with respect to any property transferred for use under section 810 after January 1, 1981 to a state, a unit of general local government, or a public agency or qualified community organization designated by a unit of general local government, or a transferee of any such entity.

§ 30.320 Violations by mortgagees and lenders.

Pursuant to § 30.210(a)(1) and (d), the HCPP or the MRB may propose a civil money penalty on any mortgagee or lender who knowingly and materially:

(a) Transfers an insured mortgage to a mortgagee not approved by the Secretary;

(b) Transfers a title I insured loan to a person who does not hold a contract of insurance under title I of the National Housing Act;

(c) Fails, if a non-supervised mortgagee (as defined at 24 CFR 203.4):

(1) To segregate all escrow funds received from a mortgagor for ground rents, taxes, assessments and insurance premiums; or

(2) To deposit these funds in a special account with a depository whose accounts are insured by an agency of the Federal Government.

(d) Uses escrow funds for any purpose other than that for which they were received or fails to use escrow funds for the purposes for which they were received;

(e) Submits to the Secretary false information in connection with any insured mortgage or any loan covered by a contract of insurance under title I of the National Housing Act;

(f) Falsely certifies to the Secretary or submits to the Secretary a false certification by another person;

(g) Fails to comply with an agreement, certification or condition of approval in connection with:

(1) A mortgagee's or lender's application for approval by the Secretary; or

(2) A mortgagee's or lender's application to the Secretary for approval of a branch office.

(h) Hires an agent of a mortgagee or lender whose duties will involve, directly or indirectly, programs administered by the Secretary while the agent is under suspension or withdrawal by the Secretary; or retains an agent who continues to be involved, directly or indirectly, in programs administered by the Secretary while the agent is under suspension or withdrawal by the Secretary.

(i) Fails to comply with the requirements of 24 CFR 201.27(a) regarding approval and supervision of dealers;

(j) Approves a dealer that has been suspended, debarred or otherwise denied participation in the Department's programs;

(k) Makes a payment that is prohibited under 24 CFR 203.1(b);

(l) Fails to remit, or timely remit, mortgage insurance premiums, loan insurance charges, or late charges or interest penalties;

(m) Permits loan documents for an FHA insured loan to be signed in blank by its agents or any other party to the loan transaction unless expressly approved by the Secretary;

(n) Fails to follow the mortgage assignment procedures set forth at 24 CFR 203.650 through 203.664 or at 24 CFR 207.255 through 24 CFR 207.258b.

(o) Fails to timely submit documents that are complete and accurate in connection with a conveyance of property or a claim for insurance benefits, in accordance with 24 CFR 203.365, 203.366 or 203.368;

(p) Fails to:

(1) Process requests for formal release of liability under an FHA insured mortgage;

(2) Obtain a credit report, issued not more than 90 days prior to approval of a person as a borrower, as to the person's creditworthiness to assume an FHA insured mortgage; or

(3) Timely submit proper notification of a change in mortgagor or mortgagee as required by 24 CFR 203.431;

(4) Timely submit proper notification of mortgage insurance termination as required by 24 CFR 203.318;

(5) Timely submit proper notification of a change in mortgage servicing as required by 24 CFR 203.502; or

(6) Report all delinquent mortgages to the Department, as required by 24 CFR 203.332;

(q) Fails to service FHA insured mortgages, in accordance with the requirements of 24 CFR part 235, subparts A, B and C;

(r) Fails to fund loans that it originated;

(s) Fails to comply with the conditions relating to the assignment or pledge of mortgages as required by 24 CFR 207.261;

(t) Fails to comply with the provisions of the Real Estate Settlement Procedures Act, 12 U.S.C. 2601, et seq., the Equal Credit Opportunity Act, 15 U.S.C. 1691, et seq., or the Fair Housing Act, 42 U.S.C. 3601, et seq.;

(u) Violates any provision of Title I or Title II of the National Housing Act, or title X of that Act (as such title existed immediately before the effective date of the Department of Housing and Urban Development Reform Act of 1989 (i.e., December 15, 1989), or any implementing regulation or handbook that is issued under the Act.

§ 30.325 Violations by multifamily mortgagors.

(a) Pursuant to § 30.210(a) (2) or (3), the HCPP may propose a civil money penalty on any mortgagor of property that includes five or more living units and is subject to a mortgage insured, co-insured or held by the Secretary (a "project") who knowingly and materially fails to comply with its written agreement made after December 15, 1989, to use non-project funds to:

(1) Make payments due under the note and mortgage;

(2) Make payments to the reserve for replacement account;

(3) Restore the project to good physical condition; or

(4) Make payments satisfying other project liabilities; provided that the agreement was made as a condition for approval of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of mortgage terms or a workout agreement.

(b) The HCPP also may propose civil money penalties on any project mortgagor who knowingly and materially violates its regulatory agreement by:

(1) Conveying, transferring or encumbering any of the mortgaged property, or permitting the conveyance, transfer or encumbrance of such property, without the prior written approval of the Secretary;

(2) Assigning, transferring, disposing or encumbering of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary;

(3) Conveying, assigning or transferring of any beneficial interest in any trust holding title to the property, or

the interest of any general partner in a partnership owning the property or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary;

(4) Remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary; (Modifications made pursuant to section 804 of the Fair Housing Act, 42 U.S.C. 3604, or section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, shall be regarded as having prior approval of the Secretary, because such modifications are required by law.)

(5) Requiring, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit in excess of the prepayment of the first month's rent, plus a security deposit in an amount not in excess of one month's rent, to guarantee the performance of the covenants of the lease;

(6) Not holding any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under the account;

(7) Paying for services, supplies, or materials which exceed $500 and substantially exceed the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished;

(8) Failing to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or any duly authorized agents of the Secretary;

(9) Failing to maintain the books and accounts of the operations of the mortgaged property and of the project in accordance with requirements prescribed by the Secretary;

(10) Failing to furnish the Secretary, by the expiration of the 60-day period beginning on the first day after the completion of each fiscal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing, which extension shall be granted if the mortgagor demonstrates that failure to comply is due to events beyond its control;

(11) At the request of the Secretary, his employees, or attorneys, failing to furnish monthly occupancy reports or failing to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage. For this purpose, "monthly occupancy reports" includes any report that contains information related to occupancy, not only bare occupancy data. (For example, Form 93104 relating to monthly excess income is an occupancy report.)

