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

Rules and Regulations

Federal Register
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NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150-AE19

Fingerprint Cards: Resubmittal Procedure Change

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to reflect an administrative change pertaining to the resubmittal of rejected fingerprint cards associated with granting access to Safeguards Information or for granting unescorted access to an operating nuclear power plant as required by Public Law 93-399. This amendment is necessary to conform to new procedures adopted by the Federal Bureau of Investigation (FBI).

EFFECTIVE DATE: April 3, 1992.

FOR FURTHER INFORMATION CONTACT: C.H. Hendren, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 504-3209.

SUPPLEMENTARY INFORMATION:

Background

On December 10, 1991, the FBI's Identification Division notified the Nuclear Regulatory Commission of a change in the procedures for submitting replacement fingerprint cards when a prior fingerprint card is rejected.

Previously, replacement fingerprint cards could be submitted any number of times when prior sets were rejected. If the rejected card was attached to the replacement fingerprint card, the FBI did not charge an additional fee.

However, effective January 2, 1992, the FBI will allow only one free resubmission of a fingerprint card for each processing fee payment. If the first set cannot be classified, then that set will be returned with notations as to the reason(s), plus resubmittal instructions for the one free resubmission. The rejected card must be attached to the second submission. If the second submission cannot be classified, then both the first and second submissions will be returned. The contributor must then decide to accept the negative name-check response or, alternately, submit a third set of fingerprints and pay the processing fee again. Payment of a new processing fee would entitle the submitter to one more free resubmission. If previously rejected fingerprint cards are attached to the third submission, then the third submission will be rejected immediately by the FBI based on their interpretation that this indicates the contributor does not realize a processing fee must be paid again. If submissions cannot be classified, the FBI recommends that a qualified fingerprint technician be used to ensure that high quality fingerprint impressions are taken. The FBI also notes that it is difficult to get classifiable fingerprints from some people.

Because this amendment pertains only to a processing change imposed by the FBI, the notice and comment provisions of the Administrative Procedure Act are impractical and unnecessary. This amendment is effective 30 days after publication in the Federal Register.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget under control number 3150-0002.

Backfit Analysis

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

List of Subjects in 10 CFR Part 73

Criminal penalties, Hazardous materials-transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendment to 10 CFR Part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

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

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841) * * *.

2. In § 73.57, paragraph (d)(2) is revised to read as follows:

§ 73.57 Requirements for criminal history checks of individuals granted unescorted access to a nuclear power facility or access to Safeguards Information by power reactor licensees.

* * * * *

(d) * * *

(2) The Commission will review applications for criminal history checks for completeness. Any Form FD-258 containing omissions or evident errors will be returned to the licensee for corrections. The fee for processing fingerprint checks includes one free resubmission if the initial submission is returned by the FBI because the fingerprint impressions cannot be classified. The one free resubmission must have the initial (rejected) fingerprint cards attached. If additional submissions are necessary, they will be treated as an initial submittal and require a second payment of the processing fee. The payment of a new processing fee entitles the submitter to an additional free resubmittal, if necessary. Previously rejected submissions may not be included with

the third submission because the submittal will be rejected automatically.

* * * * *

Dated at Rockville, Maryland this 14th day of February 1992.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 92-5025 Filed 3-3-92; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 325

RIN 3064-AB04

Capital Maintenance

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") directed the FDIC to prescribe the maximum amount of purchased mortgage servicing rights that insured savings associations can recognize for regulatory capital purposes. Pursuant to FIRREA, the FDIC amended its capital regulations effective January 28, 1991 to, *inter alia*, prescribe that maximum amount for insured savings associations. The Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") was enacted into law on December 19, 1991. Section 475 of FDICIA provides that each appropriate Federal banking agency shall determine, for the institutions for which it is the appropriate Federal regulator, the maximum amount of purchased mortgage servicing rights that may be included in calculating tangible capital, risk-based capital or the leverage limit. Accordingly, the FDIC is now amending its regulations so that they apply only to insured institutions for which the FDIC is the appropriate Federal banking agency.

EFFECTIVE DATE: February 18, 1992.

FOR FURTHER INFORMATION CONTACT: Robert F. Miailovich, Assistant Director, Division of Supervision (202-898-6918), Stephen G. Pfeifer, Examination Specialist, Accounting Section (202-898-8904), or Claude A. Rollin, Counsel, Legal Division (202-898-3985).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

No collections of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) are contained in this notice. Consequently, no information has been submitted to the Office of Management and Budget for review.

Administrative Procedure Act

The FDIC finds, in accordance with 5 U.S.C. 553(b), that notice and comment on this rule is impracticable and unnecessary since the changes being made are mandated by the Federal Deposit Insurance Corporation Improvement Act of 1991 and those changes are required by that Act to become effective 60 days after the law's enactment. In addition, since this is a substantive rule which relieves a restriction and is required to become effective 60 days after enactment of the Act, a 30-day delayed effective date is not required pursuant to 5 U.S.C. 553(d).

I. Background on Mortgage Servicing Rights

Mortgage servicing rights represent the right to service mortgage loans owned by others. In return for undertaking the contractual obligation to process and pass through principal and interest payments from borrowers to investors, maintain escrow accounts for the payment of taxes and insurance, collect delinquent payments, initiate foreclosure actions where appropriate, and perform related servicing functions, the mortgage servicer receives a servicing fee. This fee is generally based on a percentage of the remaining outstanding principal amount of the mortgages being serviced. These servicing rights can be internally generated or purchased from others. When mortgage servicing rights are purchased, the price paid is based on the present value of the expected future stream of net cash flows, computed by using a market discount rate that appropriately reflects the risks associated with the investment in the servicing rights, including credit risk, interest rate/prepayment risk, operational risk, and market risk. The purchase price paid for the servicing rights is reflected on the balance sheet as an intangible asset and amortized as an expense in proportion to, and over the period of, estimated net servicing income.

II. Amendments Made Pursuant to FIRREA

The Financial Instructions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA") was enacted into law on August 9, 1989. Section 301 of FIRREA added a new section 5(t) to the Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. 1464(t). Section 5(t)(4)(C)(ii) of HOLA, as added by FIRREA, provided that the FDIC "shall prescribe a maximum percentage of the tangible capital requirement that savings associations may satisfy by including purchased mortgage servicing rights in calculating such capital." 12 U.S.C. 1464(t)(4)(C)(ii). Pursuant to that section, the FDIC Board of Directors adopted revisions to its capital regulations, in December 1990, that restrict the amount of purchased mortgage servicing rights that savings associations can recognize when calculating the amount of tangible capital under the OTS capital regulation. 55 FR 53137 (December 27, 1990)

III. Requirements of the FDIC Improvement Act of 1991

The Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA") was enacted into law on December 19, 1991. Section 475 provides, *inter alia*, as follows:

Notwithstanding section 5(t)(4) of the Home Owners' Loan Act, each appropriate Federal banking agency shall determine, with respect to insured depository institutions for which it is the appropriate Federal regulator, the amount of readily marketable purchased mortgage servicing rights that may be included in calculating such institution's tangible capital, risk-based capital, or leverage limit, if—

(1) Such servicing rights are valued at not more than 90 percent of their fair market value; and

(2) The fair market value of such servicing rights is determined not less often than quarterly.

Pursuant to this provision, the FDIC is amending its regulations so that the purchased mortgage servicing rights provisions apply only to those insured institutions for which the FDIC is the appropriate Federal banking agency, namely, insured state-chartered nonmember banks. The authority to prescribe the maximum amount of purchased mortgage servicing rights that can be recognized for regulatory capital purposes by insured savings associations now rests with the Office of Thrift Supervision ("OTS").

Regulatory Flexibility Act Statement

The Board of Directors of the FDIC hereby certifies that these amendments to part 325 will not have a significant economic impact on a substantial number of small business entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). In light of this certification, the Regulatory Flexibility Act requirements (at 5 U.S.C. 603, 604) to prepare initial and final regulatory flexibility analklyses do not apply

List of Subjects in 12 CFR Part 325

Bank deposit insurance, Banks, Banking, Capital adequacy, Reporting and recordkeeping requirements, State nonmember banks, Savings associations.

The Board of Directors of the Federal Deposit Insurance Corporation hereby amends part 325 of title 12 of the Code of Federal Regulations as follows:

PART 325—[AMENDED]

1. The authority citation for part 325 is revised to read as follows:

Authority: 12 U.S.C. 1815(a), 1815(b), 1816, 1818(a), 1818(b), 1818(c), 1818(t), 1819 (Tenth), 1828(c), 1828(d), 1828(i), 1828(n), 3907, 3909; Pub. L. No. 102–242, 105 Stat. 2236, 2386 (12 U.S.C. 1828 note).

§ 325.1 [Amended]

2. Section 325.1 is amended by removing the next to last sentence of that section.

§ 325.5 [Amended]

3. Section 325.5 is amended by removing paragraphs (f)(5) and (f)(8), redesignating paragraphs (f)(6) and (f)(7) as new paragraphs (f)(5) and (f)(6), removing from newly designated paragraph (f)(5) the words "and tangible capital limitations described in paragraphs (f)(4) and f(5)" and adding "limitations described in paragraph (f)(4)" in lieu thereof each time they appear, and removing the last sentence of the concluding text of newly designated paragraph (f)(6).

By order of the Board of Directors.

Dated at Washington, DC, this 25th day of February, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92–4790 Filed 3–3–92; 8:45 am]

BILLING CODE 6714–01–M

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12 CFR Part 337

RIN 3064–AB00

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The FDIC is amending its regulations limiting extensions of credit by insured nonmember banks to their executive officers. The amendment conforms the FDIC's regulations to recent statutory changes that bring loans by insured nonmember banks to their executive officers within the restrictions of section 22(g) of the Federal Reserve Act.

EFFECTIVE DATE: May 18, 1992.

If regulations adopted by the Board of Governors of the Federal Reserve System ("Federal Reserve Board") pursuant to section 306(m) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. No. 102–242, 105 Stat. 2236) become effective earlier than May 18, 1992, the Federal Deposit Insurance Corporation will publish a document in the **Federal Register** changing the effective date.

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Counsel (202) 898–3730, Legal Division, FDIC, 550 17th Street NW., Washington, DC 20429 or Michael D. Jenkins, Examination Specialist, (202) 898–6896, Division of Supervision, FDIC, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this rule has been submitted to the Office of Management and Budget for review pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). Comments on the collection of information should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Deposit Insurance Corporation, with copies of such comments to be sent to Steven F. Hanft, Office of the Executive Secretary, room F–453, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. The collection of information in this regulation is found in § 337.3(a) and takes the form of (1) a requirement that executive officers of insured nonmember banks file a report with the board of directors of their bank within 10 days of incurring any indebtedness to any other bank in an amount in excess of the amount the insured nonmember bank could lend to the officer, and (2) a requirement that insured nonmember banks include with their report of condition filed with the FDIC a report of any extensions of credit made by the bank to its executive officers since the bank filed its last report of condition. The information collection is required by statute, will enable the FDIC to determine if an insured nonmember bank is complying with the statutory restrictions on lending to its executive officers to which it is subject pursuant to section 18(j)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)(2)), and will aid insured nonmember banks in complying with the limits and restrictions contained therein.

The estimated annual reporting burden for the collection of information requirement in the regulation is summarized as follows:

Report of Condition Reporting Requirement

Number of Respondents: 4,210.
Number of Responses Per Respondent: 3.
Total Annual Responses: 12,630.
Hours Per Response: ¼.
Total Annual Burden Hours: 3,157.5.

Report to Institution's Board of Directors
Number of Respondents: 4,000.
Number of Responses: 2.
Total Annual Responses: 8,000.
Hours per Response: 2.
Total Annual Burden Hours: 16,000.

Background and Description of Amendment

On December 19, 1991 President Bush signed into law the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA", Pub. L. No. 102–242, 105 Stat. 2236, "Act"). Section 306 of that Act, among other things, amended section 18(j)(2) of the Federal Deposit Insurance Corporation Act ("FDI Act", 12 U.S.C. 1828(j)(2)) to provide that section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) "shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank". The amendments made by section 306 of FDICIA do not become effective until the earlier of the day regulations adopted by the Federal Reserve Board implementing section 306 become effective or 150 days from the enactment of section 306 (May 18, 1992). If the regulations adopted by the Federal Reserve Board become effective earlier than May 18, 1992, the FDIC will publish a document in the **Federal Register** changing the effective date of this final rule. A description of section 22(g) follows.

Section 22(g) of the Federal Reserve Act prohibits member banks from making extensions of credit to their executive officers except to the extent authorized therein. It requires that extensions of credit by a member bank to its executive officers be promptly reported to the bank's board of directors and that extensions of credit to executive officers only be made if the bank would be authorized to make the extension to borrowers other than its executive officers, the extension of credit is on terms not more favorable than those afforded other borrowers, the

executive officer has submitted a detailed current financial statement, and the extension of credit is made on the condition that it becomes due and payable on demand at the option of the bank if the executive officer becomes indebted to any other bank or banks in an amount that could not be extended to such officer by his/her own bank. It requires exective officers to make a report to the bank's board of directors if the executive officer becomes indebted to another bank in the amount in excess of that which the member bank could extend to the officer and requires member banks to include along with their report of condition a report of all loans made by the bank to its executive officers since the submission of its last call report. The report to the board of directors must indicate the date and amount of each extension of credit, the security therefor, and the purposes for which the proceeds were used. With the exception noted below, the Federal Reserve Board is given the authority to write regulations implementing section 22(g).

Section 22(g) specifically provides that member banks may extend credit to an executive officer of the bank with the specific prior approval of its board of directors if the loan is secured by a first lien on a dwelling to be owned by the executive officer and used as the executive officer's residence provided that no other such mortgage loan is outstanding to the executive officer. Member banks may also extend credit to an executive officer for the purpose of financing the education of the officer's children. Other types of loans may be made to the extent permitted by regulation. Section 22(g)(4) provides that extensions of credit to an executive officer not otherwise specifically authorized by section 22(g) may be made "in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency". Loans may be made to a partnership in which one or more of the bank's executive officers are partners and have either individually or together a majority interest provided that the loans do not exceed the limit set by the appropriate agency pursuant to section 22(g)(4). The total amount of credit extended by a member bank to such partnership is considered to be extended to each executive officer of the member bank who is a member of the partnership. (See section 22(g)(5)).

It is the opinion of the FDIC's Board of Directors that insured nonmember banks are not only subject to section 22(g) of the Federal Reserve Act but that they are equally subject to lawfully promulgated regulations of the Federal Reserve Board implementing the provisions of section 22(g) other than section 22(g)(4) which, as noted above, provides that the appropriate federal regulatory agency shall set the limit on extensions of credit relevant for that section. Sections 215.5(a), 215.5(c)(1) and (c)(2), 215.5(d), 215.8, and 215.9 of the Federal Reserve Board's regulations (12 CFR 215.5(a), (c)(1), (c)(2), (d), 215.8, 215.9) set forth the Federal Reserve Board's regulations governing those portions of section 22(g) with regard to which that agency has rulemaking authority. The majority of the remainder of Part 215 of the Federal Reserve Board's regulations (commonly referred to as Regulation O) implements section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) which governs extensions of credit to directors, executive officers, and principal shareholders of member banks. Like section 22(g), section 22(h) is applicable to insured nonmember banks in the same manner and to the same extent as though they were member banks. (See section 18(j)(2) of the FDI Act, 12 U.S.C. 1828). Section 215.10 of Regulation O (12 CFR 215.10) sets forth reporting requirements applicable to loans made by member banks to their executive officers and principal shareholders. That section was adopted by the Federal Reserve Board pursuant to the authority of section 7(k) of the FDI Act which directs the appropriate agency to adopt regulations governing such reports. (12 U.S.C. 1817(k)). Regulations setting forth similar requirements applicable to nonmember banks are found at part 349 of the FDIC's regulations. (12 CFR part 349).

The FDIC's Board of Directors determined when section 22(h) was enacted and Regulation O was adopted that both the statutory provisions and the Federal Reserve Board's regulation implementing those provisions were applicable to insured nonmember banks. Section 337.3(a) of the FDIC's regulations (12 CFR 337.3) which specifically provides that insured nonmember banks are subject to the restrictions contained in subpart A of Regulation O with the exception of certain provisions (namely those implementing section 22(g) and the reporting requirement described immediately above) was subsequently adopted. The FDIC is amending § 337.3 in order to conform that section of the FDIC's regulations with the statutory changes enacted as part of FDICIA.

As a result of the changes made hereby, insured nonmember banks will be subject to §§ 215.5(a), (c)(1), (c)(2), (d), 215.8, and 215.9 of Regulation O. Those provisions are described below. Section 215.5(b) and 215.5(c)(3) are not being made applicable to insured nonmember banks as part of this amendment. Those provisions implement section 22(g)(4) and section 22(g)(5) of the Federal Reserve Act, *i.e.*, provide authority for loans other than education loans and mortgage loans and set the maximum limit on such loans. The FDIC is proposing for comment elsewhere in today's **Federal Register** an amendment to section 337.3 that will authorize by regulation loans other than education loans and mortgage loans, will establish the ceiling for such loans, and provide a schedule for bringing outstanding loans into compliance.

Section 215.5(a) provides that no member bank may extend credit to any of its executive officers, and no executive officer of a member bank may become indebted to the bank, except in the amounts and for the purposes provided in section 215.5 (c) and (d). Section 215.5(c)(1) provides that a member bank is authorized to extend credit to an executive officer of the bank in any amount to finance the education of the officer's children and in any amount to finance the purchase, construction, maintenance or improvement of the officer's residence if the extension of credit is secured by a first lien on the residence and the residence is owned or expected to be owned by the officer. Section 215.5(d) requires that any extension of credit by a member bank to any of its executive officers shall be promptly reported to the bank's board of directors; must comply with the requirements of § 215.4(a) (must be on terms and conditions substantially the same as for comparable transactions with persons not employed by the bank and cannot involve more than a normal risk of repayment); must be preceded by the submission of a current financial statement; and must be subject to the condition that the extension of credit will become due and payable at the bank's option if the executive officer becomes indebted to any other bank or banks in an aggregate amount greater than the amount specified for a category of loans described in § 215.5(c). Section 215.8 requires executive officers of member banks that become indebted to any other bank or banks in an aggregate amount greater than the amount specified in § 215.5(c) to make a written report to the board of directors of the member bank within 10 days of the date that the indebtedness exceeds that amount. The report must indicate the amount of each extension of credit, the security for the extension of credit and

the purpose for which the proceeds have or will be used. Section 215.9 requires member banks to include along with (but not as part of) their report of condition a report of all extensions of credit made by the member bank to its executive officers since the submission of the bank's last report of condition.

Effect of Amendment on Outstanding Extensions of Credit

Any extensions of credit outstanding as of the effective date of the amendment to section 337.3 that do not conform to the regulation will not be considered to be in violation thereof. Such loans may continue to be held by the bank until their maturity, however, no renewal or extension of any such loan may be made other than in conformance with section 337.3.