(12) Failing to make promptly all payments due under the note and mortgage, including mortgage insurance premiums, tax and insurance escrow payments, accumulated excess funds, and payments to the reserve for replacement, when there is adequate project income available to make such payments and to pay ordinary project operating expenses (except that ordinary project operating expenses do not include amounts owed to identity of interest persons); or

(13) In the case of a project insured under section 202 of the Housing Act of 1959 (section 202 project), amending the articles of incorporation or bylaws, other than as permitted under the terms of the articles of incorporation as determined by the Secretary, without the prior written approval of the Secretary.

(c) The payout of surplus cash as provided for in the Regulatory Agreement shall not constitute a violation of this section.

(d) The Secretary may not impose a penalty on a mortgagor for violations of an agreement under paragraph (a) of this section if a material cause of the violation resulted from the failure of the Department, its agent or a public housing agency to comply with the agreement.

(The information collection requirements in paragraphs (b) (8), (9), (10), and (11) have been approved by the Office of Management and Budget under OMB Control No. 2502–0324.)

§ 30.330 Violations by issuers and custodians.

The GCPP, pursuant to § 30.210(b), may propose a civil money penalty on any issuer or custodian for a knowing and material violation as follows:

(a) Upon an issuer that:

(1) Fails to timely pass-through the entire amount of interest, scheduled principal, and unscheduled recoveries of principal due to security holders in accordance with the appropriate GNMA Guide;

(2) Fails to properly segregate the cash flow from the pooled mortgages by maintaining custodial accounts for principal and interest, taxes and other escrows, as well as late charges, assumption fees and any other fees or collections, in accordance with the appropriate GNMA Guide and guaranty agreement;

(3) Fails to deposit funds received from a mortgagor or borrower in a segregated account with a depository whose accounts are insured by an agency of the federal government;

(4) Improperly uses funds deposited for principal and interest pass-through or taxes and other escrows, as well as late charges, assumption fees, and any other fees or collections, for any purpose other than that for which they were received;

(5) Transfers servicing for a pool of mortgages:

(i) To an organization not approved as a GNMA issuer; or

(ii) In a transfer not approved by GNMA;

(6) Fails to maintain a minimum net worth in assets acceptable to GNMA, or fails to maintain a required amount in letters of credit if operating pursuant to GNMA approval with a letter of credit in lieu of adequate net worth;

(7) Fails to promptly notify GNMA in writing of any changes that materially affect business status. "Business status" means organizational structure or operating activities. A change in business status results from, among other events, merger, consolidation, divestiture, transfer of part or all of an issuer's business, change of name, voluntary or involuntary proceedings under title 11 of the United States Code or any state insolvency law, or the appointment for any purposes of a conservator, receiver, trustee or other transferee or assignee.

(8) Submits false information:

(i) In connection with any GNMA securities or pooled mortgages or loans; or

(ii) In connection with an issuer's or custodian's business status; or

(9) Hires, or retains in employment, an officer, director, principal, or employee whose duties involve, directly or indirectly, programs administered by GNMA while such person was under suspension or debarment by the Secretary.

(10) Places a mortgage or loan in a GNMA pool that does not meet the eligibility requirements of the applicable GNMA Guide;

(11) Fails to timely buy-out an ineligible mortgage or loan from a GNMA pool;

(b) Upon a custodian that submits a false certification either on its own behalf or on behalf of another person.

(c) Upon an issuer or custodian that:

(1) Fails to comply with an agreement, certification, contract or condition of approval;

(2) Fails to notify GNMA of a failure to comply with an agreement, certification, contract, or condition of approval;

(3) Violates any provision of title III of the National Housing Act or any implementing regulations, or GNMA Handbook, Guide, or participant letter.

(The information collection requirements in paragraphs (a)(7) and (b)(2) have been approved by the Office of Management and Budget under OMB Control Nos. 2503–0014 and 2503–0008).

§ 30.335 Interstate Land Sales violations.

The HCPP, pursuant to § 30.210.(a)(4), may propose a civil money penalty on any person who knowingly and materially violates any provisions of the Interstate Land Sales Full Disclosure Act, 15 U.S.C. 1701, et seq.; the rules and regulations set forth at 24 CFR parts 1710, 1715 and 1720, or any order issued thereunder. Any such violation is presumed to be material, but a respondent may overcome the presumption by presenting adequate rebuttable evidence.

§ 30.340 Violations by dealers or loan brokers in the origination of property improvement loans.

(a) The HCPP, pursuant to § 30.210(a)(5), with respect to a property improvement loan or advance of credit under title I of the National Housing Act (12 U.S.C. 1703) may propose a civil money penalty upon any dealer or loan broker who knowingly submits false information to the Secretary or to any financial institution that is a party to a title I contract of insurance with the Secretary.

(b) Violations of this section include, but are not limited to:

(1) Falsifying information on an application for dealer approval or reapproval submitted to a lender;

(2) Falsifying statements on a HUD credit application, improvement contract, note, security instrument, completion certificate or other loan document;

(3) Failing to sign a credit application if the dealer or loan broker assisted the borrower in completing the application;

(4) Falsely certifiying to a lender that the loan proceeds have been or will be spent on eligible improvements;

(5) Falsely certifying to a lender that the property improvements have been completed;

(6) Falsely certifying that a borrower has not been given or promised any cash payment, rebate, cash bonus, or anything of more than nominal value as an inducement to enter into a loan transaction;

(7) Making a false representation to a lender with respect to the creditworthiness of a borrower or the eligibility of the improvements for which a loan is sought.

§ 30.345 Continuing violations.

A violation once committed shall constitute a separate violation for each day the violation continues. However, a penalty panel shall take into consideration the severity of the violation in reaching its decision with respect to the amount of the penalty it proposes to assess. This section applies only in the case of a violation under §§ 30.320, 30.330, 30.335 or 30.340.

§ 30.350 Prospective application.

(a) Except as provided in paragraph (b) of this section, the Secretary may impose civil money penalties only for violations that occur after December 15, 1989. However, evidence of violations occurring before December 15, 1989 may be considered by the Secretary in determining the amount of the penalty to be imposed (see § 30.215(b)(2)).

(b) In the case of a violation of § 30.305 or § 30.310, the Secretary may impose a civil money penalty only after the effective date of this rule, and evidence of violations occurring before December 15, 1989 may not be considered by the Secretary in determining the amount of a penalty.

Subpart E—Procedural Rules

General Provisions

§ 30.400 Purpose and scope.

This subpart:

(a) Specifies rules of administrative procedure for imposing civil money penalties against persons who are alleged to have committed a violation under subpart D of this part;

(b) Specifies the hearing and appeal rights of persons subject to such penalties; and

(c) Applies to any civil money penalty proceeding undertaken by the Department that is not provided for elsewhere by statute or regulation.

§ 30.405 Administrative Law Judge (ALJ).

(a) *Designation.* Proceedings under this part shall be presided over by an ALJ appointed under 5 U.S.C. 3105 or detailed to HUD pursuant to 5 U.S.C. 3344. The presiding ALJ shall be designated by the Chief ALJ at HUD.

(b) *Authority.* The ALJ shall have all powers necessary to the conduct of fair and impartial hearings, including the authority:

(1) To conduct hearings in accordance with this part;

(2) To regulate the course of the hearing and the conduct of the parties and their counsel;

(3) To administer oaths and affirmations and examine witnesses;

(4) To issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(5) To rule on offers of proof and to receive evidence;

(6) To take depositions or have depositions taken when the ends of justice are served;

(7) Upon motion of a party, to take official notice of facts;

(8) To hold conferences for the settlement or simplification of the issues by consent of the parties.

(9) To dispose of motions, procedural requests, and similar matters.

(10) To make initial decisions, as described under § 30.905.

(11) To exercise such powers vested in the Secretary as are necessary and appropriate for the purpose of the hearing and conduct of the proceeding.

(c) *Party's failure to comply with order.* When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control or a request for admissions, the ALJ may:

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admissions, regard each matter about which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with the order from introducing evidence concerning, or otherwise relying upon, testimony relating to the information sought;

(4) Strike any part of the pleadings or other submission of the party failing to comply with the request.

(d) *Party's failure to prosecute or defend.* If a party fails to prosecute or defend an action under this part, the ALJ may dismiss the action or may issue an initial decision imposing penalties, provided that the amount of the penalty

shall not exceed the amount requested in the Complaint.

(e) *Party's failure to file in a timely manner.* The ALJ may refuse to consider any motion, request, response, brief or other document which is not timely filed.

(f) *Disqualification.* If an ALJ finds that there is a basis for his or her disqualification in a proceeding, the ALJ shall withdraw from the proceeding. Withdrawal is accomplished by entering a notice in the record and by providing a copy of the notice to the Chief ALJ.

(g) *Motion for recusal; ruling.* If a party believes that the presiding ALJ should be disqualified for any reason, the party may file a motion to recuse with the ALJ. The motion shall be made timely and supported by an affidavit setting forth the alleged grounds for disqualification. The ALJ shall proceed no further in the case until he or she rules on the motion. If the ALJ denies the motion, he or she shall incorporate a written statement of the reasons for the denial in the record. The denial shall be appealable only in conjunction with an appeal of the initial decision.

(h) *Redesignation of ALJ.* For reasons of judicial efficiency, or if an ALJ is disqualified, or otherwise unavailable, the Chief ALJ shall designate another ALJ to preside over further proceedings.

§ 30.410 Ex parte communications.

(a) *In General.* An ex parte communication is any direct or indirect communication concerning the merits of a pending proceeding, made by a party in the absence of any other party, to the ALJ assigned to the proceeding and which was neither on the record nor on reasonable prior notice to all parties. Ex parte communications do not include communications made for the sole purpose of scheduling hearings, requesting extensions of time, requesting information on the status of cases, or requesting the issuance of subpoenas.

(b) *Prohibition.* Ex parte communications are prohibited.

(c) *Procedure upon receipt.* If the ALJ receives an ex parte communication that the ALJ knows or has reason to believe is prohibited, the ALJ shall promptly place the communication, or a written statement of the substance of the communication, in the record and shall furnish copies to all parties. Unauthorized communications shall not be taken into consideration in deciding any matter in issue. Any party making a prohibited ex parte communication may be required to show cause why that party's claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected on account of the prohibited communication.

§ 30.415 Representation.

(a) *Representation of HUD.* HUD is represented by the General Counsel or his or her designee.

(b) *Representation of other parties.* Other parties may be represented as follows:

(1) Individuals may appear on their own behalf.

(2) A member of a partnership may represent the partnership.

(3) An officer of a corporation or association may represent the corporation or association.

(4) A trustee of a trust may represent the trust.

(5) An officer or employee of any governmental unit, agency or authority may represent that unit, agency or authority.

(6) An attorney admitted to practice before a Federal Court or the highest court in any State may represent a party. The attorney's representation that he or she is in good standing before any of these courts is sufficient evidence of the attorney's qualifications under this section, unless otherwise determined by the ALJ.

(c) *Notice of appearance.* Each attorney or other representative of a party shall file a notice of appearance. The notice shall indicate the party on whose behalf the appearance is made. Any individual acting in a representative capacity may be required by the ALJ to demonstrate authority to act in that capacity.

(d) *Withdrawal.* An attorney or other representative of a party shall file a written notice of intent 15 days in advance of withdrawal, unless the ALJ approves a lesser time period, before withdrawing from participation in the proceeding.