Adoption of Amendment Without Opportunity for Public Comment

The amendments are being adopted in final form without opportunity for public comment on the authority of section 553(b) of the Administrative Procedure Act (5 U.S.C. 553(b)) which provides that public comment may be dispensed with in regard to a substantive rule if public comment is impracticable, unnecessary, or contrary to the public interest. The Board of Directors has determined that in this instance public comment is unnecessary as the amendment merely conforms the FDIC's regulations to changes made in the law by statute.

Regulatory Flexibility Analysis

As the amendment to part 337 is not required to be published for public comment, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

In addition, pursuant to the FDIC's statement of policy on drafting of regulations, it has been determined that a cost-benefit analysis, including a small bank impact statement, is not required inasmuch as the amendments to the FDIC's regulations are required by statute. The FDIC does note, however, that any reporting or recordkeeping requirement imposed under the statute and/or regulation will be less burdensome for small banks as such banks typically have fewer executive officers and thus will probably have fewer transactions to report.

List of Subjects in 12 CFR Part 337

Banks, banking, Reporting and recordkeeping requirements, Securities.

In consideration of the foregoing, the FDIC hereby amends part 337 of title 12 of the Code of Federal Regulations as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for part 337 is revised to read as follows:

Authority: 12 U.S.C. 375a, 375b, 1816, 1818(a), 1819, 1828(j)(2), 1831f.

§ 337.3 [Amended]

2. Section 337.3(a) is amended by removing the words "With the exception of §§ 215.5, 215.8, 215.9, and 215.10" and substituting therefor "With the exception of §§ 215.5(b), 215.5(c)(3), and 215.10".

Dated at Washington, DC this 25th day of February, 1992.

By Order of the Board of Directors.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 92-4888 Filed 3-3-92; 8:45 am]
BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91-CE-78-AD; Amdt. 39-8191; AD 92-06-11]

Airworthiness Directives; Beech Models B200, 300, B300, B300C, and 1900C Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Beech Models B200, 300, B300, B300C, and 1900C airplanes equipped with the Collins EFIS-85/86B (14) system. This AD action requires wiring changes to the airplane autopilot/flight director system and hardware modifications to the Collins DPU-85N Display Processor Units (DPU) and Collins MPU-85N Multifunction Processor Units (MPU) in the EFIS-85/86B (14) system. The pilot of one of the affected airplanes received an erroneous attitude display without the appropriate warning flag being displayed on the EFIS-85/86B (14) system. The actions specified by this AD are intended to prevent incorrect pilot decisions based on incorrect attitude information displayed without a warning flag by the Collins EFIS-85/86B (14) system, and possible loss of control of the airplane if the autopilot is engaged.

DATES: Effective March 30, 1992.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 30, 1992. Comments for inclusion in the Rules Docket must be received on or before May 11, 1992.

ADDRESSES: Collins Service Bulletin (SB) DPU-85N-34-51 and SB MPU-85N-34-51, both dated June 6, 1991, may be obtained from Rockwell International, Collins General Aviation Division, 400 Collins Road, NE.; Cedar Rapids, Iowa 52498. Beech SB No. 2423, dated December 1991, may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085. This service information may be examined at the Rules Docket at the address below. Send comments on this AD in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 91-CE-78-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Roger A. Souter, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4134; Facsimile (316) 946-4407.

SUPPLEMENTARY INFORMATION: The pilot of a Beech Model B300 airplane with a certain current production Collins EFIS-85/86B (14) system installation received an erroneous attitude display without the appropriate warning flag being displayed. This may occur when a single vertical gyro is connected in an aircraft to a two-tube or three-tube electronic flight instrument system (EFIS) and the 400-hertz reference signal is interrupted to the EFIS; i.e., pulling the 26 volts alternating current (VAC) circuit breaker, while the excitation signal to the gyro remains valid. This situation could result in incorrect pilot decisions based on erroneous attitude information displayed without a warning flag by the Collins EFIS-85/86B (14) system, and possible loss of control of the airplane if the autopilot is engaged.

Beech has issued Service Bulletin (SB) No. 2423, dated December 1991, which specifies modifications to the airplane autopilot/flight director system wiring on certain Beech Models B200, 300, B300, B300C, and 1900C airplanes. In addition, Collins has issued SB MPU-85N-34-51 and SB DPU-85N-34-51, both dated June 6, 1991, which specify hardware modifications to the Display Processor Units (DPU) and Multifunction Processor Units (MPU) that are installed on the Collins EFIS-85/86B (14) system on certain Beech Models B200, 300, B300, B300C, and 1900C airplanes.

After careful review of the above information, the FAA has determined that AD action should be taken in order to prevent incorrect pilot decisions based on erroneous attitude information displayed without a warning flag by the Collins EFIS–85/86B (14) system, and possible loss of control of the airplane if the autopilot is engaged.

Since an unsafe condition has been identified that is likely to exist or develop in other Beech Models B200, 300, B300, B300C, and 1900C airplanes of the same type design that are equipped with the Collins EFIS–85/86B (14) system, this AD action requires wiring changes to the airplane autopilot/flight director system and hardware modifications to the Collins DPU–85N DPUs or Collins MPU–85N MPUs in the EFIS–85/86B (14) system. The actions are to be done in accordance with the instructions in Beech SB No. 2423, dated December 1991, and Collins SB DPU–85N–34–51 and SB MPU–85N–34–51, both dated June 6, 1991, whichever are applicable.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket at the address given above. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 91–CE–78–AD." The postcard will be date stamped and returned to the commenter.

Paragraph (b) of this AD is presented in calendar time instead of hours time-in-service (TIS) in order to allow the operator ample time to accomplish the modification. Airplanes could be grounded if the compliance time in paragraph (b) were in hours TIS because the utilization rate of the affected airplanes varies throughout the fleet. For example, one operator may utilize the airplane 50 hours TIS in one week, while another operator may not operate the airplane 50 hours TIS in one month. Therefore, to avoid inadvertent grounding of the affected airplanes because of insufficient time to accomplish the modification, calendar time is used in paragraph (b) of this AD. The wiring modification required by paragraph (a) of this AD is presented in hours TIS because of the simplicity and little time needed to complete the action.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

92–06–11 **Beech:** Amendment 39–8191; Docket 91–CE–78–AD.

Applicability: The following Beech model airplanes that are equipped with Collins DPU–85N Display Processor Units (DPU) and Collins MPU–85N Multifunction Processor Units (MPU), certificated in any category:

Model	Serial numbers
B200	BB–1349 through BB–1409.
300	FA–205 through FA–217.
B300	FL–1 through FL–60.
B300C	FM–1 through FM–3.
1900C	UC–73, UC–139 and UC–147.

Compliance: Required as indicated, unless already accomplished.

To prevent incorrect pilot decisions based on undetected erroneous attitude information displayed by the Collins EFIS–85/86B (14) system or undesired autopilot movement of the airplane, accomplish the following:

(a) Within the next 50 hours time-in-service (TIS) after the effective date of this AD, modify the airplane autopilot/flight director system wiring in accordance with the instructions in Beech Service Bulletin (SB) No. 2423, dated December 1991.

(b) Within the next 6 calendar months after the effective date of this AD, modify the hardware of the Collins EFIS–85/86B (14) system, Collins DPU–85N Display Processor Unit, and Collins MPU–85N Multifunction Processor Unit in accordance with the instructions in Collins SB DPU–85N–34–51 and SB MPU–85N–34–51, both dated June 6, 1991.

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

(d) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the

Manager, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(e) The modifications required by this AD shall be done in accordance with Beech Service Bulletin No. 2423, dated December 1991, and Collins Service Bulletin DPU–85N–34–51 and Collins Service Bulletin MPU–85N–34–51, both dated June 6, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085; or Rockwell International, Collins General Aviation Division, 400 Collins Road, NE.; Cedar Rapids, Iowa 52498. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 1100 L Street, NW.; room 8401, Washington, DC.

(f) This amendment (39–8191) becomes effective on March 30, 1992.

Issued in Kansas City, Missouri, on February 21, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4976 Filed 3–3–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 546

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA) from Pfizer, Inc., to Wade Jones Co., Inc.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8646.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, has informed FDA that it has transferred ownership of, and all rights and interests in, approved NADA 65–140 (tetracycline soluble powder) to Wade Jones Co., Inc., 409 North Bloomington, Lowell, AR 72745. Accordingly, FDA is amending the regulations in 21 CFR 510.600 and 546.180d to reflect the change of sponsor.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 546

Animal drugs, Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 546 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 376).

2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for "Wade Jones Co., Inc.," and in the table in paragraph (c)(2) by numerically adding a new entry for "047864" to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
• • • • •	
Wade Jones Co., Inc., 409 North Bloomington, Lowell, AR 72745	047864
• • • • •	

(2) * * *

Drug labeler code	Firm name and address
•	• • • • •
047864	Wade Jones Co., Inc., 409 North Bloomington, Lowell, AR 72745.
•	• • • • •

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

3. The authority citation for 21 CFR part 546 continues to read as follows:

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

§ 546.80d [Amended]

4. Section 546.180d *Tetracycline soluble powder* is amended in paragraphs (c)(6)(i)(*a*)(*3*), (c)(6)(i)(*b*)(*3*), (c)(6)(ii)(*d*), (c)(6)(iii)(*a*)(*3*), (c)(6)(iii)(*b*)(*3*), (c)(6)(iii)(*c*)(*3*), (c)(6)(iv)(*a*)(*3*), and (c)(6)(iv)(*b*)(*3*), by removing "000069" and adding in its place "047864".

Dated: February 26, 1992.

Robert C. Livingston,

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

[FR Doc. 92–4926 Filed 3–3–92; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 520, 524, and 558

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for three new animal drug applications (NADA's) from American Cyanamid Co. to Pitman-Moore, Inc.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–295–8646.

SUPPLEMENTARY INFORMATION: American Cyanamid, Inc., One Cyanamid Plaza, Wayne, NJ 07470, has informed FDA that it has transferred ownership of, and all rights and interests in, approved NADA's 34–266, 34–697, and 139–858 to Pitman-Moore, Inc., Mundelein, IL 60060. Accordingly, FDA is amending the regulations in 21 CFR 520.1242g, 524.900, and 558.254 to reflect the change of sponsor.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 524

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520, 524, and 558 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR part 520 continues to read as follows:

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

§ 520.1242g [Amended]

2. Section 520.1242g *Levamisole resinate and famphur paste* is amended in paragraph (c) by removing "010042" and adding in its place "011716".

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 524 continues to read as follows:

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

§ 524.900 [Amended]

4. Section 524.900 *Famphur* is amended in paragraph (c) by removing "010042" and adding in its place "011716".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

5. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Sec. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.254 [Amended]

6. Section 558.254 *Famphur* is amended in paragraph (a) by removing "010042" and adding in its place "011716".

Dated: February 26, 1992.

Robert C. Livingston,

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

[FR Doc. 92-4925 Filed 3-3-92; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 548 and 558

Bacitracin Zinc et al.; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the change of sponsor for eight new animal drug applications (NADA's) from Pitman-Moore, Inc., to American Cyanamid Co.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8646.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., 421 East Hawley St., Mundelein, IL 60062, has informed FDA that it has transferred to American Cyanamid, One Cyanamid Plaza, Wayne, NJ 07470, ownership of, and all rights and interests in, the following approved NADA's:

NADA No.	Product No.	Ingredients
46-920	BACIFERM 10, 25, 40, 50.	Bacitracin zinc.
65-313	BACIFERM Soluble 50.	Bacitracin zinc.
105-758	BACIFERM + AMPROL HI-E + 3-NITRO.	Bacitracin zinc, Amprolium, Ethopabate, Roxarsone.
114-794	BACIFERM + AMPROL HI-E Mix.	Bacitracin zinc, Amprolium, Ethopabate.
123-154	BACIFERM + 3-NITRO + COBAN.	Bacitracin zinc, Roxarsone, Monensin.
136-484	BACIFERM + CARB-O-SEPT.	Bacitracin zinc, Carbasone.
139-190	BACIFERM + BIO-COX + 3-NITRO.	Bacitracin zinc, Salinomycin, Roxarsone.
139-235	BACIFERM + BIO-COX.	Bacitracin zinc, Salinomycin, Roxarsone.

The agency is amending the regulations in 21 CFR parts 548 and 558 to reflect this change of sponsor.

List of Subjects

21 CFR Part 548

Animal drugs, Antibiotics.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 548 and 558 are amended as follows:

PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

1. The authority citation for 21 CFR part 548 continues to read as follows:

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

§ 548.114 [Amended]

2. Section 548.114 *Bacitracin zinc soluble powder* is amended in paragraph (c)(2) by removing the number "011716" and adding in its place "010042".

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.58 [Amended]

4. Section 558.58 *Amprolium and ethopabate* is amended in the table in paragraph (d)(1), in entry (iii), in the 3d, 4th, 5th, and 7th entries under the "Limitations" column, and in the 4th and 7th entries under the "Sponsor" column by removing the number "011716" and adding in its place "010042".

§ 558.78 [Amended]

5. Section 558.78 *Bacitracin zinc* is amended in paragraph (a)(2), in the table in paragraph (d)(1), in entries (i), (ii), (v), (vi) under the "Sponsor" column, and in paragraph (d)(2)(ii) by removing the number "011716" and adding in its place "010042".

§ 558.120 [Amended]

6. Section 558.120 *Carbarsone (not U.S.P.)* is amended in paragraph (c)(1)(iii)(*b*) by removing the number "011716" and adding in its place "010042".

§ 558.355 [Amended]

7. Section 558.355 *Monensin* is amended in paragraphs (b)(9), (f)(1)(iv)(*b*), (f)(1)(v)(*b*), (f)(1)(xv)(*b*), and (f)(1)(xvi)(*b*) by removing the number "011716" and adding in its place "010042".

§ 558.550 [Amended]

8. Section 558.550 *Salinomycin* is amended in paragraphs (b)(1)(vii)(*c*) and (b)(1)(ix)(*c*) by removing the number "011716" and adding in its place "010042".

Dated: February 26, 1992.

Robert C. Livingston,

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

[FR Doc. 92-4927 Filed 3-3-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 48

[T.D. 8399]

RIN 1545-AO59

Regulations Amending the Gasohol Regulations to Modify the Gasohol Tolerance and the Later Blending Rules

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides amendments to the regulations under section 4081(c) of the Internal Revenue Code of 1986 ("Code"). The amendments modify the gasohol tolerance rule that permits gasohol containing less than 10 percent alcohol to qualify for a reduced rate of tax. The amendments also eliminate the later blending rule, except where later blending is for the purpose of producing a mixture that contains less than 10 percent alcohol. These regulations respond to comments on the existing rules and affect gasohol blenders and retailers.

EFFECTIVE DATE: The amendments to the gasohol tolerance rule and the gasohol later blending rule are effective January 1, 1991.

FOR FURTHER INFORMATION CONTACT: Edward B. Madden, Jr., 202-535-9758 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The Manufacturers and Retailers Excise Tax Regulations (26 CFR part 48) under section 4081 of the Code contain rules relating to the excise tax on gasohol (a mixture of gasoline and at least 10 percent alcohol). On Monday, February 25, 1991, the Federal Register published a Notice of Proposed Rulemaking (56 FR 7627) proposing amendments to those rules. Written comments responding to the notice were received and a public hearing was held on August 16, 1991. This document adopts the proposed amendments with the changes discussed below.

Explanation of Provisions

The proposed regulations contain amendments to the rules concerning allowable tolerances in the production of gasohol and the later blending of motor fuel with gasohol. The final regulations adopt the proposed gasohol tolerance rule, with the changes discussed below, and adopt the proposed later blending rule without significant change.

Under the proposed regulations, the determination of whether gasohol qualifies for a reduced rate of tax would be made on a batch-by-batch basis. Any batch containing at least 9.8 percent alcohol (without rounding) immediately after blending would qualify for the reduced rate. Commentators expressed concern that the proposed regulations would allow mixtures to qualify as gasohol even though the blender intends that the mixture contain less than 10 percent alcohol.

The final regulations generally provide that, for purposes of determining if the alcohol requirement has been met, a batch is considered to be gasohol only if it contains at least 9.8 percent alcohol by volume, without rounding. If a batch of mixture contains less than 10 percent alcohol but at least 9.8 percent alcohol, only a portion of the batch is considered to be gasohol. That portion equals the number of gallons of alcohol in the mixture multiplied by 10. Any excess liquid in the mixture is considered to be gasoline with respect to which there is a failure to blend into gasohol within the meaning of § 48.4081-2(g) of the regulations. Under that provision, a person who fails to blend gasoline taxed at the reduced rate for gasoline used in the production of gasohol is subject to tax on the removal or sale of the gasoline at a rate of tax equal to the difference between the rate of tax for gasoline and the gasohol production tax rate.

The proposed regulations provide that, if a blender adds metered gallons of gasoline and alcohol into a tank already containing more than a de minimis amount of liquid (other than gasohol), the determination of whether a batch satisfies the alcohol requirement will be made by taking into account the amount of alcohol and non-alcohol fuel contained in the liquid already in the tank. The Internal Revenue Service requested comments concerning the quantity of liquid (other than gasohol) that should be considered de minimis for these purposes given the commercial and operating realities associated with the blending process. The only comment received suggested that amounts not in excess of 2 percent of tank capacity should be de minimis. The Service understands, however, that the oil industry norm for acceptable residual amounts in transport tanks is 0.5 percent. Therefore, the final regulations provide that ordinarily any amount in excess of 0.5 percent of tank capacity will not be considered de minimis.

Effective Date

The proposed modifications to the gasohol tolerance rule and the gasohol later blending rule were to be effective for gasoline sold or removed on or after January 1, 1991. The final regulations concerning the gasohol tolerance rule are generally effective for sales or removals on or after January 1, 1991. However, for sales or removals occurring on or after January 1, 1991, and before April 1, 1992, the entire batch is treated as gasohol if the batch contains at least 9.8 percent alcohol. The amendments to the later blending rule adopted by the final regulations are effective for sales or removals occurring on or after January 1, 1991. Retroactive application of the regulations would not increase the supply of gasohol, but effectively would benefit taxpayers who violated regulations that were in force at the time they blended gasohol.

Special Analyses

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

Drafting Information

The principal author of these regulations is Edward B. Madden, Jr., Office of Assistant Chief Counsel (Passthroughs & Special Industries), Internal Revenue Service, but other personnel from the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 48

Agriculture, Arms and ammunition, Coal, Excise taxes, Gasohol, Gasoline, Motor vehicles, Petroleum, Reporting

and recordkeeping requirements, Sporting goods, Tires.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 48 is amended as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Par. 1. The authority citation for part 48 is amended by adding the following citation:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * * Section 48.4081–2 also issued under 26 U.S.C. 4081(c)(1); * * *

Par. 2. Section 48.4081–2 is amended by revising paragraphs (a)(5) and (e)(3) to read as follows:

§ 48.4081–2 Gasoline mixed with alcohol.