§ 30.420 Compromise and settlement.

(a) Parties may make offers of compromise or settlement at any time.

(b) The relevant civil penalties panel has the exclusive authority to compromise or settle a case under this part at any time before the date on which the ALJ issues an initial decision. A panel may delegate such authority to one or more individuals for the purpose of expediting settlement.

(c) The Secretary has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any judicial review under § 30.1000 or during the pendency of any action to collect penalties under § 30.1005.

(d) All information concerning settlement negotiations between the parties shall be privileged and shall not be disclosed prior to or during the hearing.

§ 30.425 Form, filing, and service.

(a) *Form of documents to be filed.* Documents to be filed under the rules in this part shall be dated and shall show the names of the parties, the docket number (except the original complaint), the title of the document, the address and telephone number of the signatory and the title of any signatory appearing in a representative capacity. The original shall be signed in ink. Documents shall be legible and shall not be more than 8½ inches wide and 11 inches long.

(b) *Filing of documents and other materials.*

(1) *Generally.* All documents and other materials relating to the proceeding shall be filed with the Chief Docket Clerk, Office of Administrative Law Judges, Department of Housing and Urban Development, at the address noted in the Complaint.

(2) *Copies.* Unless otherwise ordered by the ALJ, an executed original and one copy of each document (including exhibits and other materials) are to be filed. Copies need not be signed, but the name of the person signing the original shall be shown on each copy.

(3) *Methods and means.* Filing may be made by first-class mail or by other more expeditious methods of filing such as personal delivery, facsimile machine or electronic means; however, if filing is made by facsimile machine or electronic means, the following rules shall apply:

(i) Only documents of ten or fewer total pages will be accepted via facsimile machine transmittal or other electronic means.

(ii) Receipt of documents by facsimile machine or electronic means will not be acknowledged, except that the sender may request confirmation of receipt by calling the Chief Docket Clerk ((202) 755–2540).

(iii) The signed original shall be sent by first-class mail to the Chief Docket Clerk in accordance with paragraph (b)(1) of this section.

(c) *Service of documents.*

(1) *By parties.* Unless otherwise ordered by the ALJ, one copy of all documents filed with the ALJ shall be served upon all other parties of record by the persons filing them. Every document filed with the ALJ and required to be served upon all parties of record shall be accompanied by a certificate of service signed by (or on

behalf of) the party making the service, stating that such service has been made.

(2) *By the Office of Administrative Law Judges.* The Office of Administrative Law Judges shall serve one copy of all orders, notices, decisions, rulings on motions, and similar documents which are issued by the ALJ upon each party in accordance with paragraph (c)(3) of this section. Every document served by the Office of Administrative Law Judges shall be accompanied by a certificate of service.

(3) *How service may be made.* Service may be made by first class mail or by other more expeditious methods of service such as personal delivery, facsimile machine or electronic means; provided that service by facsimile machine or electronic means is permissible only upon prior agreement between the parties to use such means.

(4) *Where service is to be made.* Service shall be made at the address of the party's counsel or representative or, if not represented, at the last known address of the residence or principal place of business of the party. After pleadings have been filed, the addresses shown on the pleadings shall be used for service, unless a party has been informed of the other party's change of address.

§ 30.430 Time computations.

(a) *In general.* In computing any period of time prescribed in these rules, the day from which the designated period begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or Federal holiday. When the period of time prescribed is seven (7) days or less, intermediate Saturdays, Sundays, and Federal holidays shall be excluded in the computation.

(b) *Modification of time periods.* Except for time periods required by statute, the ALJ may enlarge or reduce any time period required under this subpart where necessary to avoid prejudicing the public interest or the rights of the parties.

(c) *Entry of orders.* In computing any time period involving the date of the issuance of an order or decision by an ALJ, the date of issuance is the date the order or decision is served by the Chief Docket Clerk.

(d) *Computation of time for delivery by mail.* (1) Documents are not filed until received by the Chief Docket Clerk. However, when documents are filed by mail, three days shall be added to the prescribed time period.

(2) Service is effected at the time of mailing.

(3) When a party has the right or is required to take an action within a prescribed period after the service of a document upon the party, and the document is served by first class mail, three (3) days shall be added to the designated period for response.

§ 30.435 Subpoenas.

(a) *Issuance.* Upon a written request of a party and where authorized by law, the Chief ALJ or the presiding ALJ may issue a subpoena requiring:

(1) The attendance of a witness to give testimony at a deposition;

(2) The attendance of a witness to testify at a hearing;

(3) The production of relevant documents or other tangible things.

(b) *Ex parte request.* Requests for subpoena may be made ex parte.

(c) *Time of request.* Requests for subpoenas in aid of discovery must be submitted not less than 10 days before the conclusion of discovery or 15 days before the date scheduled for the hearing. If a request for a subpoena in aid of discovery does not meet these time limits, or if a request for subpoena of a witness for testimony at a hearing is submitted three days or less before the hearing, the subpoena shall be issued at the discretion of the Chief ALJ or the presiding ALJ, as appropriate.

(d) *Service.* The party who obtains the subpoena shall serve it in accordance with § 30.425.

(e) *Witness fees and mileage.* A witness summoned by a subpoena issued under this section is entitled to the same witness and mileage fees as a witness in an action in United States District Court. Fees shall be paid by the party requesting the subpoena. A check for appropriate fees shall accompany the subpoena when served by any party other than the Department.

(f) *Motion to quash or modify subpoena.* Upon a motion by the person served with a subpoena or by a party made within five days after service of the subpoena (but in no event later than the date for compliance with the subpoena) the ALJ may:

(1) Quash or modify the subpoena if it is unreasonable and oppressive or for other good cause; or

(2) Condition denial of the motion upon the advancement, by the party on whose behalf the subpoena was issued, of the reasonable cost of producing subpoenaed documents or other tangible things.

Pleadings and Motions

§ 30.500 Complaint.

Action is initiated by the issuance of a Complaint prepared and signed by the chairman of the panel proposing the civil money penalty. The Complaint must be served on the respondent and filed with the Chief Docket Clerk, Office of Administrative Law Judges. The Complaint shall include:

(a) A short, plain statement of the facts upon which the panel has determined that civil money penalties should be imposed;

(b) The amount of the penalty to be imposed;

(c) The legal authority for imposing the penalty;

(d) The right to appeal the imposition of the penalty;

(e) The procedures to appeal the penalty;

(f) The consequences of failure to appeal the penalty; and

(g) The name, address, and telephone number of the representative of the Department.

§ 30.505 Answer.

(a) To appeal the imposition of a penalty, a respondent shall, within 15 days after receipt of the Complaint, file a written Answer with the Chief Docket Clerk, Office of Administrative Law Judges, Department of Housing and Urban Development, at the address noted in the Complaint.

(b) The Answer shall include:

(1) A statement that respondent admits, denies, or does not have, and is unable to obtain, sufficient information to admit or deny each allegation made in the Complaint. A statement of lack of information shall have the effect of a denial. Any allegation that is not denied shall be deemed to be admitted;

(2) A statement of each affirmative defense and a statement of facts supporting each affirmative defense; and

(3) A statement of all facts which respondent alleges serve to mitigate the amount of the penalty.

(c) If a Complaint is amended pursuant to § 30.510, the respondent shall have 15 days after receipt of the amended Complaint within which to file an Answer.

§ 30.510 Amendments and supplemental pleadings.

(a) *Amendments.*

(1) By right. HUD may amend its Complaint once as a matter of right prior to filing of the Answer.

(2) By leave. Upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, the ALJ may allow amendments to pleadings upon motion of a party.

(3) Conformity to the evidence. When issues are not raised by the pleadings but are reasonably within their scope and have been tried by the express or

implied consent of the parties, the issues shall be treated in all respects as if they had been raised in the pleadings, and amendments may be made as necessary to make the pleadings conform to the evidence.

(b) *Supplemental pleadings.* The ALJ may, upon reasonable notice, permit supplemental pleadings concerning transactions, occurrences or events that have happened or have been discovered since the date of the original pleading and which are relevant to any of the issues involved.

§ 30.515 Motions.

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made at the pre-hearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within five business days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may order oral argument or any motion.

(e) The ALJ may not grant a written motion before the time for filing responses has expired, except:

(1) Upon consent of the parties;

(2) Following a hearing on the motion; or

(3) To allow additional time to submit or respond to an order, pleading or motion, but only upon a showing of good cause. However, the ALJ may overrule or deny the motion without awaiting a response.

§ 30.520 Summary judgment motion.

A party may request summary judgment in cases in which there are no disputes of material facts.

Discovery

§ 30.600 Discovery.

(a) *Methods of discovery.* Parties may obtain discovery by one or more of the following methods:

(1) Oral depositions;

(2) Written interrogatories;

(3) Requests for the production of documents or other things, or for entry upon land for inspection and other purposes; and

(4) Requests for admissions.

(b) *Scope and procedure.* The parties are encouraged to engage in voluntary discovery, which shall be conducted as expeditiously and inexpensively as practicable under the circumstances. Unless otherwise ordered by the ALJ the parties may obtain discovery regarding any information, not privileged, which is relevant to the subject matter involved in the proceeding, including the existence, description, nature, custody, condition and location of documents or persons having knowledge of any discoverable matter. It is not grounds for objection that information sought will not be admissible if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. Unless otherwise ordered by the ALJ or restricted by this section, the frequency or sequence of discovery is not limited.

(c) *No duty to supplement; exceptions.* (1) A party who responded to a request for discovery with a response that was complete when made is under no duty to supplement his response to include information acquired after the response was made except:

(i) A person is under a duty to timely supplement responses with respect to any question directly addressed to:

(A) The identity or location of persons having knowledge of discoverable matters; or

(B) The identity of each person expected to be called as an expert witness at the hearing, the subject matter on which the expert witness is expected to testify, and the substance of the testimony.

(ii) A person is under a duty to timely amend a previous response if the person later obtains information upon the basis of which:

(A) The person knows the response was incorrect when made; or

(B) The person knows the response, though correct when made, is no longer true, and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(2) The parties by agreement or the ALJ by order may impose a duty to supplement responses.

§ 30.605 Depositions.

(a) *Notice.* Any party desiring to take a deposition shall give reasonable notice to the deponent and to all other parties of the time, date and place of deposition. Unless the party taking the deposition and the deponent agree otherwise, notice of the taking of the deposition shall be given not less than five days before the deposition is scheduled. The attendance of a deponent may be compelled by subpoena under § 30.435.

(b) *Organizational deponents.* If a person other than an individual is named as the deponent by the party seeking to take the deposition, the person so named shall designate one or more agents to testify on the organization's behalf.

(c) *Procedure.* Depositions may be taken before any person having the power to administer oaths or affirmations. Each person deposed shall be placed under oath or affirmation, and other parties shall have the right to cross-examine. Objections to questions or documents shall be brief, stating the grounds of objection relied upon. Evidence objected to shall be taken subject to the objections. The party seeking the deposition shall provide for the taking of a verbatim transcript of the deposition. A transcript shall be submitted to the deponent for examination and signature unless signature is waived at the conclusion of the deposition. If the deponent desires to make any change to the transcript, the deponent shall inform the person before whom the deposition was taken of those changes and the person before the deposition was taken shall incorporate the changes into the transcript prior to certifying its accuracy. If a deposition has not been signed and returned by the deponent within 30 days after its submission, the person before whom the deposition was taken shall sign it and state on the record the fact of the refusal or other reason why the deponent did not sign. Such a deposition may be used as fully as though signed.

(d) *Costs.* The party requesting the deposition shall bear all costs thereof, except the cost of transcripts for other parties.

§ 30.610 Use of depositions at hearings.