(a) * * *

(5) *Qualifying gasohol*—(i) *In general.* Qualifying gasohol ("gasohol") is a blend of gasoline and alcohol in a mixture that satisfies the alcohol-content requirement immediately after the mixture is blended. The determination of whether a particular mixture satisfies the alcohol-content requirement is made on a batch-by-batch basis. Except to the extent provided in paragraph (a)(5)(ii) of this section, a batch satisfies the alcohol-content requirement if and only if it contains at least 9.8 percent alcohol by volume, without rounding. A batch of gasohol is a discrete mixture of gasoline and alcohol. If a batch is splash blended, a batch typically corresponds to a gasoline meter delivery ticket and an alcohol meter delivery ticket, each of which shows the number of gallons of liquid delivered into the mixture. In such case, the volume of each component in a batch (without adjustment for temperature) ordinarily is determined by the number of metered gallons shown on the delivery tickets for the gasoline and alcohol delivered. However, if a blender adds metered gallons of gasoline and alcohol to a tank already containing more than a de minimis amount of liquid (other than gasohol), the determination of whether a batch satisfies the alcohol-content requirement will be made by taking into account the amount of alcohol and non-alcohol fuel contained in the liquid already in the tank. Ordinarily, any amount in excess of 0.5 percent of the capacity of the tank will not be considered de minimis.

(ii) *Batches containing less than 10 percent but at least 9.8 percent alcohol.* Where a batch of mixture contains less than 10 percent alcohol but at least 9.8 percent alcohol, only a portion of the batch is considered to be gasohol. That portion equals the number of gallons of alcohol in the batch multiplied by 10. Any excess liquid in the batch is considered to be gasoline with respect to which there is a failure to blend into gasohol for purposes of paragraph (g) of this section and is considered to be removed prior to the removal of the gasohol portion.

(iii) *Examples.* The provisions of this paragraph (a)(5) are illustrated by the following examples:

Example 1. A gasohol blender blends a batch of gasohol in a tank holding approximately 8000 gallons of mixture. The applicable delivery tickets show that the mixture is blended by first pumping 7200 metered gallons of gasoline into the empty tank, and then pumping 800 metered gallons of alcohol into the tank. Accordingly, the mixture contains 10 percent alcohol (as determined based on the delivery tickets provided to the blender) and qualifies as gasohol.

Example 2. The facts are the same as in *Example 1* except that the applicable delivery tickets show that a mixture is blended by first pumping 7220 metered gallons of gasoline into the empty tank, and then pumping 780 metered gallons of alcohol into the tank. Because the mixture contains only 9.75 percent alcohol (as determined based on the delivery tickets provided to the blender), the mixture does not qualify as gasohol.

Example 3. The facts are the same as in *Example 1* except that the applicable delivery tickets show that a mixture is blended by first pumping 7205 metered gallons of gasoline into the empty tank, and then pumping 795 metered gallons of alcohol into the tank. Because the mixture contains less than 10 percent alcohol, but more than 9.8 percent alcohol, (as determined based on the delivery tickets provided to the blender), only 7950 gallons of the mixture qualify as gasohol. The remaining 50 gallons of the mixture are treated as gasoline with respect to which there was a failure to blend into gasohol for purposes of paragraph (g) of this section.

(iv) *Effective date and transition rule.* This paragraph (a)(5) generally applies to sales or removals of gasoline or gasohol made on or after January 1, 1991, except that paragraph (a)(5)(ii) of this section applies only to sales or removals of gasoline or gasohol made on or after April 1, 1992.

* * * * *

(e) * * *

(3) *Later blending*—(i) *In general.* Section 4081(b) imposes a tax on the sale or removal of a mixture by the blender thereof if—

(A) The blender produced the mixture by blending gasohol and additional motor fuel (other than gasohol) for the purpose of producing fuel that contains a specific percentage of alcohol that is less than 10 percent;

(B) Tax was imposed with respect to the gasohol at the reduced rate prescribed in section 4081(c) (or tax was imposed with respect to the gasohol at the rate prescribed in section 4081(a) for gasoline and a refund or credit is claimed pursuant to section 6427(f)); and

(C) Immediately after blending, the mixture contains less than 10 percent alcohol.

(ii) *Amount of tax.* The amount of tax imposed under this paragraph (e)(3) is the difference between—

(A) The number of gallons in the mixture times the rate prescribed under section 4081(a) for gasoline; and

(B) The total amount of tax previously imposed under section 4081(a) (and not refunded or credited) with respect to the components of the mixture.

(iii) *Liability for tax.* The blender of the mixture is liable for the tax imposed under this paragraph (e)(3).

(iv) *Examples.* The provisions of this paragraph (e)(3) are illustrated by the following examples.

Example 1. A retailer advertises fuel containing 5 percent alcohol. To produce the mixture, the retailer purchases 5,000 gallons of gasohol on which tax has been imposed at the reduced rate prescribed in section 4081(c). The blender then blends the gasohol with 5,000 gallons of gasoline. Because the retailer blends the gasoline and gasohol for the purpose of producing a mixture that contains only 5 percent alcohol, this paragraph (e)(3) applies and tax is imposed on the sale or removal of the mixture under section 4081(b). Under paragraph (e)(3)(ii) of this section, the amount of tax imposed is the difference between (i) 10,000 gallons times the rate prescribed under section 4081(a) for gasoline, and (ii) the total amount of tax previously imposed under section 4081(a) with respect to components of the mixture. The retailer may be entitled to claim a credit under section 40(b) for the amount of alcohol contained in the mixture.

Example 2. A retailer who has been selling gasoline decides to begin selling gasohol. The retailer purchases 5,000 gallons of gasohol on which tax has been imposed at the reduced rate prescribed in section 4081(c). The retailer pumps the gasohol into a gasoline storage tank that had not been emptied prior to the conversion to gasohol sales. Because the retailer did not blend the gasohol purchased and the gasoline already in the storage tank for the purpose of producing a mixture containing a specific percentage of alcohol that is less than 10 percent, this paragraph (e)(3) does not apply and tax is not imposed under section 4081(b) even if the resulting mixture contains less than 10 percent alcohol. Similarly, this paragraph (e)(3) would not apply and tax would not be imposed under section 4081(b) if, several months later, the retailer decides to switch back to gasoline sales because of a shortage in the supply of gasohol and pumps gasoline into the storage tank, which still contains some gasohol.

(v) *Effective date.* This paragraph (e)(3) applies to sales or removals of gasoline made on or after January 1, 1991.

* * * * *

January 24, 1992.

David G. Blattner,

Acting Commissioner of Internal Revenue.

Approved:

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

[FR Doc. 92-4811 Filed 3-3-92; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-92-002]

Drawbridge Operation Regulations; Roanoke Sound, Manteo, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule; revocation.

SUMMARY: This amendment removes the regulations for the bridge across Roanoke Sound, mile 2.8, in Manteo, North Carolina, because the swing bridge has been removed. A notice of proposed rulemaking has not been issued for this regulation because removal of the bridge eliminates all need for regulations.

DATES: This final rule becomes effective on March 4, 1992.

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

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and LT Monica L. Lombardi, Project Attorney.

Discussion of Final Rule

The swing bridge across the Roanoke Sound, mile 2.8, in Manteo, North Carolina, was replaced by a high level fixed bridge along the same alignment. The existing bridge has been removed making it necessary to revoke 33 CFR 117.838. This action has no economic consequences. It merely revokes regulations for a swing bridge that no longer exists.

Regulatory Evaluation

This action is considered non-major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the U.S. Coast Guard must consider whether final rules 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). Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). Nevertheless, the Coast Guard certifies that this action will not have a significant economic impact on a substantial number of small entities.

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

Environmental

This rulemaking has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.g.(5) of Commandant Instruction M16475.1B. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

§ 117.838 [Removed]

2. Section 117.838 is removed.

Dated: February 14, 1992.

W.T. Leland,

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

[FR Doc. 92-5004 Filed 3-3-92; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

Increase in Maximum Permissible Interest Rates on Guaranteed Manufactured Home Loans, Home and Condominium Loans, and Home Improvement Loans

AGENCY: Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Department of Veterans Affairs (VA) is increasing the maximum interest rates on guaranteed manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans. In addition, the maximum interest rates applicable to fixed payment and graduated payment home and condominium loans, and to home improvement and energy conservation loans are also increased. These increases are necessary because previous rates were not competitive enough to induce lenders to make guaranteed or insured home loans without substantial discounts, or to make manufactured home loans. The increase in the interest rates will assure a continuing supply of funds for home mortgages, home improvement and manufactured home loans.

EFFECTIVE DATE: February 24, 1992.

FOR FURTHER INFORMATION CONTACT: Mrs. Judy Caden, Loan Guaranty Service (264), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233-3042.

SUPPLEMENTARY INFORMATION: The Secretary is required by section 3712(f) (formerly 1812(f)), title 38, United States Code, to establish maximum interest rates for manufactured home loans guaranteed by VA as he/she finds the manufactured home loan capital markets demand. Recent market indicators—including the prime rate, the general increase in interest rates charged on conventional manufactured home loans, and the increase in other short-term and long-term interest rates—have shown that the manufactured home capital markets have become more restrictive. It is now necessary to increase the interest rates

on manufactured home unit loans, lot loans, and combination manufactured home unit and lot loans in order to assure an adequate supply of funds from lenders and investors to make these types of VA loans.

The Secretary is also required by section 3703(c) (formerly 1803(c), title 38, United States Code, to establish maximum interest rates for home and condominium loans, including graduated payment mortgage loans, and loans for home improvement purposes. Recent market indicators—including the rate of discount charged by lenders on VA loans and the general increase in interest rates charged by lenders on conventional loans, have shown that the mortgage money market has become more restrictive. The maximum rates in effect for VA guaranteed home and condominium loans and those for energy conservation and home improvement purposes have not been sufficiently competitive to induce private sector lenders to make these types of VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rates applicable to home and improvement loans is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

Regulatory Flexibility Act/Executive Order 12291

For the reasons discussed in the May 7, 1981 **Federal Register**, (46 FR 25443), it has previously been determined that final regulations of this type which change the maximum interest rates for loans guaranteed, insured, or made pursuant to chapter 37 of title 38, United States Code, are not subject to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601–612.

These regulatory amendments have also been reviewed under the provisions of Executive Order 12291. VA finds that they are not "major rules" as defined in that Order. The existing process of informal consultation among representatives within the Executive Office of the President, OMB, VA and the Department of Housing and Urban Development has been determined to be adequate to satisfy the intent of this Executive Order for this category of regulations. This alternative consultation process permits timely rate adjustments with minimal risk of premature disclosure. In summary, this consultation process will fulfill the intent of the Executive Order while still permitting compliance with statutory responsibilities for timely rate adjustments and a stable flow of mortgage credit at rates consistent with the market.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. The publication of notice of a regulatory change in VA maximum interest rates for VA guaranteed, insured, and direct home and condominium loans, loans for energy conservation and other home improvement purposes, and loans for manufactured home purposes would create an acute shortage of funds pending the final rule publication date which would necessarily be more than 30 days after publication in proposed form. Accordingly, it has been determined that publication of proposed regulations prior to publication of final regulations is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Program numbers, 64.113, 64.114, and 64.119.)

These regulations are adopted under authority granted to the Secretary by sections 210(c), 3703(c)(1), 3711(d)(1) and 3712 (f) and (g) of title 38, United States Code. The regulations are clearly within that statutory authority and are consistent with Congressional intent.

These increases are accomplished by amending sections 36.4212(a) (1), (2), and (3), and 36.4311 (a), (b), and (c), and 36.4503(a), title 38, Code of Federal Regulations.

List of Subjects in 38 CFR Part 36

Condominiums, Handicapped, Housing, Loan programs—housing and community development, Manufactured homes, Veterans.

Approved: February 21, 1992.

Anthony J. Principi,

Deputy Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 36 is amended as set forth below:

PART 36—LOAN GUARANTY

1. The authority citation for §§ 36.4201 through 36.4287 continues to read as follows:

Authority: Sections 36.4201 through 36.4287 issued under 72 Stat. 1114, 84 Stat. 1110 (38 U.S.C. 210, 3712).

§ 36.4212 [Amended]

2. In § 36.4212, remove the date "December 20, 1991", wherever it appears, and add, in its place, the date "February 24, 1992".

3. In § 36.4212, paragraph (a)(1), remove the number "10½", wherever it appears, and add, in its place, the number "11"; in paragraphs (a)(2) and (a)(3), remove the number "10", wherever it appears, and add, in its place, the number "10½".

4. The authority citation for §§ 36.4300 through 36.4375 continues to read as follows:

Authority: Sections 36.4300 through 36.4375 issued under 72 Stat. 1114 (38 U.S.C. 210).

§ 36.4311 [Amended]

5. In § 36.4311, remove the date "December 20, 1991", wherever it appears, and add, in its place, the date "February 24, 1992".

6. In § 36.4311, paragraph (a), remove the number "8", wherever it appears, and add, in its place, the number "8½"; in paragraph (b), remove the number "8¼", wherever it appears, and add, in its place, the number "8¾"; in paragraph (c), remove the number "9½", wherever it appears, and add, in its place, the number "10".

7. The authority citation for §§ 36.4500 through 36.4600 continues to read as follows:

Authority: Sections 36.4500 to 36.4600 issued under 72 Stat. 1114 (38 U.S.C. 210).

§ 36.4503 [Amended]

8. In § 36.4503, paragraph (a), remove the numbers "8" and "9½", wherever they appear, and add in their place, the numbers "8½" and "10", respectively.

[FR Doc. 92–4991 Filed 3–3–92; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–42146A; FRL 3998–1]

40 CFR Part 799

Testing Consent Order For Acrylic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final Rule.

SUMMARY: This document announces that EPA has signed an enforceable testing Consent Order with BASF Corporation, Dow Chemical U.S.A., Hoechst Celanese Chemical Group, Rohm and Haas Company, and Union Carbide Chemicals and Plastics, Inc., hereinafter referred to as "the Companies." The Companies have agreed to perform certain health effects tests on acrylic acid (CAS No. 79–10–7).

Acrylic acid is added to the list of testing Consent Orders in 40 CFR 799.5000 for which export notification requirements of 40 CFR part 707 apply. This rule constitutes EPA's response to the Interagency Testing Committee's (ITC) designation of acrylic acid for testing consideration.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS–799), Office of Pollution Prevention and Toxics, rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: Under procedures described in 40 CFR part 790, the Companies have entered into a testing Consent Order with EPA in which they have agreed to perform certain health effects tests for acrylic acid. This rule amends 40 CFR 799.5000 by adding acrylic acid to the list of chemical substances and mixtures subject to testing Consent Orders and export notification requirements.

I. ITC Designation

In its Twenty-seventh Report to the Administrator of the Environmental Protection Agency, published in the **Federal Register** on March 6, 1991 (56 FR 9534), the ITC designated acrylic acid for priority testing consideration for certain chemical fate and health effects testing. The rationale for the original designation appeared in that Report.

II. Testing Consent Order Negotiations

In accordance with 40 CFR 790.28, EPA issued a **Federal Register** notice on August 20, 1991 (56 FR 41353), announcing a public meeting and EPA's intent to develop a testing Consent Order for acrylic acid. EPA requested persons interested in participating in or monitoring testing negotiations on acrylic acid to contact EPA by September 5, 1991. BASF Corporation, Dow Chemical U.S.A., Hoechst Celanese Corporation, Rohm and Haas Company, and Union Carbide Chemicals Plastics Company Inc. identified themselves through their agent, the Basic Acrylic Monomer Manufacturers (BAMM), as interested parties. On September 12, 1991, EPA convened a public meeting attended by representatives of the interested parties. At the public meeting BAMM, on behalf of its member companies, presented a proposed testing plan and provided test protocols. Protocols were presented for an inhalation developmental toxicity study, an oral (drinking water) two-generation reproductive and fertility study and a bioavailability study.

The ITC report also recommended testing for mutagenicity, neurotoxicity, inhalation oncogenicity, and river die-away biodegradation. After consideration of BAMM's proposed testing plan and review of new studies submitted to EPA by BAMM in response to the ITC report, EPA has determined that these tests are not needed at this time.

The ITC report stated that *in vivo* mutagenicity data may be needed for acrylic acid. A number of mutagenicity studies were identified by BAMM as missing from the EPA's database for acrylic acid. These studies were supplied in BAMM's response to the ITC list (Ref. 1). EPA identified three principal studies (Refs. 2, 3, and 4) and reviewed the data. The *in vivo* cytogenetics and the *Drosophila* sex-linked recessive lethal tests were negative; the dominant lethal study is still under review. EPA may require additional mutagenicity testing (e.g., heritable translocation study or another dominant lethal test), if the existing dominant lethal study is not negative. Any additional testing would be done under either a separate Consent Order or a test rule under section 4 of TSCA. The relative priority for future testing will be developed after considering the range of potential testing needs as identified by the Master Testing List (MTL) process (56 FR 42055; August 26, 1991).

EPA considered neurotoxicity testing for acrylic acid but decided not to require these tests because it is unlikely that neurotoxic effects would be observed in inhalation studies at concentrations lower than those producing irritation to the nasal mucosa and/or olfactory epithelium (Ref. 5). EPA's reference dose for inhalation (concentration) exposure (RfC) for acrylic acid is 0.0003 mg/m^3. This RfC is calculated from data demonstrating that the critical effects of exposure to acrylic acid by the inhalation route are effects on the nasal mucosa (Ref. 25). Based on these data, the EPA does not believe that neurotoxicity testing is necessary at this time.

The ITC members recommended an inhalation bioassay on acrylic acid. The ITC member from the National Cancer Institute (NCI) reviewed a draft drinking water chronic study conducted by BASF in Germany and submitted by BAMM as reported in the 27th ITC Report. The NCI was concerned that the study may have been run at doses below what would be considered a maximum tolerated dose and, based on data on the monofunctional esters of acrylic acid, questioned how such rapidly hydrolyzing compounds could cause forestomach tumors by the oral route, unless a release of acrylic acid served as the active gastric irritant (Ref. 6). Based on the available data the ITC concluded that there was insufficient data to reasonably predict the potential carcinogenic effects of inhalation exposure to acrylic acid.

In response to the ITC Report, BAMM submitted studies on acrylic acid relevant to its potential oncogenicity (Refs. 7 through 11) and referenced negative inhalation studies conducted on the methyl, ethyl, and *n*-butyl esters of acrylic acid (Refs. 1, and 12 through 16). Scientists from NCI, EPA and the National Toxicology Program met with industry representatives to discuss these data (Ref. 17). At this meeting, BAMM also presented plans to do additional testing on acrylic acid including bioavailability testing. Subsequent to this meeting, both NCI and EPA scientists reviewed the entire data set on acrylic acid. The available data suggests that acrylic acid, like other nasal irritants tested, should lead to some metaplasia (change in tissue type) of the respiratory epithelium. This is a common finding with many inhalation studies (Ref. 18). NCI believes that, based on the available oral data on acrylic acid and inhalation data on acrylic acid esters, it can be assumed that the acrylic acid monomer will behave in a similar manner to the esters and, if administered by the inhalation route, will act as an olfactory irritant, but should not be carcinogenic. Thus, it was concluded by NCI that the drinking water and dermal chronic studies showed that toxicity of acrylic acid was limited to the site of exposure. In the inhalation studies on acrylate esters, the nasal lesions produced were very minimal irritant effects and were not associated with neoplastic changes at this site (Refs. 18 and 19). Having reviewed these data, EPA concurs with NCI and concludes that these data and the data that will be developed pursuant to this Consent Order will be sufficient and that additional chronic inhalation bioassay testing on acrylic acid is not warranted at this time.