(a) *Unavailability of deponent.* Subject to appropriate rulings on such objections as were noted at the deposition or as might be valid when it is offered, a deposition, or any part thereof, may be offered in evidence against any party who was present or represented at the deposition or who had due notice thereof, if the ALJ finds:

(1) That the deponent is dead;

(2) That the deponent is out of the United States, or is located at such a distance that attendance is impractical, unless it appears that the deponent's absence was procured by the party offering the deposition;

(3) That the deponent is unable to attend or testify because of age, sickness, infirmity or imprisonment;

(4) That the party offering the deposition has been unable to procure the attendance of the deponent by subpoena; or

(5) That such exceptional circumstances exist as to make desirable, in the interest of justice and with due regard to the importance of

presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(b) *Impeachment.* Any deposition may be used by any party to contradict or impeach the testimony of the deponent as a witness.

(c) *Experts.* The deposition of an expert witness may be used by any party for any purpose, unless the ALJ rules that such use is unfair or a violation of due process.

(d) *Offer in part.* If only part of a deposition is offered in evidence, an adverse party may require the introduction of any part which ought in fairness to be considered with the part introduced, and any party may introduce any other parts.

(e) *Substitution of parties.* Substitution of parties does not affect the right to use depositions previously taken. If a proceeding has been dismissed and another proceeding involving the same subject matter is later brought between the same parties or their representatives or successors in interest, all depositions lawfully taken in the former proceeding may be used in the later proceeding.

§ 30.615 Objections to use of depositions.

(a) Objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason that would require the exclusion of the evidence if the deponent were then present and testifying, except:

(1) Objection to any error or irregularity in the notice for taking a deposition is waived unless made prior to the beginning of the deposition;

(2) Objection to taking a deposition because of disqualification of the officer before whom it is taken is waived unless made before the beginning of the deposition or as soon thereafter as the disqualification becomes known or could have been discovered with reasonable diligence;

(3) Objection to any error or irregularity occurring at the deposition in the manner of taking the deposition, in the form of a question or an answer, in the oath or affirmation or in the conduct of parties, and objection to any error of any kind which might be obviated, removed or cured if promptly presented is waived unless timely made during the course of the deposition.

(b) The waivers of objection in paragraphs (a)(1)–(a)(3) of this section shall not apply to successors in interest who are involved in a subsequent proceeding.

§ 30.620 Written interrogatories.

(a) *Interrogatories to parties.* Any party may serve on any other party written interrogatories to be answered by the party served. If the party served is other than an individual, the interrogatories may be answered by any officer or agent, who shall furnish such information as may be available to the party. A party may serve not more than 30 written interrogatories, including subparts, on another party without an order of the ALJ.

(b) *Responses to interrogatories.* Each interrogatory shall be answered separately and fully in writing under oath or affirmation, unless the party objects to the interrogatory. If a party objects to an interrogatory, the response shall state the reasons for the objection in lieu of an answer. The answer and objections shall be signed by the person making them, except that objections may be signed by counsel for the party. The party upon whom the interrogatories were served shall serve a copy of the answers and objections upon all other parties within 15 days after service of the interrogatories. Objections to the form of interrogatories are waived unless served with a response.

§ 30.625 Production of documents and other things; entry on land for inspection and other purposes.

(a) *Request to produce or permit entry.* Any party may serve on any other party a written request to:

(1) Produce and permit the party making the request to inspect and copy any designated documents. The request shall identify the items to be inspected either individually or by category with reasonable particularity; or

(2) Permit entry upon designated land or access to other property in the possession or control of the party upon whom the request is served for any appropriate purpose.

(b) *Manner of inspecting.* The request shall specify a reasonable time, place and manner of making the inspection or performing the related acts.

(c) *Response to request.* Within 15 days after service of the request, the party whom the request was served shall serve a written response on the party submitting the request. The response shall state with regard to each item or category:

(1) That inspection and related activities will be permitted as requested; or

(2) That objection is made to the request in whole or in part. If any objection is made, the response must state the reason for the objection.

§ 30.630 Admissions.

(a) *Request for admissions.* A party may serve on any other party a written request for the admission of the authenticity of any document described in or attached to the request, or for the admission of the truth of any specified fact.

(b) *Response to request.*

(1) Each matter for which an admission is requested is admitted unless, within 15 days after service of the request, the party to whom the request was made serves on the requesting party:

(i) A written statement specifically denying the relevant matters for which an admission is requested;

(ii) A written statement setting forth in detail why the party cannot truthfully admit or deny the matters; or

(iii) Written objections to the request alleging that the matters are privileged or irrelevant, or that the request is otherwise improper.

(2) The party to whom the request was made may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that it has made a reasonable inquiry and that the information known or readily obtainable is insufficient to enable the party to admit or deny.

(c) *Sufficiency of response.* The party requesting admissions may move for a determination of the sufficiency of the answers or objections. Unless the ALJ finds that an objection is justified, the ALJ shall order that a response be served. If the ALJ determines that a response does not comply with the requirements of this section, the ALJ may order either that the matter is admitted or that an amended response be served.

(d) *Effect of admission.* Any matter admitted under this section is conclusively established unless, upon motion of the admitting party, the ALJ permits a withdrawal or amendment of the admission. An admission made under this section is made for the purposes of the pending proceeding only, is not an admission by the party for any other purpose, and may not be used against the party in any other proceeding.

(e) *Service of requests and responses.* Each request for admission and each response must be filed with the Chief Docket Clerk, Office of Administrative Law Judges and served in accordance with § 30.425.

§ 30.635 Protective orders.

Upon motion of any person from whom discovery is sought, the ALJ may make any Order which justice requires to protect the person from annoyance, embarrassment or oppression, or to prevent the unnecessary disclosure or

publication of information contrary to the public interest and beyond the requirements of justice in the particular proceeding.

§ 30.640 Failure to cooperate in discovery.

(a) *Motion to compel discovery.* If a deponent fails to appear for deposition or fails to answer a question during examination, or if a party upon whom a request has been made under §§ 30.620 through 30.630 fails to respond adequately, objects to a request, or fails to permit inspection as requested, the discovering party may move for an order from the ALJ compelling an appearance, a response, or an inspection in accordance with the request, or for imposing sanctions under § 30.405.

(b) *Evasive or incomplete answers.* For the purposes of this section, an evasive or incomplete answer or response will be treated as a failure to answer or respond.

Pre-Hearing Procedures

§ 30.700 Pre-hearing statements.

(a) *In general.* Before the commencement of the hearing, the ALJ may direct parties to file pre-hearing statements.

(b) *Contents of statement.* The pre-hearing statement must state the name of the party or parties presenting the statement and, unless otherwise directed by the ALJ, briefly set forth the following:

(1) Issues involved in the proceeding;

(2) Facts stipulated by the parties and a statement that the parties have made a good faith effort to stipulate to the greatest extent possible;

(3) Facts in dispute;

(4) Identification of witnesses (together with a summary of the testimony expected) and exhibits to be presented at the hearing;

(5) A brief statement of applicable law;

(6) Conclusions to be drawn;

(7) Estimated time for hearing; and

(8) Such other information as may assist in the disposition of the proceeding.

§ 30.705 Pre-hearing conference.

(a) *In general.* Before the commencement or during the course of the hearing, the ALJ may direct the parties to participate in a conference to expedite the hearing.

(b) *Matters considered.* At the conference, the following matters may be considered:

(1) Simplification and clarification of the issues;

(2) Necessary amendments to the pleadings;

(3) Stipulations of fact and of the authenticity, accuracy, and admissibility of documents;

(4) Limitations on the number of witnesses;

(5) Negotiation, compromise, or settlement of issues;

(6) The exchange of proposed exhibits;

(7) Matters of which official notice will be requested;

(8) A schedule for the completion of actions discussed at the conference;

(9) Such other information as may assist in the disposition of the proceeding.

(c) *Conduct of conference.* The conference may be conducted by telephone, correspondence or personal attendance. Conferences, however, shall generally be conducted by conference calls, unless the ALJ determines that this method is impracticable. The ALJ shall give reasonable notice of the time, place and manner of the conference.

(d) *Record of conference.* Unless otherwise directed by the ALJ, the conference will not be stenographically recorded. The ALJ will reduce the actions taken at the conference to a written order or, if the conference takes place less than seven days before the beginning of the hearing, may make a statement on the record summarizing the actions taken at the conference.

Hearings

§ 30.800 The hearing.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the respondent is liable for a civil penalty and, if so, in what amount, considering any aggravating or mitigating factors.

(b) Where there is no dispute of material facts, the parties may agree to submit the matter to the ALJ on the written record.

(c) Unless otherwise ordered by the ALJ, all hearing shall be open to the public.

§ 30.805 Location of the hearing.

The location of the hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties and their representatives.

§ 30.810 Evidence and standard of proof.

(a) *Evidence.* Every party shall have the right to present its case or defense by oral and documentary evidence unless otherwise limited by statute, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, privileged, or unduly repetitious evidence shall be excluded. Unless otherwise provided for in this part, the Federal Rules of Evidence shall provide guidance for the conduct of proceedings under this part.

(b) *Testimony under oath or affirmation.* All witnesses shall testify under oath or affirmation.

(c) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds for objections. Rulings on objections shall be a part of the transcript. Failure to object to admission or exclusion of evidence or to any evidentiary ruling shall be considered a waiver of objection, but no exception to a ruling on an objection is necessary in order to preserve it for appeal.

(d) *Authenticity of documents.* Unless specifically challenged, all relevant documents shall be presumed authentic. An objection to the authenticity of a document shall not be sustained merely on the basis that it is not the original.

(e) *Stipulations.* The parties may stipulate as to any relevant matters of fact. Stipulations may be received in evidence at a hearing and when received shall be binding on the parties with respect to the matters stipulated.

(f) *Official notice.* All matters officially noticed by the ALJ shall appear on the record.

(g) *Burden of proof.* The burden of proof shall be upon the proponent of an action or an affirmative defense unless otherwise provided by statute.

(h) *Standard of Proof.* The standard of proof shall be preponderance of the evidence.

§ 30.815 The record.

(a) The hearing shall be recorded and transcribed. Transcripts may be obtained from the reporter responsible for transcribing the hearing for a fee set by the reporter.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the Secretary.

§ 30.820 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing post-hearing briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

Defaults and Decisions

§ 30.900 Default upon failure to file an Answer.

(a) If the respondent does not file an Answer within the time prescribed in § 30.505, the ALJ shall issue a Default Judgment.

(b) The ALJ shall assume the facts alleged in the Complaint to be true, and if such facts establish liability under subpart D, the ALJ shall issue an initial decision imposing the amount of penalties stated in the Complaint.

(c) Except as otherwise provided in this section the respondent, by failing to file a timely answer, waives any right to further review of the penalties imposed under this part, and the initial decision shall become final and binding upon the parties 90 days after it is issued.

(d) If, before an initial decision becomes final, the respondent files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the respondent from filing an Answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(e) If in the motion the respondent demonstrates extraordinary circumstances excusing the failure to file a timely Answer, the ALJ shall withdraw any initial decision made under paragraph (b) of this section and shall grant the respondent an opportunity to answer the Complaint.

(f) The respondent may appeal to the Secretary a decision denying a motion to reopen by filing a notice of appeal with the Secretary within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the Secretary decides the issue.

(g) If the respondent files a timely notice of appeal with the Secretary, the ALJ shall forward the record of the proceeding to the Secretary.

(h) The Secretary shall decide, based solely on the record forwarded by the ALJ, whether extraordinary circumstances excused the respondent's failure to file a timely Answer.

(i) If the Secretary decides that extraordinary circumstances excused the respondent's failure to file a timely Answer, the Secretary shall remand the case to the ALJ with instructions to grant the respondent an opportunity to answer.