The Companies have consented to conduct bioavailability studies on acrylic acid to aid in developing pharmacokinetic models that will be helpful in understanding the mechanisms of action for observed toxicity of acrylic acid and its esters. These data may explain the responses seen in the forestomach with the esters and help resolve other issues associated with exposure to acrylic acid by other routes of exposure.

The 27th ITC Report, considering the chemical fate of acrylic acid, stated that "available persistence data are probably inadequate to predict the biodegradation rate of acrylic acid in the environment, because the data were not generated in test systems that simulated *in situ* biodegradation." Therefore, the ITC recommended "chemical fate testing because there are insufficient data to reasonably determine or predict the persistence of acrylic acid and because there are potentially substantial environmental releases." Studies on anaerobic biodegradation and aerobic aquatic biodegradation were identified and supplied by BAMM (Refs. 1 and 20). In a recent BAMM 28–day Ready Biodegradability study using the "closed bottle" method, 81 percent of acrylic acid biodegraded within 28 days. This assay uses low concentrations of the test substance and low microbial concentrations in order to simulate natural conditions (Ref. 20). EPA believes that available data indicates that acrylic acid biodegrades in the environment. In addition, 95 percent of the acrylic acid released is disposed of by underground injection according to information provided by the Toxics Release Inventory (TRI) (Ref. 21). This type of disposal method combined with new information provided by BAMM on acrylic acid mitigates EPA's concerns about potential risk due to environmental release. EPA decided that existing data are sufficient and that additional chemical fate testing is not necessary at this time.

The Companies agreed to perform an inhalation developmental toxicity study, an oral (drinking water) two generation reproductive and fertility study and a bioavailability study by specified dates according to test standards included in the Order.

III. Production, Use and Exposure

Acrylic acid is a liquid at room temperature and miscible in water. EPA estimates a U.S. annual production of acrylic acid for 1989 of over 1 billion pounds by four manufacturers at four sites (Ref. 22). The estimated U.S. annual consumption for 1989 is 977 million lbs. (Ref. 22). The National Occupational Exposure Survey indicates that 56,512 workers are potentially exposed to acrylic acid (Ref. 23).

The following uses for acrylic acid were given in the 27th ITC Report: surface coatings (25 percent); polyacrylic acid and salts, including superabsorbant polymers, detergents, water treatment and dispersants (20 percent); textiles and nonwovens (23 percent); exports (12 percent); adhesives and sealants (9 percent); leather and polishes (4 percent); paper coating (3 percent); miscellaneous acid and ester uses, including specialty acrylates (8 percent).

IV. Testing Program

The Companies have agreed to complete the testing program in the following Table 1:

TABLE 1.— TESTING REQUIRED FOR ACRYLIC ACID

Test	Test standard	Start date[1]	Final report date[2]
Developmental Toxicity Test:[3]	40 CFR 798.4350[4]	7	16
Reproductive effects Test:[5]	40 CFR 798.4700[6]	3	30
Bioavailability:[7]	Reference 24	6	18

[1]Number of months after the effective date of the Consent Order.
[2]Number of months after the effective date of the Consent Order. Interim (6–month) progress reports shall be submitted to EPA for all tests having final report dates greater than 9 months, starting 6 months after the start date.
[3]This test shall be conducted in rabbits by the inhalation route.
[4]Amendments to this study are attached to the Consent Order as Appendix 2.
[5]This test shall be conducted in rats by the drinking water route.
[6]Amendments to this study are attached to the Consent Order as Appendix 1.
[7]This test shall be conducted in rats and mice by the intravenous, oral and dermal routes.

V. Test Substance

The test substance, acrylic acid (CAS No. 79–10–7), shall be as pure a technical grade as can be reasonably attained, but shall be at least 98.0 percent pure.

VI. Export Notification

The issuance of the testing Consent Order subjects any person who exports or intends to export the chemical substance, acrylic acid (CAS No. 79–10–7), of any purity, to the export notification requirements of section 12(b) of TSCA. The specific requirements are listed at 40 CFR part 707. Chemicals subject to testing Consent Orders are listed at 40 CFR 799.5000. This listing serves as a notification to persons who export or intend to export the chemical substance which is the subject of this testing Consent Order that 40 CFR part 707 applies.

VII. Rulemaking Record

A. Supporting Documentation

EPA has established a record for this Consent Order under TSCA section 4, docket number OPTS–42146A, which is available for inspection Monday through Friday, excluding legal holidays, in Rm. NE–G004, 401 M St., SW., Washington, DC., 20460 from 8 a.m. to 12 noon and from 1 p.m. to 4 p.m. Confidential Business Information (CBI) while part of the record, is not available for public review. This record includes basic information considered by EPA in developing this Consent Order. This record includes the following information:

(1) Testing Consent Order for acrylic acid and associated testing protocols.

(2) **Federal Register** notices pertaining to this notice and consent order consisting of:

(a) 27th Report of the ITC (March 6, 1991, 56 FR 9534).

(b) Notice soliciting interested parties for developing a consent order for acrylic acid (August 20, 1991, 56 FR 41353).

(3) Communications consisting of:

(a) Written letters.

(b) Contact reports of telephone summaries.

(c) Meeting summaries.

(4) Reports - published and unpublished factual materials.

B. References

(1) BAMM. Letter and appendices from Louise Noell, BAMM Chair to Andrea Blaschka, EPA Project Manager. Comments on ITC designation of acrylic acid. April 5, 1991.

(2) Celanese Corporation. Cytogenicity study - Rat bone marrow *in vivo*; test article CJP–60 (Acrylic Acid). Testing Laboratory: Microbiological Associates, Inc. July 28, 1988.

(3) Celanese Corporation. *Drosophila* sex-linked recessive lethal assay of acrylic acid (CJP–60). Testing Laboratory: Zoology Department, University of Wisconsin. April 15, 1987.

(4) Putman, D.L. Dominant lethal mutations in mice. Study number T5618.112004. Testing Laboratory: Microbiological Associates, Inc. May 16, 1991.

(5) EPA memorandum from Robert C. MacPhail, Chief Neurobehavioral Toxicology Branch/NTD to Letty Tahan, Existing Chemical Assessment Division, concerning neurotoxicity testing of acrylic acid. September 19, 1991.

(6) Letter from Thomas Cameron, Special Assistant on Environmental Cancer, National Cancer Institute to William Eastin, Chemical Carcinogenesis Branch, National Institute of Environmental Health Sciences concerning the review of studies pertinent to the oncogenicity of acrylic acid and comments resulting from the May 29, 1990 meeting of NCI's Chemical Selection Planning Group. June 12, 1990.

(7) BASF. Report on the study of the toxicity of acrylic acid in rats after 3-month administration by gavage. Project No. 35C0380/8250; report date: April 28, 1987. Submitted by Louise Noell of BASF on April 2, 1991.

(8) De Pass, L.R., M.D. Woodside, R.H. Garman, and C.S. Weil. Subchronic and reproductive toxicology studies on acrylic acid in the drinking water. Drug Chemical Toxicology (6)(1): 1–20. 1983.

(9) Hoechst Celanese Corporation. Chronic dermal oncogenicity study with acrylic acid in [C3H/HeN Hsd BR] and [Hsd (ICR) BR] mice; Report date: Dec. 5, 1990. Attachment to submission by Louise Noell of BASF (Ref.1); submitted April 5, 1991.

(10) BASF. Report-Study of a potential carcinogenic effect of acrylic acid in rats after long-term administration in the drinking water. Project No. 72C0380/8240; report date: March 30, 1989. Submitted by Louise Noell of BASF April 2, 1991.

(11) BASF. Report on the study of the toxicity of acrylic acid in rats after 12-month administration in the drinking water. Project No. 74C380/8239; report date: December 11, 1987. Submitted by Louise Noell April 2, 1991.

(12) Rohm and Haas Company. 2-Year inhalation study with methyl acrylate in rats; Report A 0135/1530; FYI OTS 1087-0367. March 5, 1985.

(13) Miller, R.R., J.T. Young, J.A. Ayres and C.N. Park. Ethyl acrylate: 27-month vapor inhalation study in rats. Sponsored by Dow Chemical U.S.A.; final report date: January 31, 1983. EPA submission: 8EHQ-0383-0250; fiche # OTS 0204492. Submitted by George Rodenhausen of Celanese Corp. on March 23, 1991.

(14) Miller, R.R., R.J. Kociba, D.G. Keyes, J.A. Ayres and K.M. Bodner. Ethyl acrylate: 27-month vapor inhalation study in mice. Sponsored by Dow Chemical U.S.A.; final report date: April 4, 1983. EPA submission: 8EHQ-0383-0250; fiche # OTS 0204492. Submitted by George Rodenhausen of Celanese Corp. on April 29, 1983.

(15) NTP. Carcinogenesis studies of ethyl acrylate (CAS No. 140-88-5) in F344/N Rats and B6C3F1 Mice (Gavage Studies). Technical Report Series No. 259. December 1986.

(16) Rohm and Haas Company. 2-Year inhalation study with *n*-butyl acrylate in rats with a 6-month follow-up period. Report A0135/1531; FYI-OTS-0787-0367; report date March 1, 1985. Submitted by Gelbke Hildebrand of BASF (Germany) on May 21, 1986.

(17) Letter from Louise Noell, BAMM Chair to Andrea Blaschka, Project Manager, EPA conveying a meeting summary of the June 6, 1991 meeting and a copy of materials used in the presentation. June 24, 1991.

(18) Letter from Harold E. Seifried, Program Director, Chemical and Physical Carcinogenesis Branch, National Cancer Institute, NIH to Victor Fung, Chemical Selection Coordinator, National Toxicology Program, concerning the evaluation of oncogenicity data for acrylic acid and acrylic acid esters. August 16, 1991.

(19) Letter from William C. Eastin, Head Study Priority, Chemical Carcinogenesis Branch, NIEHS to Charles M. Auer, Director, Existing Chemicals Assessment Division, USEPA on the status of acrylic acid oncogenicity studies. August 9, 1991.

(20) Letter from Louise Noell, BAMM Chair to Andrea Blaschka, EPA project manager, submitting additional comments on the environmental fate of acrylic acid. The submission contains the following attachments: reference list and background information concerning the river die-away study, draft #3 of study entitled "adsorption and desorption of acrylic acid to soils" by M. K. Horvath, and a March 27, 1991 draft of a study entitled "Assessment of ready biodegradability of acrylic acid". September 25, 1991.

(21) EPA Memorandum from Mark Pederson, Chemical Engineering Branch to John Schaeffer, Chemical Testing Branch providing chemical release data for IRIS chemicals. September 19, 1991.

(22) Note from Pat Szarek, Regulatory Impact Branch to Andrea Blaschka, Chemical Testing Branch concerning preliminary production and use information for IRIS chemicals test rule. April 22, 1991.

(23) National Institute for Occupational Safety and Health (NIOSH). National Occupational Exposure Survey (NOES). 1990.

(24) BAMM. Protocol entitled: 14^{C}-Acrylic acid comparative bioavailability study in mice and rats. Protocol prepared on September 18, 1991.

(25) IRIS database. Printout for acrylic acid from EPA's Integrated Risk Information System database. Retrieved June 1991.

VIII. Other Regulatory Requirements

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the Consent Order under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., and has assigned OMB control number 2070-0033.

Public reporting burden for this collection of information is estimated to be 40 hours per response. The estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to OMB, Paperwork Reduction Project (2070-0033), Washington, DC 20503.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Recordkeeping and reporting requirements, and Testing.

Dated: February 18, 1992.

Victor J. Kimm,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding acrylic acid to the table in CAS Number order, to read as follows:

§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS Number	Substance or mixture name	Testing	FR citation
79-10-7	Acrylic Acid	Health effects	[FR date]

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[FR Doc. 92-5009 Filed 3-3-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90-532; RM-7199, RM-7597]

Radio Broadcasting Services; Sheldon, Iowa, and Jackson and Springfield, MN

AGENCY: Federal Communications Commission.

ACTION Final rule.

SUMMARY: The commission, at the request of Sheldon Broadcasting Company, Inc., substitutes Channel 287C2 for Channel 288A at Sheldon, Iowa, and modifies its license for Station KIWA-FM to specify the higher class channel. At the Request of Jackson Broadcasting Co., the Commission substitutes Channel 289C3 for Channel 287A at Jackson, Minnesota, and modifies its license for Station KRAQ to specify the higher class channel. To accommodate the upgrades at Sheldon and Jackson, Channel 234A is substituted for Channel 289A at Springfield, Minnesota, and the construction permit of James Ingstad Broadcasting, Inc., for Station KLPR is modified to specify the alternate Class A channel. Channel 287C2 can be allotted to Sheldon in compliance with the Commission's minimum distance separation requirements at Station KIWA-FM's transmitter site, at coordinates North Latitude 43-11-00 and West Longitude 95-52-05. Channel 289C3 can be allotted to Jackson at the site specified in Station KRAQ's outstanding application (BMPH-900823IC) at coordinates 43-36-54 and 94-57-48. Channel 234A can be allotted to Springfield at the transmitter site specified in Station KLPR's construction permit, at coordinates 44-14-13 and 95-06-20. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 13, 1992.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-532, adopted February 12, 1992, and released February 27, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased form the Commission's copy contractor, Downtown Copy Center, (202) 452-1422, 1714 21st Stret, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by removing Channel 288A and adding Channel 287C2 at Sheldon.

3. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 287A and adding Channel 289C3 at Jackson, and by removing Channel 289A and adding Channel 234A at Springfield.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92-4928 Filed 3-3-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-218; RM-7752 and RM-7816]

Radio Broadcasting Services; Charleston and Marble Hill, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 291C2 for Channel 291A at Charleston, Missouri, and modifies the construction permit for Station KWKZ to specify operation on the higher class channel in response to a petition filed by Dianne Anderson. See 56 FR 33739, July 23, 1991. The coordinates for Channel 291C2 are 36-56-30 and 89-33-00. In response to a counterproposal filed by CLC Broadcasting Company, we shall allot Channel 247A to Marble Hill, Missouri, as that community's first local service. Channel 247A can be allotted to Marble Hill without a site restriction at coordinates 37-18-24 and 89-58-12. With this action, this proceeding is terminated.

DATES: Effective April 13, 1992. The window period for filing applications for Channel 247A, Marble Hill, Missouri, will open on April 14, 1992, and close on May 14, 1992.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 91-218, adopted February 13, 1992, and released February 27, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street NW., Washington, DC 20036, (202) 452-1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by removing Channel 291A and adding Channel 291C2 at Charleston and by adding Marble Hill, Channel 247A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92-4933 Filed 3-3-92; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-610; RM-7547, RM-7642]

Radio Broadcasting Services; Stamford and Whitesboro, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Craig L. Fox, allots Channel 250A to Whitesboro, New York, as the community's first local aural transmission service (RM-7642). See 55 FR 52186, December 20, 1990. Channel 250A can be allotted to Whitesboro in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for

Channel 250A at Whitesboro are North Latitude 43–07–19 and West Longitude 75–17–31. Canadian concurrence has been received since Whitesboro is located within 320 kilometers (200 miles) of the U.S.-Canadian border. The mutually exclusive proposal of Carmine M. Iannace to allot Channel 250A at Stamford, New York, is denied (RM–7547). With this action, this proceeding is terminated.

DATES: April 13, 1992. The window period for filing applications will open on April 14, 1992, and close on May 14, 1992.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–610, adopted February 18, 1992, and released February 27, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Whitesboro, Channel 250A.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92–4929 Filed 3–3–92; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–545; RM–7504]

Radio Broadcasting Services, Copperas Cove, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule

SUMMARY: The Commission, at the request of Centroplex Communications, Inc., licensee of Station KOOV–FM, Channel 276A, Copperas Cove, Texas, substitutes Channel 276C3 for Channel 276A at Copperas Cove, and modifies KOOV–FM's license to specify operation on the higher powered channel. See 55 FR 48258, November 11, 1990. Channel 276C3 can be allotted to Copperas Cove in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.8 kilometers (9.2 miles) southwest to avoid a short-spacing to a construction permit (BPH–910404IC) for Station KWOW–FM, Channel 277C3, Clifton, Texas. The coordinates for Channel 276C3 are 31–03–19 and 98–02–00. With this action, this proceeding is terminated.

EFFECTIVE DATE: April 13, 1992.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–545, adopted February 12, 1992, and released February 27, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 276A and adding Channel 276C3 at Copperas Cove.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92–4932 Filed 3–3–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No. 911175–2029]

RIN 0648–AE24

Pelagic Fisheries of the Western Pacific Region

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 5 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). The rule prohibits longline fishing within 75 nautical miles (nm) of the islands of Oahu, Kauai, Niihau, and Kaula, and within 50 nm of the islands of Hawaii, Maui, Kahoolawe, Lanai, and Molokai. A longline closure of approximately 50 nm also is implemented around Guam and its offshore banks. Framework procedures authorize rulemaking to adjust the size of the areas and to modify the criteria for exemptions to vessel owners suffering economic hardship. This action is necessary to prevent gear conflicts between longline vessels and troll/handline vessels engaged in the pelagic fisheries.

DATES: This action becomes effective at 0000 hours local time March 2, 1992.

ADDRESSES: Copies of Amendment 5 and the environmental assessment may be obtained from the Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813.

Send comments on the collection of information to the Director, Southwest Region, NMFS, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213, and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), ATTN: Paperwork Reduction Project: 0648–0214, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802–4213, (310) 980–4034; or Alvin Katekaru, Pacific Area Office, Southwest Region, NMFS, Honolulu, Hawaii (808) 955–8831.

SUPPLEMENTARY INFORMATION: As summarized in the proposed rule (56 FR 60961, November 29, 1991), interactions between the approximately 150 longline vessels and the 2,400 vessels of the troll/handline fleet based in Hawaii have led

to physical confrontations and destruction of gear. A voluntary informal agreement coordinated by the State of Hawaii whereby longline fishermen agreed to stay at least 20 nm from shore failed; therefore, an emergency rule (56 FR 28116, June 19, 1991) implemented the 75/50-nm area closures. The emergency rule was subsequently extended for a second 90-day period (56 FR 47701, September 20, 1991). Amendment 5 implements the area closures permanently with procedures to modify the closures as more information becomes available.

Comments Received and Responses

No comments were received on the closure of the longline fishery around the Territory of Guam.

Thirty-three comments were received opposing the closures around Hawaii, plus petitions bearing 86 signatures protesting the closures. Those supporting the closures have submitted 20 comments, plus petitions bearing 454 signatures and hundreds of form letters addressed to the Secretary of Commerce. The following discussion of issues raised, especially those related to interactions between fleets, is based on limited data, because the Federal program requiring longline vessels to submit logbook information has only been in effect since mid November 1990, and reporting of commercial landings under State of Hawaii regulations has been incomplete. The troll/handling vessels are largely limited to near-shore areas. About 99 percent of the trips are made within 20 nm of shore.

A summary of the comments received on the proposed regulations and responses to them follow.

Comment 1: Since the 75/50-nm closures have been in effect, there has been a substantial decline in the amount of pelagic species brought to auction by longliners.

Response: The harvest of pelagic species is highly variable from year to year, and attributing a decline in catches to the area closures is premature. Preliminary figures do show a decline in yellowfin tuna caught by longline in 1991 following increasing harvests since 1987; however, troll- and handline-caught yellowfin tuna dropped precipitously from 1988 to 1990 without any change in the management regime. There is a possibility that the catch of some species may decline for some segments of the industry, such as for loneline vessels of certain size categories, but total longline catches are up in 1991, mainly due to catches of swordfish by vessels fishing beyond the closures. In the absence of clear evidence of harm, the Council decided that maintaining closures to prevent conflicts was the best approach, and took into consideration the possibility of detrimental effects of some segments of the industry by establishing a framework system to modify the area closures based on additional information, and by appointing a special advisory panel to work out a compromise approach on area closures that will still prevent gear conflicts.

Comment 2: Amendment 5 frustrates the achievement of optimum yield in the western Pacific pelagics fishery because the area closures will result in the reduction of landings.

Response: The area closures will not necessarily lead to a reduction of harvest, although some adjustment to the new conditions may be required to maintain landings of certain species. The migratory nature of the species involved suggests that these adjustments can be made, and the Councils commitment to adjust the areas based on collected data ensures the consideration of any detrimental effects on harvest. Also, optimum yield is not permised on the maximum harvest of every species in the pelagic fisheries; relevant social factors such as gear conflicts are to be considered during implementation of the FMP.

Comment 3: Amendment 5 is not based on the best scientific information available, because the data do not show that there have been gear conflict problems throughout the proposed 75/50-nm closed areas. The Scientific and Statistical Committee reported in February 1991 that 95 percent of troll/handline fishery occurs inside 55 nm.

Response: The Council has faced increasing controversy on gear conflicts since 1987. Conflicts between longliners, many of which had arrived from the Gulf of Mexico, and troll/handline fishermen became serious. Some of the interactions led to physical confrontations and destruction of gear. A "gentlemen's agreement" between the opposing groups coordinated by the State of Hawaii established a 20-nm closed area but the agreement failed when longliners did not comply with the closure. Tensions continued to mount and the Council was concerned that continued gear conflicts might lead to violent confrontations. Virtually every comment received, from longline operators as well as those from the troll/handline fleet, accept some kind of area closures, and suggestions have been made for smaller and larger closures than the Council adopted. After examining available data, recommendations of the Pelagic Task Force appointed by the Council, and public input, the Council concluded that a 75-nm closure around Kauai County and Honolulu County and a 50-nm closure around Maui County and Hawaii County are warranted. Examination of State of Hawaii catch reports shows that, while the majority of commercial trolling trips are taken within 20 nm of shore, an increasing number of trips are reported at distances of 50 to 60 nm off Kauai, Oahu and the west coast of Hawaii, and 40 nm off Maui, Molokai and Lanai. Although some adverse consequences on longline vessels and on markets might result, the Council decided to adopt closures that prevent the possibility of conflicts rather than accept smaller closures that would run the risk of continuing conflicts.

Comment 4: Longline vessels threaten the troll/handline fleet by affecting its harvest.

Response: Only general conclusions can be drawn from the data at this time. When yellowfin tuna were more abundant, they also were more abundant for longliners and for the small boat fishermen. This pattern of species abundance also holds for blue marlin, striped marlin, and bigeye tuna. If longline harvest are affecting the troll/handline fleet, this probably has been caused by longline harvest in all areas and is not related to the specific areas under consideration for preventing gear conflicts. The only goal of the rule is to prevent gear conflicts and to set up a system by which adverse impacts can be reduced.

Comment 5: Amendment 5 improperly allocates fishing privileges, because it assigns specific areas to groups of fishermen to further purposes not rationally connected with a legitimate objective of the FMP. Smaller closures would achieve the same goal.

Response: Reduction of gear conflicts is an objective of the FMP. The potential for violence between longline vessels and the troll/handline vessels has moved the Council to prevent conflicts. Smaller closures would not achieve that goal. Many comments from the troll/handline vessels say that longline vessels are severely affecting the resource and are threatening their livelihood. The closures are not intended to allocate fishing privileges, as is made clear by the simplified rulemaking procedure by which the Regional Director and/or the Council may modify the closed areas, if needed, by the authority to grant exemptions in the case of longline vessels that have traditionally fished off Hawaii, and by the Council's appointment of a special advisory panel to seek an agreement on area closures that prevent vessel

conflicts while reducing detrimental effects on the industry.

Comment 6: Amendment 5 does not promote efficiency in the utilization of fishery resources, because the excessive closures increase expenses, reduce fish quality, and force longliners out of the fishery.

Response: At this time there is no clear evidence of increased expenses, reduced catch, or reduced fish quality. From logbook data since mid November 1990, longliners caught 18.4 percent of the fleet's tuna and 11.8 percent of other pelagics within the 50/75-nm closure area. The fleet caught 81.6 percent of its tuna and 88.2 percent of other pelagics beyond the 50/75-nm closure area.

From January 1990 through June 1991, 29.1 percent of the reported longline trips occurred within 20 nm of the main Hawaiian Islands, 16.8 percent between 20 nm and the outer boundary of the 50/75-nm closure area, and 54.1 percent beyond the 50/75-nm closure area. However, only 17.3 percent of the total number of longline sets were within the 50/75-nm closure area. Similarly, only 18.6 percent of the total number of hooks fished were within the 50/75-nm closure area. The percent of total longline fishing effort made in the 50/75-nm zone, measured in the number of sets made and number of hooks deployed, is substantially lower than the percent of fishing effort measured in terms of trips. Large longliners with a higher fishing power, many of which target swordfish, fish much farther from the main Hawaiian islands than vessels with smaller fishing power, which target mostly tuna.

From the above limited information, it appears that larger longline vessels may be able to make up lost catch outside the closed areas; however, smaller longline vessels may suffer adverse economic effects by the closures. Because many uncertainties remain concerning the effect of the closures, the Council has developed two framework procedures that are contained in this rule. One requires an annual review of the closures and permits changing the size of the areas based on data obtained subsequent to implementation of the closures. The second authorizes the Council and the Regional Director to initiate rulemaking to allow exemptions from the closed areas to longliner operators who can demonstrate financial hardship as a result of the closures around Hawaii.

Comment 7: The proposed exemptions to the longline closures are arbitrary and unreasonably restrictive.

Response: Exemptions were considered by the Council when the possibility arose that owners of vessels that had been active in the fishery for many years may not be able to comply with the area closures and still remain in the fishery. The Council was willing to consider exemptions as long as the goal of preventing conflicts could be achieved. The initial criteria were designed to be restrictive, because exemptions were to apply only in cases of extreme financial hardship and were not intended to apply to all vessels that had to adjust to the new fishing areas. The Council's Pelagic Advisory Review Board is to assess whether exemptions under Amendment 5 should continue and, if so, review the qualifying criteria on which to base additional exemptions. Three exemptions were granted under the authority of the emergency rule.

Changes From the Proposed Rule

Only technical changes were made in the final rule. These changes are contained in 50 CFR 685.24 (a)(2) and (a)(3), and in 50 CFR 685.25 (b) and (f).

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that Amendment 5 to the FMP and its implementing regulations are necessary for the conservation and management of the pelagic fishery resources of the western Pacific region and are consistent with the Magnuson Act and other applicable law. Consequently, on January 22, 1992, the Assistant Administrator approved the Amendment.

The Council prepared an environmental assessment (EA) for the emergency interim rule that established area closures around the main Hawaiian Islands. The Assistant Administrator concluded that there would be a no significant effect on the human environment. In preparation for Amendment 5, a supplemental EA was prepared analyzing the longline closures around Guam. The Assistant Administrator concluded that there would be no significant effect on the human environment because of this rule.

The Assistant Administrator for Fisheries has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small businesses.

Section 685.25 of this rule contains a collection-of-information requirement that is subject to the Paperwork Reduction Act. This information collection has been approved by the Office of Management and Budget (OMB), under OMB control number 0648–0214. The estimated information collection burden is 4 hours per exemption application to review instructions, compile the necessary information, and submit it to NMFS. Comments on the collection of information and/or suggestions on how to reduce the burden can be sent to the Director, Southwest Region, NMFS, and to the OIRA OMB (see **ADDRESSES**).

The Council has determined that the action is consistent to the maximum extent practicable with the approved coastal management programs of the State of Hawaii and the Territory of Guam. The State of Hawaii and the Territory of Guam have agreed with the determination.

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

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

To afford maximum opportunity for public comment and participation, the Administrative Procedure Act (5 U.S.C. 553) requires that, generally, final rules be published not less than 30 days before they become effective. This 30-day period may be shortened or waived if the rulemaking agency publishes with the rule an explanation of what good cause justifies an earlier date. This rule, implementing Amendment 5 to the FMP, makes permanent with few changes certain management measures that were promulgated, with a request for comments, by emergency rule (56 FR 28116, June 19, 1991) and subsequently extended for a second 90-day period (56 FR 47701, Sept. 20, 1991). The emergency rule was modified on November 26, 1991 (56 FR 59896) to allow persons with a long history of participation in and dependence on the longline fishery in nearshore waters to continue operations in those waters that were otherwise closed to longline fishing. The public has had opportunities to comment on that emergency rule as well as to participate in the development of Amendment 5 and to comment on the proposed rule to implement Amendment 5. The emergency rule was effective until December 16, 1991. The Assistant Administrator has determined that the

potential for gear conflicts in the absence of this rule constitutes good cause to waive the 30-day delayed-effectiveness period and make this rule effective at 0000 hours local time 3 days from date of filing with the Office of the Federal Register. The rule is not made effective immediately so that longline vessels currently in the closed areas are able to retrieve their gear and relocate.

List of Subjects in 50 CFR Part 685

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: February 27, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 685—PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

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

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

2. In § 685.2, the new definitions for "Guam longline fishing prohibited area", "Hawaii longline fishing prohibited area" and "Main Hawaiian Islands" are added, in alphabetical order, to read as follows:

§ 685.2 Definitions.

* * * * *

Guam longline fishing prohibited area means the waters around Guam bounded by straight lines connecting the following coordinates in the order listed:

(1) 14° 25′ 00″ N, 144° 00′ 00″ E
(2) 14° 00′ 00″ N, 143° 38′ 00″ E
(3) 13° 41′ 00″ N, 143° 33′ 30″ E
(4) 13° 00′ 00″ N, 143° 25′ 30″ E
(5) 12° 20′ 00″ N, 143° 37′ 00″ E
(6) 11° 40′ 00″ N, 144° 09′ 00″ E
(7) 12° 00′ 00″ N, 145° 00′ 00″ E
(8) 13° 00′ 00″ N, 145° 42′ 00″ E
(9) 13° 27′ 00″ N, 145° 51′ 00″ E

* * * * *

Hawaii longline fishing prohibited area means the waters within 75 nm of the Islands of Oahu, Kauai, Niihau, and Kaula, and the waters within 50 nm of the islands of Hawaii, Maui, Kahoolawe, Lanai, and Molokai, as measured from the baseline from which the seaward boundary of the State of Hawaii is defined.

* * * * *

Main Hawaiian Islands means the EEZ of the Hawaiian Islands Archipelago lying to the east of 161° West longitude.

* * * * *

3. In § 685.5, a new paragraph (t) is added to read as follows:

§ 685.5 Prohibitions.

* * * * *

(t) Fish with longline gear within the Guam longline fishing prohibited area or the Hawaii longline fishing prohibited area, except pursuant to an exemption provided under § 685.25.

4. In subpart B, a new § 685.24 is added, to read as follows:

§ 685.24 Changes to longline fishing prohibited areas; procedures.

(a) *Annual adjustment.* (1) Each year the Council shall review the annual pelagics fisheries report prepared by the plan monitoring team, and consider recommendations of the Pelagic Review Board, Advisory Panel, Scientific and Statistical Committee, and public comments, to assess the need for changing the size of the Hawaii or Guam longline fishing prohibited areas.

(2) If changes are needed, the Council shall advise the Regional Director in writing of its recommendation, and provide the supporting rationale, and an analysis of the impacts of proposed changes.

(3) Following a review of the Council's recommendation, the rationale for the changes and the analysis, the Regional Director may:

(i) Reject the Council's recommendation, in which case written reasons for the rejection will be provided by the Regional Director to the Council; or

(ii) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the FMP, the national standards, and other applicable law, initiate rulemaking to implement the recommended changes.

(b) *In-season adjustment.* (1) The Council or Regional Director may consider at any time a change in size of the Hawaii or Guam longline fishing prohibited areas if information becomes available that indicates a change is warranted.

(2) If the Council determines that a change is needed, it shall hold a public meeting at a time and place of the Council's choosing to discuss the new information. The Council may convene the Pelagic Advisory Review Board and Advisory Panel to provide advice prior to taking action. If changes are needed, the Council will advise the Regional Director in writing of its recommendation, including whether to implement the changes by an amendment to the plan or by rulemaking, and provide the rationale for the changes and an analysis of the impacts of those changes.

(3) If the Council decides against amending the plan and recommends that the Regional Director take action to implement its recommendations, the Regional Director will determine if a change is needed and, after concurrence by the Council, will initiate rulemaking to implement the changes.

5. In subpart B, a new § 685.25 is added, to read as follows:

§ 685.25 Exemptions for longline fishing prohibited areas; procedures.

(a) An exemption permitting a person to use longline gear to fish in a portion(s) of the Hawaii longline fishing prohibited area will be issued to a person who can document that he or she:

(1) Currently holds a limited entry permit under § 685.15;

(2) Before 1970, was the owner or operator of a vessel when that vessel landed management unit species taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area;

(3) Was the owner or operator of a vessel that landed management unit species taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area, in at least 5 calendar years after 1969, which need not be consecutive; and

(4) In any one of the 5 calendar years, was the owner or operator of a vessel that harvested at least 80 percent of its total landings, by weight, of longline-caught management unit species in an area that is now in the Hawaii longline fishing prohibited area.

(b) Each exemption shall specify the portion(s) of the Hawaii longline fishing prohibited area, bounded by longitudinal and latitudinal lines drawn to include each statistical area, as appearing on Hawaii State Commercial Fisheries Charts, in which the exemption holder made the harvest documented for the exemption application under paragraph (a)(4) of this section.

(c) Each exemption is valid only within the portion(s) of the Hawaii longline fishing prohibited area specified on the exemption.

(d) A person seeking an exemption under this section must submit an application and supporting documentation to the Pacific Area Office at least 15 days before the desired effective date of the exemption.

(e) If the Regional Director determines that a gear conflict has occurred and is likely to occur again in the Hawaii longline fishing prohibited area between a vessel used by a person holding an exemption under this section and a non-longline vessel, the Regional Director may prohibit all longline fishing in the

Hawaii longline fishing prohibited area around the island where the conflict occurred, or in portions thereof, upon notice to each holder of an exemption who would be affected by such a prohibition.

(f) The Council will consider information provided by persons with limited entry permits issued under § 685.15, who believe they have experienced extreme financial hardship resulting from the Hawaii longline area closure, and will consider recommendations of the Pelagic Advisory Review Board to assess whether exemptions under this section should continue to be allowed, and, if appropriate, revise the qualifying criteria in paragraph (a) of this section to permit additional exemptions.

(1) If additional exemptions are needed, the Council will advise the Regional Director in writing of its recommendation, including criteria by which financial hardships will be mitigated, while retaining the effectiveness of the longline fishing prohibited area.

(2) Following a review of the Council's recommendation and supporting rationale, the Regional Director may:

(i) Reject the Council's recommendation, in which case written reasons will be provided by the Regional Director to the Council for the rejection; or

(ii) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the FMP, the national standards, and other applicable law, initiate rulemaking to implement the Council's recommendations.

[FR Doc. 92-5040 Filed 2-28-92; 2:26 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 57, No. 43
Wednesday, March 4, 1992

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 842 and 843

RIN 3206-AE70

Spousal Survivor Benefits Under the Federal Employees Retirement System

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations concerning survivor benefits under the Federal Employees Retirement System (FERS). The proposed regulations would provide for partial survivor annuities and make editorial and other minor changes to clarify the current regulations. The regulations are needed to implement statutory changes that permit partial survivor annuities and to incorporate improvements in the corresponding Civil Service Retirement System regulations into the FERS regulations.

DATES: Comments must be received on or before May 4, 1992.

ADDRESSES: Send comments to Andrea S. Minniear, Assistant Director for Retirement and Insurance Policy; Retirement and Insurance Group; Office of Personnel Management; P.O. Box 57; Washington, DC 20044; or deliver to OPM, room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harold L. Siegelman, (202) 606-0299.

SUPPLEMENTARY INFORMATION: Section 131 of Public Law 100-238, enacted January 8, 1988, amended the Federal Employees Retirement System (FERS) Act, Public Law 99-335, enacted June 6, 1986, to allow retiring employees, and retirees who marry after retirement, the option of electing to provide one-half the maximum survivor annuity. The proposed amendments to the section headings for §§ 842.603, 842.604, 842.606, 842.611, and 842.612, and to the regulatory text in §§ 842.602, 842.603, 842.604 (a), (b) and (e), 842.605 (b), (c), (g), (h), and (k)(1), 842.606(a), 842.610, 842.611(a) and (e), and 842.612 (a) and (b) would change the current regulations to reflect the change in statute permitting the election of a one-half reduced annuity.

On March 12, 1990, we published (at 55 FR 9093), interim regulations amending the survivor benefits regulations governing the Civil Service Retirement System (CSRS). Those amendments included a new section concerning eligibility for more than one survivor annuity. The FERS law contains similar provisions with respect to receipt of multiple benefits. The proposed § 843.313 would apply these CSRS standards to FERS cases. The CSRS interim regulations also included improved language to clarify several existing survivor benefit provisions. The proposed regulations would conform the FERS regulations with the improved provisions of the CSRS regulations.

On April 22, 1991, we published (at 56 FR 16261) final CSRS regulations adopting our interim survivor benefit regulations with additional clarifying amendments. The proposed amendments to §§ 842.604 (c) and (d), 842.605(c), (h), and (k), 842.606(d), 842.607, 842.611 (b) and (d) and 842.612 (c) through (f) would conform the FERS regulations with the improved provisions of the CSRS regulations.

The amendment to § 843.311(c)(2)(ii) corrects an erroneous reference to a paragraph that does not exist.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation will only affect Federal agencies and retirement payments to retired Government employees, spouses, and former spouses.

List of Subjects in 5 CFR Parts 842 and 843

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Law enforcement officers, Pensions, Retirement.

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

Accordingly, OPM proposes to amend title 5, Code of Federal Regulations, as follows:

PART 842—FEDERAL EMPLOYEES RETIREMENT SYSTEM—BASIC ANNUITY

1. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); §§ 842.104 and 842.106 also issued under U.S.C. 8461(n); §842.105 also issued under 5 U.S.C. 8402(c)(1); § 842.106 also issued under section 7202(m)(2) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; §§ 842.604 and 842.611 also issued under 5 U.S.C. 8417; § 842.607 also issued under 5 U.S.C. 8416 and 8417; § 842.614 also issued under 5 U.S.C. 8419; § 842.615 also issued under 5 U.S.C. 8418; § 842.703 also issued under sec. 7001(a)(4) of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; § 842.707 also issued under section 6001 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203; § 842.708 also issued under section 4005 of the Omnibus Budget Reconciliation Act of 1989, Pub. L. 101-239 and section 7001 of the Omnibus Budget Reconciliation Act of 1990, Pub. L. 101-508; subpart H also issued under 5 U.S.C. 1104.