(j) If the Secretary decides that the respondent's failure to file a timely Answer is not excused, the Secretary shall reinstate the initial decision of the ALJ, which becomes final and binding upon the parties upon the filing of the Secretary's written finding with the Chief Docket Clerk, Office of Administration Law Judges.

§ 30.905 Initial decision.

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the allegations in the complaint violate any provision of subpart D; and

(2) If the person is liable for penalties, the appropriate amount of any such penalties, considering any mitigating or aggravating factors.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall, at the same time, serve all parties with a statement describing the right of any respondent determined to be liable for a civil penalty to file a notice of appeal with the Secretary. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the Secretary, the initial decision shall constitute the final decision of the Department and shall be final and binding on the parties 90 days after it is issued by the ALJ.

§ 30.910 Finality and Secretarial review.

(a) The ALJ's initial decision shall be final unless the Secretary decides as a matter of discretion to review the findings of the ALJ.

(b) Any party may file, within 15 days after receipt of the initial decision, a notice of appeal to the Secretary seeking a review of that decision. A copy of the notice of appeal shall be served on the opposing party.

(c) The notice of appeal shall be accompanied by a statement of not more than 10 pages setting forth the specific findings of the ALJ which are being challenged and the factual and/or legal basis for such challenge.

(d) The opposing party may respond to the appeal. Such response may not exceed 10 pages and shall be filed with the Secretary within 10 days after receipt of the notice of appeal.

(e) The Secretary shall decide within 30 days after receipt of a notice of appeal whether to review or to decline review of the initial decision. The Secretary shall serve copies of his decision on all parties.

(f) The Secretary, after review, may affirm, modify, or reverse the initial decision. The Secretary's decision shall be issued within 90 days after the initial decision has been filed.

(g) If, after considering the notice of appeal, the Secretary declines review, the initial decision becomes final on the date the decision to decline is filed with the Chief Docket Clerk, Office of Administrative Law Judges. Any decision by the Secretary after review becomes final on the date it is filed with the Chief Docket Clerk.

Judicial Review and Collection of Civil Penalties

§ 30.1000 Judicial review.

(a) After having exhausted all administrative remedies, a person against whom the Secretary has imposed a civil money penalty under this part may obtain a review of the Secretary's final decision by filing a written petition with the appropriate United States Court of Appeals.

(b) The petition must be filed within 20 days after the Secretary's decision is filed with the Chief Docket Clerk, Office of Administrative Law Judges.

§ 30.1005 Collection of penalties.

(a) If any person fails to comply with the Secretary's final decision imposing a civil money penalty, the Secretary may request the Attorney General to bring an action in an appropriate United States district court to obtain a judgment against the person who has failed to comply with the Secretary's final decision, provided that the time for appeal of the Secretary's decision has expired.

(b) The validity and appropriateness of the Secretary's final decision imposing the civil penalty shall not be subject to review in the district court.

(c) The Secretary may obtain such other relief as may be available, including attorney fees and other expenses in connection with the action.

(d) Interest on and other charges for any unpaid penalty may be assessed in accordance with 31 U.S.C. 3717.

§ 30.1010 Offset.

In addition to any other rights as a creditor, the Secretary may seek to collect a civil money penalty through administrative offset.

Dated: April 23, 1991.

Jack Kemp,

Secretary.

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H.R. 2122/Pub. L. 102–45
Emergency Supplemental Persian Gulf Refugee Assistance Act of 1991. (May 17, 1991; 105 Stat. 247; 2 pages) Price: $1.00

S. 258/Pub. L. 102–46
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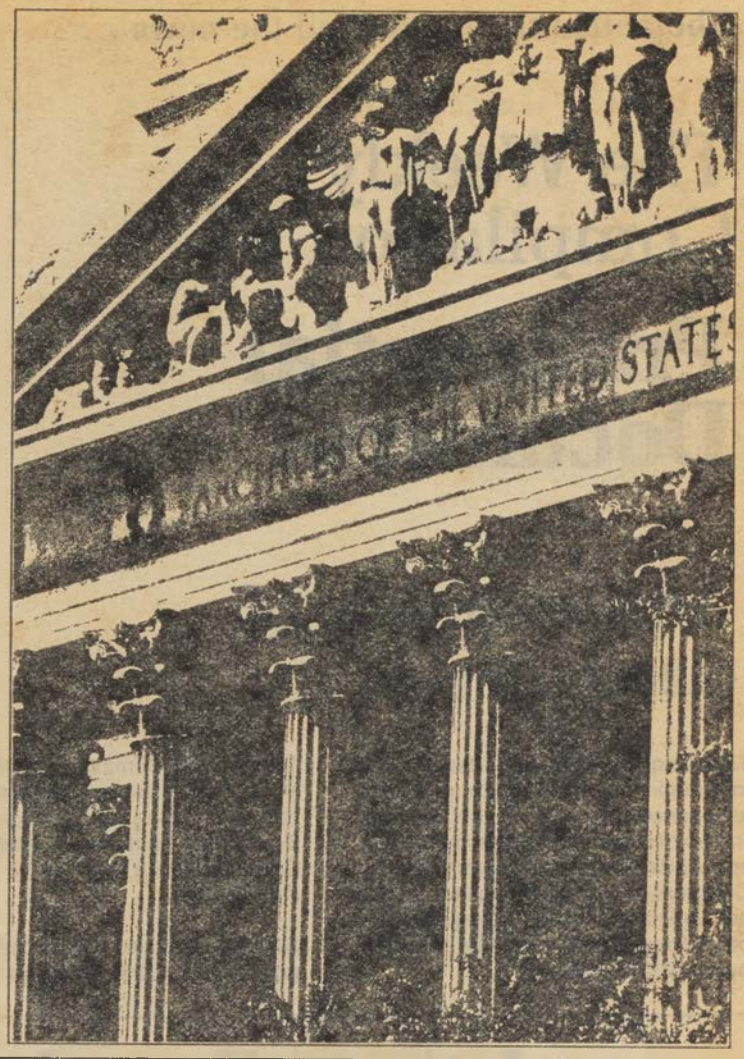

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