Subpart F—Survivor Elections

2. Section 842.602 is amended by removing the definition of the term, "reduced annuity" and adding in alphabetical order new definitions of the terms, "fully reduced annunity" and "one-half reduced annuity," to read as follows:

§ 842.602 Definitions.

* * * * *

Fully reduced annuity means the recurring payments under FERS received by a retiree who has elected the maximum reduction in his or her annuity to provide a current spouse annuity and/or a former spouse annuity or annuities.

* * * * *

One-half reduced annuity means the recurring payments under FERS received by a retiree who has elected one-half of the full reduction in his or her annuity to provide a partial current spouse annuity or a partial former spouse annuity or annuities.

* * * * *

3. In § 842.603, the section heading and paragraphs (a) and (c) are revised to read as follows:

§ 842.603 Election at time of retirement of a fully reduced annuity to provide a current spouse annuity.

(a) A married employee or Member retiring under FERS will receive a fully reduced annuity to provide a current spouse annuity unless—

(1) The employee or Member, with the consent of the current spouse, elects a self-only annuity, a one-half reduced annuity to provide a current spouse annuity, or a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity, in accordance with §842.604 or §842.606; or

(2) The employee or Member elects a self-only annuity or a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity, and current spousal consent is waived in accordance with § 842.607.

* * * * *

(c) The amount of the reduction to provide a current spouse annuity under this section is 10 percent of the retiree's annuity.

4. In § 842.604, the section heading, paragraphs (a), (b) and (e), and the introductory text of paragraphs (c) and (d) are revised to read as follows:

§ 842.604 Election at time of retirement of a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity.

(a) An unmarried employee or Member retiring under FERS may elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity or annuities.

(b) A married employee or Member retiring under FERS may elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity or annuities instead of a fully reduced annuity to provide a current spouse annuity, if the current spouse consents to the election in accordance with § 842.606 or spousal consent is waived in accordance with § 842.607.

(c) An election under paragraph (a) or (b) of this section is void to the extent that it—

* * * * *

(d) Any reduction in an annuity to provide a former spouse annuity will terminate on the first day of the month after the former spouse remarries before age 55 or dies, or the former spouse's eligibility for a former spouse annuity terminates under the terms of a qualifying court order, unless—

* * * * *

(e) Except as provided in § 842.614, the amount of the reduction to provide a former spouse annuity equals—

(1) Ten percent of the employee's or Member's annuity if the employee or Member elects a fully reduced annuity; or

(2) Five percent of the employee's or Member's annuity if the employee or Member elects a one-half reduced annuity.

5. In § 842.605, paragraphs (c)(4), (c)(5) and (k)(3) are added and paragraphs (b), (c)(2)(iii), (c)(3), (g)(1), (h)(1), (h)(3), and (k)(1) are revised, to read as follows:

§ 842.605 Election of insurable interest rate.

* * * * *

(b) An insurable interest rate may be elected by an employee or Member electing a fully reduced annuity or a one-half reduced annuity to provide a current spouse annuity or a former spouse annuity or annuities.

(c) * * *

(2) * * *

(iii) The retiree elects a fully reduced annuity to provide a current spouse annuity under § 842.610.

(3) An election of a one-half reduced annuity under § 842.610(b) to provide a current spouse annuity for a current spouse who is the beneficiary of an insurable interest rate is void unless the spouse consents to the election.

(4) If a retiree who had elected an insurable interest rate to benefit a current spouse elects a fully reduced annuity to provide a current spouse annuity (or with the consent of the spouse, a one-half reduced annuity to provide a current spouse annuity) under § 842.610(b), the election of the insurable interest rate is cancelled.

(5)(i) A retiring employee or Member may not elect a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity and an insurable interest rate to benefit the same former spouse.

(ii) If a retiring employee or Member who is required by court order to provide a former spouse annuity elects an insurable interest rate to benefit the former spouse with the court-ordered entitlement—

(A) If the benefit based on the election is greater than or equal to the benefit based on the court order, the election of the insurable interest rate will satisfy the requirements of the court order as long as the insurable interest rate continues.

(B) If the benefit based on the election is less than the benefit based on the court order, the election of the insurable interest rate is void.

(iii) An election under § 842.611 of a fully reduced annuity or a one-half reduced annuity to benefit a former spouse by a retiree who elected and continues to receive an insurable interest rate to benefit that former spouse is void.

* * * * *

(g)(1) When an employee or Member elects both an insurable interest rate, and a fully reduced annuity or a one-half reduced annuity, the combined reduction may exceed the maximum 40 percent reduction in the retired employee's or Member's annuity permitted under section 8420 of title 5, United States Code, applicable to insurable interest annuities.

* * * * *

(h)(1) Except as provided in § 842.604(d), if a retiree who is receiving a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity has also elected an insurable interest rate to benefit a current spouse and if the eligible former spouse remarries before age 55, dies, or loses eligibility under the terms of the court order, and no other former spouse is entitled to a survivor annuity based on an election made in accordance with § 842.611 or a qualifying court order, the retiree may elect, within 2 years after the former spouse's remarriage, death, or loss of eligibility under the terms of the court order, to convert the insurable interest rate to a fully reduced annuity to provide a current spouse annuity, effective on the first day of the month following the event causing the former spouse to lose eligibility.

* * * * *

(3) When a former spouse receiving an annuity under section 8445 of title 5, United States Code, loses eligibility to that annuity, a beneficiary of an insurable interest rate who was the current spouse at both the time of the retiree's retirement and death may, within 2 years after the former spouse's death, remarriage, or loss of eligibility under the terms of the court order, elect to receive a current spouse annuity instead of the annuity he or she had been receiving. The election is effective on the first day of the month following the event causing the former spouse to lose eligibility.

* * * * *

(k)(1) An election under this section is prospectively voided by an election of a fully reduced annuity to provide a current spouse annuity under § 842.612 that would benefit the same person.

* * * * *

(3) An annuity reduction under this section terminates on the first day of the

month after the beneficiary of the insurable interest rate dies.

6. In § 842.606, paragraph (d) is redesignated paragraph (e), the section heading and paragraph (a) are revised, and paragraphs (d) and (f) are added to read as follows:

§ 842.606 Election of a self-only annuity or a one-half reduced annuity by married employees and Members.

(a) A married employee may not elect a self-only annuity or a one-half reduced annuity to provide a current spouse annuity without the consent of the current spouse or a waiver of spousal consent by OPM in accordance with § 842.607.

* * * * *

(d) The form described in paragraph (c) of this section may be executed before a notary public, an official authorized by the law of the jurisdiction where executed to administer oaths, or an OPM employee designated for that purpose by the Associate Director.

* * * * *

(f) The amount of the reduction in the retiree's annuity for a one-half reduced annuity to provide a current spouse annuity is 5 percent of the retiree's annuity.

7. In § 842.607, paragraph (b) is revised to read as follows:

§ 842.607 Waiver of spousal consent requirement.

* * * * *

(b) The spousal consent requirement will be waived based on exceptional circumstances if the employee or Member presents a judicial determination finding that—

(1) The case before the court involves a Federal employee who is in the process of retiring from Federal employment and the spouse of that employee;

(2) The nonemployee spouse has been given notice and an opportunity to be heard concerning this order;

(3) The court has considered sections 8416(a) of title 5, United States Code, and this section as they relate to waiver of the spousal consent requirement for a married Federal employee to elect an annuity without a reduction to provide a survivor benefit to a spouse at retirement; and

(4) The court finds that exceptional circumstances exist justifying waiver of the nonemployee spouse's consent.

8. Section 842.610 is amended by revising paragraphs (b)(1) and (b)(3) and by adding paragraph (b)(7) to read as follows:

§ 842.610 Changes of election after final adjudication.

* * * * *

(b)(1) Except as provided in § 842.605 and paragraphs (b)(2) and (b)(3) of this section, a retiree who was married at the time of retirement and has elected a self-only annuity, a one-half reduced annuity to provide a current spouse annuity, a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity, or an insurable interest rate may elect, no later than 18 months after the time of retirement, an annuity reduction or an increased annuity reduction to provide a current spouse annuity.

* * * * *

(3) To make an election under paragraph (b)(1) of this section, the retiree must pay, in full no later than 18 months after the time of retirement, a deposit equal to the sum of the monthly differences between the annuity paid to the retiree and the annuity that would have been paid if the additional annuity reduction elected under paragraph (b)(1) of this section had been in effect since the time of retirement, plus—

(i) If the election under paragraph (b)(1) of this section changes the annuity from a self only annuity to a fully reduced annuity, 24.5 percent of the retiree's annual annuity, plus 6 percent interest on both; or

(ii) If the election under paragraph (b)(1) of this section changes the annuity from a self only annuity to a one-half reduced annuity or from a one-half reduced annuity to a fully reduced annuity, 12.25 percent of the retiree's annual annuity, plus 6 percent interest on both.

* * * * *

(7) If a retiree who had elected a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity (or annuities) makes an election under paragraph (b)(1) of this section which would cause the combined current spouse annuity and former spouse annuity (or annuities) to exceed the maximum allowed under § 842.613, the former spouse annuity (or annuities) must be reduced to not exceed the maximum allowable under § 842.613.

9. In § 842.611, the section heading and paragraphs (a), (b), and (d) are revised and paragraph (e) is added to read as follows:

§ 842.611 Post-retirement election of a fully reduced annuity or one-half reduced annuity to provide a former spouse annuity.

(a) Except as provided in paragraphs (b) and (c) of this section, when a retiree's marriage terminates after retirement, the retiree may elect in writing a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity. Such an election must be filed with OPM within 2 years after the retiree's marriage to the former spouse terminates.

(b)(1) Qualifying court orders prevent payment of former spouse annuities to the extent necessary to comply with the court order and § 842.613.

(2) A retiree who elects a fully reduced annuity or a one-half reduced annuity to provide a former spouse annuity may not elect to provide a former spouse annuity in an amount that either—

(i) Is smaller than the amount required by a qualifying court order; or

(ii) Would cause the sum of all current and former spouse annuities based on a retiree's elections under § 842.603, § 842.604, § 842.612 and this section to exceed the maximum allowed under § 842.613.

(3) An election under this section is void—

(i) In the case of a married retiree, if the current spouse does not consent to the election on a form as described in § 842.606(c) and spousal consent is not waived by OPM in accordance with § 842.607; or

(ii) To the extent that it provides a former spouse annuity for the spouse who was married to the retiree at the time of retirement in an amount that is inconsistent with any joint designation or waiver made at the time of retirement under § 842.603(a)(1) or (a)(2).

* * * * *

(d) Any reduction in an annuity to provide a former spouse annuity will terminate on the first day of the month after the former spouse remarries before age 55 or dies, or the former spouse's eligibility for a former spouse annuity terminates under the terms of a qualifying court order, unless—

(1) The retiree elects, within 2 years after the event causing the former spouse to lose eligibility, to continue the reduction to provide or increase a former spouse annuity for another former spouse, or to provide or increase a current spouse annuity; or

(2) A qualifying court order requires the retiree to provide another former spouse annuity.

(e) The amount of the reduction to provide one or more former spouse annuities or a combination of a current spouse annuity and one or more former spouse annuities under this section equals—

(1) Ten percent of the employee's or Member's annuity if the employee or Member elects a fully reduced annuity; or

(2) Five percent of the employee's or Member's annuity if the employee or Member elects a one-half reduced annuity.

10. Section 842.612 is revised to read as follows:

§ 842.612 Post-retirement election of a fully reduced annuity or one-half reduced annuity to provide a current spouse annuity.

(a) Except as provided in paragraph (c) of this section, a retiree who was unmarried at the time of retirement may elect, within 2 years after a post-retirement marriage, a fully reduced annuity or a one-half reduced annuity to provide a current spouse annuity.

(b) Except as provided in paragraph (c) of this section, a retiree who was married at the time of retirement may elect, within 2 years after a post-retirement marriage—

(1) A fully reduced annuity or a one-half reduced annuity to provide a current spouse annuity if—

(i) The retiree was awarded a fully reduced annuity under § 842.603 at the time of retirement; or

(ii) The election at the time of retirement was made with a waiver of spousal consent in accordance with § 842.607; or

(iii) The marriage at the time of retirement was to a person other than the spouse who would receive a current spouse annuity based on the post-retirement election; or

(2) A one-half reduced annuity to provide a current spouse annuity if—

(i) The retiree elected a one-half reduced annuity under § 842.606 at the time of retirement;

(ii) The election at the time of retirement was made with spousal consent in accordance with § 842.606; and

(iii) The marriage at the time of r tirement was to the same person who ould receive a current spouse annuity based on the post-retirement election.

(c)(1) Qualifying court orders prevent payment of current spouse annuities to the extent necessary to comply with the court order and § 842.613.

(2) If an election under this section causes the total of all current and former spouse annuities provided by a qualifying court order or elected under § 842.604, § 842.611, or this section to exceed the maximum survivor annuity permitted under § 842.613, OPM will accept the election but will pay the portion in excess of the maximum only when permitted by § 842.613(c).

(d)(1) Except as provided in paragraph (d)(2) or (e)(3) of this section, a retiree making an election under this section must deposit an amount equal to the difference between the amount of annuity actually paid to the retiree and the amount of annuity that would have been paid if the reduction elected under paragraphs (a) or (b) of this section had been in effect continuously since the time of retirement, plus 6 percent annual interest, computed under § 842.606 of this chapter, from the date when each difference occurred.

(2) An election under this section may be made without deposit, if that election prospectively voids an election of an insurable interest annuity.

(e)(1) An election under this section is irrevocable when received by OPM.

(2) An election under this section is effective when the marriage duration requirements of § 843.303 of this chapter are satisfied.

(3) If an election under paragraph (a) or (b) of this section does not become effective, no deposit under paragraph (d) of this section is required.

(4) If payment of the deposit under paragraph (d) of this section is not required because the election never became effective and if some or all of the deposit has been paid, the amount paid will be returned to the retiree, or, if the retiree has died, to the person who would be entitled to any lump-sum benefits under the order of precedence in section 8424 of title 5, United States Code.

(f) Any reduction in an annuity to provide a current spouse annuity will terminate effective on the first day of the month after the marriage to the current spouse ends, unless—

(1) The retiree elects, within 2 years after a divorce terminates the marriage, to continue the reduction to provide for a former spouse annuity; or

(2) A qualifying court order requires the retiree to provide a former spouse annuity.

(g) The amount of the reduction to provide a current spouse annuity under this section equals—

(1) Ten percent of the employee's or Member's annuity if the employee or Member elects a fully reduced annuity; or

(2) Five percent of the employee's or Member's annuity if the employee or Member elects a one-half reduced annuity.

PART 843—FEDERAL EMPLOYEES RETIREMENT SYSTEM—DEATH BENEFITS AND EMPLOYEE REFUNDS

11. The authority citation for part 843 continues to read as follows:

Authority: 5 U.S.C. 8461; §§ 843.205, 843.208, and § 843.209 also issued under 5 U.S.C. 8424; § 843.309 also issued under 5 U.S.C. 8442; § 843.406 also issued under 5 U.S.C. 8441.

Subpart C—Current and Former Spouse Benefits

12. In § 843.311(c)(2)(ii), the "(1)" following "paragraph (b)" is removed.

13. Section 843.313 is added to read as follows:

§ 843.313 Elections between survivor annuities.

(a) A current spouse annuity cannot be reinstated under § 843.305 unless—

(1) The surviving spouse elects to receive the reinstated current spouse annuity instead of any other payments (except any accrued but unpaid annuity and any unpaid employee contributions) to which he or she may be entitled under FERS, or any other retirement system for Government employees, by reason of the remarriage; and

(2) Any lump sum paid on termination of the annuity is returned to the Civil Service Retirement and Disability Fund.

(b) A current spouse is entitled to a current spouse annuity based on an election under § 842.612 only upon electing this current spouse annuity instead of any other payments (except any accrued but unpaid annuity and any unpaid employee contributions) to which he or she may be entitled under FERS, or any other retirement system for Government employees.

(c) A former spouse who marries a retiree is entitled to a former spouse annuity based on an election by that retiree under § 842.611, or a qualifying court order terminating that marriage to that retiree only upon electing this former spouse annuity instead of any other payments (except any accrued but unpaid annuity and any unpaid employee contributions) to which he or she may be entitled under FERS, or any other retirement system for Government employees.

(d) As used in this section, "any other retirement system for Government employees" does not include Survivor Benefit Payments from a military retirement system or social security benefits.

[FR Doc. 92-4970 Filed 3-3-92; 8:45 am]
BILLING CODE 6325-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 337

RIN 3064-AB00

Unsafe and Unsound Banking Practices

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Proposed rule.

SUMMARY: As a result of a recent statutory amendment, insured nonmember banks are prohibited from making extensions of credit to their executive officers for purposes other than financing the education of the officers' children or financing the purchase, construction, maintenance or improvement of the officers' homes except to the extent authorized by regulation of the FDIC. The FDIC is proposing to amend its regulations to allow an insured nonmember bank to make extensions of credit to its executive officers for any purpose other than education or to finance a residence if the aggregate outstanding balance on such loans (*i.e.*, loans others than education or home finance loans) to the executive officer do not exceed the higher of 2.5 per cent of the bank's capital and unimpaired surplus or $25,000; provided, however that in no event may such extensions of credit exceed more than $100,000.

DATES: Comments must be received by April 3, 1992.

ADDRESSES: Send comments to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand delivered to room F–402, 1776 F Street, NW., Wahsington, DC 20429 on business days between 8:30 a.m. and 5 p.m. Comments may also be inspected in room F–402 between 8:30 a.m. and 5 p.m. on business days. [FAX number: (202) 898–3838.]

FOR FURTHER INFORMATION CONTACT: Pamela E.F. LeCren, Counsel, (202) 898–3730, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429 or Michael D. Jenkins, Examination Specialist, (202) 898–6896, Division of Supervision, FDIC, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Background

On December 19, 1991 President Bush signed into law the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA", Pub. L. No. 102–242, 105 Stat. 2236, "Act"). Section 306 of that Act, among other things, amended section 18(j)(2) of the Federal Deposit Insurance Corporation Act ("FDI Act", 12 U.S.C. 1828(j)(2)) to provide that section 22(g) of the Federal Reserve Act (12 U.S.C. 375a) "shall apply with respect to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank". The amendments made by section 306 of FDICIA become effective May 18, 1992. If regulations adopted by the Board of Governors of the Federal Reserve System ("Federal Reserve Board") implementing section 306 become effective earlier than May 18, 1992, the Federal Deposit Insurance Corporation will publish a document in the Federal Register changing the effective date. Section 306(m)(2) of FDICIA directs the FDIC to adopt regulations no later than 120 days after December 19, 1991 implementing section 22(g)(4) which, as more fully described below, allows the FDIC to set by regulation the maximum amount of loans other than education and mortgage loans that an insured nonmember bank may make to its executive officers. A description of section 22(g) follows.

Section 22(g) of the Federal Reserve Act prohibits member banks from making extensions of credit to their executive officers except to the extent authorized therein. It requires that extensions of credit by a member bank to its executive officers be promptly reported to the bank's board of directors and that extensions of credit to executive officers only be made if the bank would be authorized to make the extension to other borrowers, the extension of credit is on terms not more favorable than those afforded other borrowers, the executive officer has submitted a detailed current financial statement, and the extension of credit is made on the condition that it becomes due and payable on demand at the option of the bank if the executive officer becomes indebted to any other bank or banks in an amount that could not be extended to such officer by his/her own bank. It requires executive officers to make a report to the bank's board of directors if the executive officer becomes indebted to another bank in an amount in excess of that which the member bank could extend to the officer and requires member banks to include along with their report of condition a report of all loans made by the bank to its executive officers since the submission of its last call report. The report to the board of directors must indicate the date and amount of each extension of credit, the security therefor, and the purposes for which the proceeds were used. With the exception noted below, the Federal Reserve Board is given the authority to write regulations implementing section 22(g).

Section 22(g) specifically provides that member banks may extend credit to an executive officer of the bank if the loan is secured by a first lien on a dwelling to be owned by the executive officer and used as the executive officer's residence provided that no other such mortgage loan is outstanding to the executive officer. Member banks may also extend credit to an executive officer for the purpose of financing the education of the officer's children. Other types of loans may be made to the extent permitted by regulation. Section 22(g)(4) provides that extensions of credit to an executive officer not otherwise specifically authorized by section 22(g) may be made "in an amount prescribed in a regulation of the member bank's appropriate Federal banking agency". Loans may be made to a partnership in which one or more of the bank's executive officers are partners and have either individually or together a majority interest provided that the loans do not exceed the limit set by the appropriate agency pursuant to section 22(g)(4). The total amount of credit extended by a member bank to such partnership is considered to be extended to each executive officer of the member bank who is a member of the partnership. (See section 22(g)(5)).

It is the opinion of the FDIC's Board of Directors that insured nonmember banks are not only subject to section 22(g) of the Federal Reserve Act but that they are equally subject to lawfully promulgated regulations of the Federal Reserve Board implementing the provisions of section 22(g) other than section 22(g)(4) which, as noted above, provides that the appropriate federal regulatory agency shall set the limit on extensions of credit relevant for that section. Sections 215.5(a), 215.5(c)(1) and (c)(2), 215.5(d), 215.8, and 215.9 of the Federal Reserve Board's regulations (12 CFR 215.5(a), (c)(1), (c)(2), (d), 215.8, 215.9) set forth the Federal Board's regulations governing those portions of section 22(g) with regard to which that agency has exclusive rulemaking authority. The majority of the remainder of part 215 of the Federal Reserve Board's regulations (commonly referred to as Regulation O) implements section 22(h) of the Federal Reserve Act (12 U.S.C. 375b) which governs extensions of credit to directors, executive officers, and principal shareholders of member banks. Like section 22(g), section 22(h) is applicable to insured nonmember banks in the same manner and to the same extent as though they were member banks. (See section 18(j)(2) of the FDI Act, 12 U.S.C. 1828). Section 215.10 of Regulation O (12 CFR 215.10) sets forth reporting requirements applicable to loans made by member banks to their executive officers and principal shareholders. That section was adopted by the Federal Reserve Board pursuant to the authority of section 7(k) of the FDI Act which directs the appropriate

agency to adopt regulations governing such reports. (12 U.S.C. 1817(k)). Regulations setting forth similar requirements applicable to nonmember banks are found at part 349 of the FDIC's regulations. (12 CFR part 349).

The FDIC's Board of Directors determined when section 22(h) was enacted and Regulation O was adopted that both the statutory provisions and the Federal Reserve Board's regulation implementing those provisions were applicable to insured nonmember banks. Section 337.3(a) of the FDIC's regulations (12 CFR 337.3) which specifically provides that insured nonmember banks are subject to the restrictions contained in subpart A of Regulation O with the exception of certain provisions (namely those provisions implementing section 22(g) and the reporting requirement described immediately above) was subsequently adopted. An amendment conforming section 337.3 of the FDIC's regulations to the statutory changes pertaining to section 22(g) other than section 22(g)(4) and (5) enacted as part of FDICIA is published elsewhere in today's **Federal Register**. The amendment simply deletes the "except for" language in section 337.3 which references the portions of the Federal Reserve Board regulation that are now applicable to insured nonmember banks as a result of the statutory amendment. The purpose of this rulemaking is to adopt a regulation setting the loan limit in accordance with section 22(g)(4) and to prescribe the time frame within which all extension of credit outstanding on the effective date of the proposed amendment shall be brought into compliance with the requirements of section 22(g)(4).

Description of Proposal

As set forth above, the FDIC is authorized to establish by regulation the amount of loans an insured nonmember bank may make to its executive officers under section 22(g)(4) of the Federal Reserve Act. Member banks have been subject to the limitations of section 22(g)(4) for several years. The relevant limit as to member banks regarding loans to executive officers for purposes other than education and home mortgages is set out in section 215.5(c)(3) of the Federal Reserve Board's regulations. Section 215.5(b) contains a cross reference to section 215.5(c)(3) and indicates that a member bank may not extend credit to a partnership in which one or more of its executive officers are partners in an aggregate amount greater than that permitted by section 215.5(c)(3). Section 215.5(b) implements section 22(g)(5) of the Federal Reserve Act which, like the remainder of section 22(g), is now applicable to insured nonmember banks.

Section 215.5(c)(3) of the Federal Reserve Board's regulation provides that the total amount of any loans made to an executive officer (other than for the purpose of educating the officer's children or financing the purchase, construction, maintenance, or improvement of the officer's residence) may not exceed the higher of 2.5 per cent of the bank's unimpaired capital and surplus or $25,000, but in no event may such loans exceed $100,000. Inasmuch as state member banks and national banks are subject to the limits on loans as set forth in 215.5(c)(3) and the FDIC can see little purpose to be served by adopting a different limit for insured nonmember banks now that section 22(g) has been made applicable to such institutions, the FDIC is proposing to subject insured nonmember banks to the same limit. To do so will avoid creating any disparity of treatment among banks based upon their membership, or lack of membership, in the Federal Reserve System.

Interaction of Proposed Regulation With Other Lending Limits Under Section 22(h) of Federal Reserve Act

Pursuant to section 22(h) of the Federal Reserve Act and section 18(j)(2) of the FDI Act, an insured nonmember bank is prohibited from making extensions of credit to any of its executive officers in an amount in excess of the limit on loans to a signle borrower established by section 5200 of the Revised Statutes. (12 U.S.C. 84). That limit is generally 15 per cent of the bank's capital and unimpaired surplus in the case of loans that are not fully secured, with an additional 10 per cent allowable in the case of loans that are fully secured by readily marketable collateral having a market value determined by reliable and continuously available price quotations. As a result of the statutory changes enacted by FDICIA and the regulatory amendment proposed herein, insured nonmember banks will be further limited when lending to their executive officers if the loans are for a purpose other than the education of the officers' children or the financing of the officers' home. In no event may such "other" purpose loans exceed an aggregate amount of $100,000. Therefore, even though section 22(h) and the FDIC's regulations would allow an insured nonmember bank to extend credit to an executive officer in an amount equal to 15 per cent of the bank's capital and unimpaired surplus, if such amount is greater than $100,000 and the loan in question is for a purpose other than the education of the officer's children or the financing of the officer's residence, the loan may not exceed a maximum of $100,000. If the higher of 2.5 per cent of the bank's capital and unimpaired surplus or $25,000 is lower than $100,000, the figure that is lower than $100,000 becomes the ceiling on the loan amount. Insured nonmember banks should keep in mind that the $100,000 limit (or whatever lower figure that may be applicable) is an aggregate limit for all "other" purpose loans.

Effect of Proposal, if Finalized, on Outstanding Extensions of Credit

Under the proposed amendment, any outstanding extension of credit to an executive officer that, if made after the effective date of the regulation, would have been in violation of the lending limit established under the proposal is treated in one of two ways. If the extension of credit has a specific maturity date one year or later from the effective date of the amendment, the extension of credit must be repaid according to the payment schedule that was in existence prior to the date the amendment become effective. If the extension of credit does not have a specific maturity date one year or later from the effective date of the regulation, any renewal or extension of the extension of credit must be made on terms that will bring the extension of credit into compliance with the lending limit contained in § 337.3 (c)(1) and (c)(2) by no later than one year from the date the amendment becomes effective. The proposal thus provides an insured nonmember bank one year to bring into compliance outstanding extensions of credit that fall within the second category which exceed the limits of § 337.3 (c)(1) and (c)(2). Thus, an extension of credit that is due before the end of the one year period beginning on the effective date of the amendment may be renewed or extended during the first year after the effective date regardless of the limit contained in § 337.3(c) so long as the extension of credit is brought into compliance within one year. If an insured nonmember bank is unable to bring all extensions of credit outstanding on the effective date of the regulation into compliance as required, the compliance date may be

extended for good cause shown for not more than two additional one-year periods.

The compliance period provided for under the proposal is essentially the same that was given insured nonmember banks to bring outstanding extensions of credit into compliance with section 22(h) and Regulation O when it was originally adopted (See 12 CFR 215.6, 1979).

Regulatory Flexibility Act

It is the opinion of the Board of Directors that the proposal, if adopted, will not have a differential adverse impact on small banks. Compliance will not necessitate the development of sophisticated recordkeeping or reporting systems by small institutions nor the expertise of specialized staff accountants, lawyers, or managers who would have to be retained by small institutions. In fact, small institutions may find compliance easier and less costly than larger institutions as small institutions can be expected to have fewer executive officers. The Board of Directors therefore hereby certifies, pursuant to section 605 of the Regulatory Flexibility Act (12 U.S.C. 605), that the proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 12 CFR Part 337

Banks, banking, Reporting and recordkeeping requirements, Securities.

In consideration of the foregoing, the FDIC hereby proposes to amend part 337 of title 12 of the Code of Federal Regulations as follows:

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

1. The authority citation for Part 337 is revised to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1819, 1828(j)(2), 1831f.

2. Section 337.3 is amended by adding a new paragraph (c) to read as follows:

§ 337.3 Limits on extensions of credit to executive officers, directors, and principal shareholders of insured nonmember banks.

* * * * *

(c)(1) No insured nonmember bank may extend credit in an aggregate amount greater than the amount permitted in paragraph (c)(2) of this section to a partnership in which one or more of the bank's executive officers are partners and, either individually or together, hold a majority interest. For the purposes of paragraph (c)(2) of this section, the total amount of credit extended by an insured nonmember bank to such partnership is considered to be extended to each executive officer of the insured nonmember bank who is a member of the partnership.

(2) An insured nonmember bank is authorized to extend credit to any executive officer of the bank for any other purpose not specified in § 215.5(c)(1) and (2) of Federal Reserve Board Regulation O if the aggregate amount of such other extensions of credit does not exceed at any one time the higher of 2.5 per cent of the bank's capital and unimpaired surplus or $25,000, but in no event more than $100,000.

(3) Any extension of credit that was outstanding on [insert effective date of the final rule] and that would if made on or after that date violate paragraph (c)(1) or paragraph (c)(2) of this section shall be reduced in amount by [insert date one year from the effective date of the final rule] so that the extension of credit is in compliance with the lending limit set forth in paragraphs (c)(1) and (c) (2) of this section. Any renewal or extension of such an extension of credit on or after [insert effective date of the final rule] shall be made only on terms that will bring the extension of credit into compliance with the lending limit of paragraphs (c)(1) and (c)(2) of this section by [insert date one year from the effective date of the final rule], however, any extension of credit made before [insert effective date of the final rule] that bears a specific maturity date of [insert date one year from effective date of the final rule] or later shall be repaid in accordance with its repayment schedule in existence on or before [insert effective date of the final rule].

(4) If an insured nonmember bank is unable to bring all extensions of credit outstanding as of [insert effective date of the final rule] into compliance as required by paragraph (c)(3) of this section, the bank may at the discretion of the appropriate FDIC regional director (Division of Supervision) obtain, for good cause shown, not more than two additional one-year periods to come into compliance.

(5) For the purposes of this paragraph (c) the definitions of the terms used in Federal Reserve Board Regulation O shall apply.

By Order of the Board of Directors.

Dated at Washington, DC this 25th day of February, 1992.

Federal Deposit Insurance Corporation

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 92-4889 Filed 3-3-92; 8:45 am]

BILLING CODE 6714-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 615

RIN 3052-AB25

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Management of Investments; Liquidity; Interest Rate Risk; Eligible Investments

AGENCY: Farm Credit Administration.

ACTION: Proposed rule; comment period extension.

SUMMARY: On December 18, 1991, the Farm Credit Administration (FCA) published for comment proposed regulations that would govern the investment activities, liquidity reserve requirements, and interest rate risk management practices at Farm Credit System (FCS or System) banks. See 56 FR 65691 (Dec. 18, 1991). The comment period expired on February 18, 1992. In order to allow affected organizations additional time to respond, the FCA extends the comment period until May 1, 1992, and invites public comment on the impact of the proposed regulations on economic growth.

DATES: Comments should be received on or before May 1, 1992.

ADDRESSES: Comments may be mailed or delivered (in triplicate) to Jean Noonan, General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Michael J. LaVerghetta, Senior Financial Analyst, Technical Support Division, Office of Examination, Farm Credit Administration, McLean, VA 22102-5090, (703) 883-4231, TDD (703) 883-4444,

or

Richard Katz, Senior Attorney, Regulatory and Legislative Law Branch, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090 (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: On December 18, 1991, the FCA published proposed regulations in the **Federal Register** that would allow each System bank to hold specified eligible investments, in an amount not to exceed 20 percent of its total outstanding loans for: (1) Maintaining a liquidity reserve; (2) investing short-term surplus funds; and (3) reducing interest rate risk. The FCA also proposed to strengthen

existing regulations that require each board of directors to adopt investment policies and procedures that ensure that the bank conducts its investment activities in a safe and sound manner. Furthermore, proposed § 615.5134 would establish a liquidity reserve requirement for all FCS banks, while proposed § 615.5135 would require System banks to follow certain procedures for measuring and managing interest rate risk. Section 615.5140 of the proposed regulations would expand the list of eligible investments and require System banks to diversify their investment portfolios. Finally, § 615.5142 of the proposed regulations would require System banks to divest of investments that do not comply with proposed § 615.5140 within a certain period of time. The comment period for these proposed regulations expired on February 18, 1992.

On January 30, 1992, the President of the United States unveiled an initiative for economic growth. The President's initiative requires Federal agencies to review their regulations during a 90-day period in order to: (1) Identify those regulations which impede economic growth; and (2) accelerate action on those regulations that promote growth. The President's initiative establishes five criteria for evaluating the impact of a regulation upon economic growth. First, the expected benefits of the regulation to society should clearly outweigh its costs. Second, the regulation should be fashioned to maximize the net benefits to society. Third, the regulation should rely, to the maximum extent possible, on performance standards instead of prescriptive command-and-control requirements. Fourth, the regulation should, to the maximum extent possible, rely upon market mechanisms. Finally, the regulation should be expressed with clarity and certainty to guide regulated entities, and it should be designed to avoid needless litigation.

The FCA, as an independent agency in the executive branch of the United States government, is not required to comply with the President's initiative. Nevertheless, the FCA will voluntarily conduct a review of pending regulations. The FCA solicits public comment on the impact of proposed §§ 615.5131 through 615.5142 in light of the President's initiative, and accordingly, the agency extends the comment period until May 1, 1992. The FCA requests that commenters specifically discuss the above-listed five criteria in the President's initiative as they evaluate the impact of the proposed regulations on economic growth.

Dated: February 27, 1992.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 92-4924 Filed 3-3-92; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-02-AD]

Airworthiness Directives; Beech 99 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would supersede AD 90-04-04, which currently requires inspection of the wing front spar lower cap and associated structure for fatigue cracking on Beech 99 series airplanes, and replacement if found cracked. AD 90-04-04 also establishes a service life limit on the wing front spar lower caps that have reinforcing straps installed. This action would maintain the requirements of AD 90-04-04, but would correct the compliance times and other incorrect information contained in that AD. The actions specified by this AD are intended to prevent fatigue failure of the wing front spar lower cap and associated structure.

DATES: Comments must be received on or before May 15, 1992.

EFFECTIVE DATE: The Beech Structural Inspection and Repair Manual (SIRM), part number (P/N) 98-39006, Revision A4, dated May 1, 1987, may be obtained from the Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; Telephone (316) 676-7111. This information discusses the Beech kits and repair procedures that are referenced in the AD. Aerocon California, Inc. Engineering Order No. E.O. B-9975-2, dated November 14, 1975, and Aerocon California Service Letter, dated May 25, 1976, may be obtained from Western Aircraft Maintenance, 4444 Aeronca Street, Boise, Idaho 83705. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-02-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Don Campbell, Aerospace Engineer, Airframe Branch, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4128.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 92-CE-02-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 92-CE-02-AD, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Airworthiness Directive 90-04-04, Amendment 39-6487 (55 FR 3581, February 2, 1990), currently requires inspections of the wing front spar lower cap and associated structure for fatigue cracking on Beech 99 series airplanes, and replacement if found cracked. This

AD also establishes a service life limit on the wing front spar lower caps that have reinforcing straps installed in accordance with Supplemental Type Certificate (STC) No. SA1178CE. The FAA has determined that AD 90-04-04 contains incorrect compliance times and other information, which were inadvertently included.

Paragraph (b)(3) of AD 90-04-04 currently requires repetitive inspections at intervals of 2,000 hours time-in-service (TIS). The FAA has determined that, in order to be consistent with the Beech Structural Inspection and Repair Manual (SIRM) and paragraph (a)(2) of AD 90-04-04, this inspection interval should be 1,000 hours TIS.

Paragraphs (a)(2) and (b)(3) of AD 90-04-04 contain the phrase "Upon the accumulation of 10,000 hours TIS on the wing structure,". The FAA has determined that this should be phrased "Upon the accumulation of 10,000 hours TIS on the nacelle splice plates".

Paragraphs (a)(3) and (b)(4) of AD 90-04-04 contain references to spar replacement after 10,000 hours TIS, which allude to the manufacturer's spar life program. The program no longer exists and all references were intended to have been deleted from the AD by superseding AD 77-05-01 R3. The FAA has determined that all references to this spar life extension in AD 90-04-04, which were retained inadvertently in paragraphs (a)(3) and (b)(4), should be deleted.

The purpose of AD 90-04-04 was not only to require inspections different from that required in AD 77-05-01 R3, which was superseded by AD 90-04-04, but to maintain the same inspection intervals set up by superseded AD 77-05-01 R3. The FAA has determined that these inspection intervals should be maintained.

After reviewing the circumstances described above and all available information, the FAA has determined that AD action should be taken to continue to prevent fatigue failure of the wing front spar lower cap and associated structure on Beech 99 series airplanes.

Since the conditions that AD 90-04-04 were based upon are still likely to exist or develop in other Beech 99 series airplanes of the same type design, the proposed AD would retain the requirements of AD 90-04-04, but would change certain compliance times and delete information that is not pertinent. It would also maintain the inspection intervals established by either AD 77-05-01 R3 or AD 90-04-04. The proposed action would supersede AD 90-04-04.

The FAA estimates that 85 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 4 workhours per airplane to accomplish the proposed action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $37,400. Since AD 90-04-04, which would be superseded by the proposed action, required the same actions (except for a change in repetitive compliance times, the deletion of impertinent information, and the incorporation of established inspection intervals), there is no additional cost impact of the proposed AD on U.S. operators. The $10,200 cost difference between the proposed AD (estimated $37,400) and AD 90-04-04 (estimated $27,200) is a result of inflationary costs used in determining the cost of labor ($55 per hour as opposed to $40 per hour).

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 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 90-04-04, Amendment 39-6487 (55 FR 3581, February 2, 1990), and adding the following new AD:

Beech: Docket No. 92-CE-02-AD.

Applicability: 99 series airplanes (serial numbers U-1 through U-49, and serial numbers U-41 through U-164) that have 3,000 hours or more time-in-service (TIS), except those airplanes that have Beech Wing Modification Kit No. 99-4023-1S installed, certificated in any category.

Compliance: Required as indicated in the body of the AD, unless already accomplished.

To prevent fatigue failure of the wing front spar lower cap and associated structure, accomplish the following:

(a) For airplanes that do not have a spar reinforcing strap installed in accordance with the instructions in STC SA1178CE, accomplish the actions specified in paragraphs (a)(1) through (a)(4) of this AD using the criteria in the Beech Structural Inspection and Repair Manual (SIRM).

(1) Upon the accumulation of 3,000 hours TIS on the front spar lower cap or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished within the last 500 hours TIS (the inspection interval established by either superseded AD 77-05-01 R3 or superseded AD 90-04-04), and thereafter at intervals not to exceed 500 hours TIS, inspect the areas of structure defined by Index Number 1 (lower forward fitting only) and Index Number 2 through 7 on Page 202, Section 57-15-00, of the Beech SIRM, using the visual, fluorescent penetrant, and eddy current methods as specified in the Beech SIRM. If a crack, loose fastener, or corrosion is found, prior to further flight, repair or replace as specified in the Beech SIRM.

(2) Upon the accumulation of 10,000 hours TIS on the nacelle splice plates, or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished (superseded AD 90-04-04), and thereafter at intervals not to exceed 1,000 hours TIS, inspect the nacelle splice plates as defined by Index Number 9 on Page 202, section 57-15-00, of the Beech SIRM, using visual methods as specified in the Beech SIRM. If a crack, loose fastener, or corrosion is found, prior to further flight, repair or replace as specified in the Beech SIRM.

(3) Upon the accumulation of 10,000 hours TIS on the wing structure or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished within the last 500 hours TIS (the inspection interval established by either superseded AD 77-05-01 R3 or superseded AD 90-04-04), and therafter at intervals not to exceed 500 hours TIS, inspect the wing structure components defined in paragraph (d) of this AD using visual and dye penetrant methods as indicated. If a crack, loose fastener, or corrosion is found, prior to

further flight, repair or replace as specified in the Beech SIRM.

(4) Upon the accumulation of 10,000 hours TIS on the front spar lower cap or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished (superseded AD 90–04–04), and thereafter at intervals not to exceed 10,000 hours TIS, replace the structural components set forth on Page 203, Section 57–15–00, of the Beech SIRM, and summarized below:

(i) Lower cap of the front spar, with attachment fitting, in each outer wing panel.

(ii) Lower cap of the front spar, with left and right attachment fittings, in the center section.

(b) For airplanes that have a spar reinforcing strap installed in accordance with Supplemental Type Certificate (STC) SA1178CE, accomplish the actions specified in paragraphs (b)(1) through (b)(5) using the Beech SIRM and Aerocon California, Inc., Engineering Order No. E.O. B–9975–02, dated November 14, 1975. Strap tension is to be adjusted in accordance with the instructions in Aerocon California Service Letter, dated May 25, 1976.

(1) If the strap was installed before 1,000 hours TIS On the front spar lower cap, within the next 2,000 hours TIS after the effective date of this AD, unless previously accomplished within the last 2,000 hours TIS (the inspection interval established by either superseded AD 77–05–01 R3 or superseded AD 90–04–04), and thereafter at intervals not to exceed 2,000 hours TIS:

(i) Remove and inspect the STC SA1178CE strap in accordance with the instructions in Aerocon California, Inc. Engineering Order No. E.O. B–9975–2, dated November 14, 1975. If a crack, loose fastener, or corrosion is found, prior to further flight, repair or replace in accordance with the instructions in Aerocon California, Inc. Engineering Order No. E.O. B–9975–2.

(ii) Inspect the following areas of structure using the visual, fluorescent penetrant, and eddy current methods as specified in the Beech SIRM. If a crack, loose fastener, or corrosion is found, prior to further flight, repair or replace as specified in the Beech SIRM.

(A) Areas defined by Index Number 1 (lower forward fitting only) and Index Numbers 2 through 7 on Page 202, Section 57–15–00, of the Beech SIRM.

(B) Areas defined by paragraphs (d)(5) and (d)(8) of this AD.

(iii) Reinstall the STC SA1178CE strap and adjust its tension in accordance with the instructions in Aerocon California Service Letter, dated May 25, 1976.

(2) If the strap was installed at or after 1,000 hours TIS on the front spar lower cap, within the next 1,000 hours TIS after the effective date of this AD, unless previously accomplished within the last 1,000 hours TIS (the inspection interval established by either superseded AD 77–05–01 R3 or superseded AD 90–04–04), and thereafter at intervals not to exceed 1,000 hours TIS, accomplish the following:

(i) Remove and inspect the STC SA1178CE strap in accordance with the instructions in Aerocon California, Inc. Engineering Order No. E.O. B–9975–2, dated November 14, 1975. If a crack, loose fastener, or corrosion is found, prior to further flight, repair or replace in accordance with the instructions in Aerocon California, Inc. Engineering Order No. E.O. B–9975–2.

(ii) Inspect the following areas of structure using the visual, fluorescent penetrant, and eddy current methods as specified in the Beech SIRM. If a crack, loose fastener, or corrosion is found, prior to further flight, repair or replace as specified in the Beech SIRM.

(A) Areas defined by Index Number 1 (lower forward fitting only) and Index Numbers 2 through 7 on Page 202, Section 57–15–00, of the Beech SIRM.

(B) Areas defined by paragraphs (d)(5) and (d)(8) of this AD.

(iii) Reinstall the STC SA1178CE strap and adjust its tension in accordance with the instructions in Aerocon California Service Letter, dated May 25, 1976.

(3) Upon the accumulation of 10,000 hours TIS on the nacelle splice plates or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished (superseded AD90–04–04), and thereafter at intervals not to exceed 1,000 hours TIS, inspect the nacelle splice plates as defined by Index Number 9 on Page 202, section 57–15–00, of the Beach SIRM, using the visual methods as specified in the Beech SIRM. If a crack, loose fastener, or corrosion is found, prior to further flight, repair or replace as specified in the Beech SIRM.

(4) Upon the accumulation of 10,000 hours TIS on the wing structure or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished within the last 500 hours TIS (the inspection interval established by either superseded AD 77–05–01 R3 or superseded AD 90–04–04), and therafter at intervals not to exceed 500 hours TIS, inspect the wing structure components defined in paragraph (d) of this AD using visual and dye penetrant methods as indicated; compliance is not required with paragraphs (d)(5), (d)(8), and that portion of paragraph (d)(12) of this AD that refers to the lower spar cap and hinge. If a crack, loose fastener, or corrosion is found, prior to further flight, repair or replace as specified in the Beech SIRM.

(5) Replace the structural components that are set forth on Page 203, section 57–15–00, of the Beech SIRM (summarized in paragraphs (b)(5)(i) and (b)(5)(ii) of this AD) upon the accumulation of the front spar's allowable service life. Determine the allowable service life by substracting the front spar lower cap hours TIS at which the strap was installed from 48,000 hours TIS.

Note: For example, if the spar cap had been in service 5,000 hours TIS when the strap was installed, then the spar cap's allowable service life becomes 43,000 hours TIS (48,000 minus 5,000).

(i) Lower cap of the front spar, with attachment fitting, in each outer wing panel.

(ii) Lower cap of the front spar, with left and right attachment fittings, in the center section.

(c) The inspection intervals established by superseded AD 77–05–01 R3 and superseded AD 90–04–04 may be substituted for the "unless already accomplished" statement in paragraphs (a)(1), (a)(3), (b)(1), (b)(2), and (b)(4) of this AD.

(d) The items specified in paragraphs (d)(1) through (d)(13) of this AD define the additional structural items to be inspected as referenced by paragraphs (a)(3) and (b)(4) of this AD.

(1) Inspect the lower fuselage skin at the attachment to the main spar for possible cracks or loose rivets.

(2) Inspect the lower left hand (LH) and right hand (RH) nacelle skins for cracks or loose rivets.

(3) Remove the aft fabric covers in the wheel wells and inspect for possible cracks in the center section skin under the top nacelle fairing. Check around the nacelle attach flange on the top side for possible loose rivets or cracks in the top skin.

(4) Inspect the structure and attaching fasteners of both keel beam assemblies at Butt Line (BL) 68 inboard, BL 88 outboard, at the center section rear spar, Nacelle Station 160.50.

(5) Inspect for possible cracks or loose rivets in the LH and RH dimpled skin attachment holes on the forward side of the main spar at the four countersunk screws and at all rivets between the fuselage and the nacelles.

(6) Inspect for possible cracks or loose rivets along the top skin attachment to the aft spar.

(7) Inspect for possible loose fastener in the lower aft spar cap and skin.

(8) Inspect for possible cracks or loose fasteners in the lower strap on the main spar at Wing Station 68.5.

(9) Inspect the lower stringers running forward and aft between the main spar and the aft spar for possible cracks or loose fastenerss to the lower fuselage skin. This area is to be checked from the center aisle and through access panels inside of the airplane.

(10) Inspect for possible cracks or loose fasteners in frames and angle clips of the center wing/fuselage at Fuselage Stations 188, 197, and 207.

(11) Using dye penetrant procedures outlined in AC 43.13–1A, inspect the four upper forward wing to center section fittings and the eight aft wing to center section fittings for possible cracks. Do not remove the wing attachment bolts unless cracks are indicated.

(12) Inspect the outer wing upper and lower spar cap and hinge for possible cracks, loose rivets, or wear of hinge.

(13) Lower the flaps and remove the lower aft access covers of the outer and center wing to inspect the aft spar and ribs for possible cracks near the inboard flaps.

(e) Airplane maintenance record entries must be made and notification in writing sent to the Manager, Wichita Aircraft Certification Office FAA, 1801 Airport Road, room 100, Wichita, Kansas 67209, stating the location and length of any cracks found during inspections required by this AD and also the total hours TIS of the component at the time the crack was discovered. Reports may be submitted by letter or through M or D

(Malfunction or Defect) or MRR (Maintenance Reliability Reports) procedures. (Reporting approved by the Office of Management and Budget under OMB No. 2120-0056).

(f) The eddy current inspections required by this AD must be performed by personnel who have received training and are qualified in the operation of eddy current equipment that has been calibrated using a specimen obtained from the airplane manufacturer and simulates cracking of the spar cap.

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

(h) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

(i) All persons affected by this directive may obtain copies of the document referred to herein upon request to the Beech Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(j) This amendment supersedes AD 90-04-04, Amendment 39-6487.

Issued in Kansas City, Missouri, on February 25, 1992.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-4981 Filed 3-3-92; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 92-NM-10-AD]

Airworthiness Directives; Boeing Model 707/720, 727, and 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to Boeing Model 707/720, 727, and 737 series airplanes, which currently requires inspection of the E-F window post for cracks, and repair, if necessary. This action would require inspections of the E-N area of the window post for cracks; visual inspections to determine sufficient edge margin of the reinforcement straps at all of the strap fastener holes; and repair, if necessary. This proposal is prompted by reports of window post cracks found in the E-N window post area, which is located above the E-F area. The actions specified by the proposed AD are intended to prevent rapid depressurization of the cabin.

DATES: Comments must be received by April 27, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-10-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton Wood, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2772; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-10-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-10-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

On April 6, 1982, the FAA issued AD 82-08-09, Amendment 39-4364 (47 FR 17276, April 22, 1982), to require inspection to detect cracks of the window post structure on Boeing Model 707/720, 727, and 737 series airplanes, and repair, if necessary. That action was prompted by reports of cracks in the window post structure between points "E" and "F." The post is located in the window area of the control cabin. The requirements of that AD are intended to prevent rapid depressurization of the cabin.

Since the issuance of that AD, there have been numerous reports of cracks found in the area of the window post structure between points "E" and "N," which is located above the E-F area. Additonally, there have been reports of cracking found in the E-F area in airplanes on which certain reinforcement straps had been installed previously in the window post structure; the reinforcement straps do not have the correct edge margin for the rivet pattern of the window post (i.e., the strap is too short). The FAA has determined that cracks in these areas, if allowed to grow to their critical length, will weaken the window post structure and may consequently result in loss of cabin pressure. This presents the same unsafe condition as addressed by the existing AD.

The FAA has reviewed and approved Boeing Service Bulletin 2983, Revision 5, dated January 31, 1991 (for Model 707/720 series airplanes); Boeing Service Bulletin 727-53-0086, Revision 11, dated August 8, 1991 (for Model 727 series airplanes); and Boeing Service Bulletin 737-53-1023, Revision 11, dated May 16, 1991 (for Model 737 series airplanes). Each of these service documents describe procedures for inspections to detect cracks of the E-N and E-F window post area; visual inspections to determine if sufficient edge margin of the reinforcement straps exists at all of the strap fastener holes on certain repaired or modified E-F window posts; and repair, if necessary.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of this same type design, the proposed AD would supersede AD 82-08-09 to expand the area for inspection for cracks to include the E-N area of the window post; to require visual inspections to determine if sufficient edge margin of the reinforcement straps exists at all of the strap fastener holes; and repair, if necessary. The actions would be required to be accomplished in accordance with the service bulletins previously described.

There are approximately 1,800 Model 707/720, 727, and 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,183 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 work hours per airplane to accomplish the required actions, and that the average labor cost would be $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $520,520.

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—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39-4364 (47 FR 17276, April 22, 1982), and by adding the following new airworthiness directive:

Boeing: Docket No. 92-NM-10-AD. Supersedes AD 82-08-09, Amendment 39-4364.

Applicability: Applies to Model 707/720, series airplanes, listed in Boeing Service Bulletin 2983, Revision 5, dated January 31, 1991; Model 727 series airplanes listed in Boeing Service Bulletin 727-53-0086, Revision 11, dated August 8, 1991; and Model 737 series airplanes listed in Boeing Service Bulletin 737-53-1023, Revision 11, dated May 16, 1991; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent depressurization as a result of failure of the control cabin window post structure, accomplish the following:

(a) Inspect the E-F window posts for cracks in accordance with the schedule set forth in Table 1, 2, or 3 of this AD, as applicable:

TABLE 1.—MODEL 707/720 E-F WINDOW POST INSPECTION

[Applicable Boeing Service Bulletin 2983]

Airplane condition	Inspection required in accordance with revision 4 or 5 of the service bulletin	Initial inspection not to exceed (flight cycles)	Repeat inspection interval not to exceed (flight cycles)
1. Service Bulletin Not accomplished	X-ray E-F window post	1,650 after May 21, 1982 (effective date of AD 82-08-09), or prior to accumulation of 11,650, whichever ocours later.	3,300
2. Repaired or modified per Original Issue of Service Bulletin.	X-ray E-F window post	1,650 after May 21, 1982, or prior to accumulating 10,000 after repair or modification, whichever occurs later.	3,300
3. Repaired or modified per Revision 1, 2, 3, 4, or 5 of Service Bulletin. (Modification was accomplished without using eddy current inspection to verify structure was free of cracks.).	Close visual for cracks of external doubler and the exposed portion of the E-F window post with the #2 sliding window open.	1,650 after May 21, 1982; or prior to accumulating 16,650 after repair or modification; whichever occurs later.	3,300
4. Repaired or modified per Revision 1 of the Service Bulletin.	Visual inspection for sufficient edge margin of all of the strap fastener holes.	1,650 after the effective date of this AD	None
5. Modification per Revision 2, 3, 4, or 5 of the Service Bulletin (verified no cracks in structure by use of eddy current inspection described in Revision 4 or 5 of the Service Bulletin.).	No further action required		

TABLE 2. — MODEL 727 E–F WINDOW POST INSPECTION

[Applicable Boeing Service Bulletin 727–53–0086]

Airplane condition	Inspection required in accordance with revision 6, 7, 8, 9, 10, or 11 of the service bulletin	Initial inspection not to exceed (flight cycles)	Repeat inspection interval not to exceed (flight cycles)
1. Service Bulletin not accomplished	X-ray E–F window post	1,650 after May 21, 1982 (effective date of AD 82–08–09), or prior to accumulating 11,650, whichever occurs later.	3,300
2. Repaired or modified per Original Issue or Revision 1 of the Service Bulletin.	X-ray E–F window post	1,650 after May 21, 1982, or prior to accumulating 10,000 after repair or modification, whichever occurs later.	3,300
3. Repaired or modified per Revision 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 of the Service Bulletin. (Modification was accomplished without using eddy current inspection to verify structure was free of cracks.).	Close visual for cracks of external doubler and the exposed portion of the E–F window post with the #2 sliding window open.	1,650 after May 21, 1982, or prior to accumulating 16,650 after repair or modification, whichever occurs later.	3,300
4. Repaired or modified per Revision 9 or 10 of the Service Bulletin.	Visual Inspection for sufficient edge margin of all of the strap fastener holes.	1,650 after effective date of this AD	None
5. Modified per Revision 2, 3, 5, 6, 7, 8, or 11 of the Service Bulletin (verified no cracks in structure by use of eddy current inspection described in Revision 6, 7, 8, 9, 10, or 11).	No further action required.		

TABLE 3.—MODEL 737 E–F WINDOW POST INSPECTION

[Applicable Boeing Service Bulletin 737–53–1023]

Airplane condition	Inspection required in accordance with revision 6, 7, 8, 9, 10, or 11 of the service bulletin	Initial inspection not to exceed (flight cycles)	Repeat inspection interval not to exceed (flight cycles)
1. Service Bulletin not accomplished	X-ray E–F window post	2,750 after May 21, 1982 (effective date of AD 82–08–09), prior to the accumulation of 12,750, whichever occurs later.	5,500
2. Repair or modification in per Original Issue or Revision 1 or 2 of the Service Bulletin.	X-ray E–F window post	2,750 after May 21, 1982, or prior to accumulating 10,000 after repair of modification, whichever occurs later.	5,500
3. Repair or modification per Revision 3, 4, 5, 6, 7, 8, 9, 10, 11 of the Service Bulletin. (Modification was accomplished without using eddy current inspection to verify structure was free of cracks).	Close visual for cracks of external doubler and the exposed portion of the E–F window post with the #2 sliding window open.	2,750 after May 21, 1982, or prior to accumulating 17,750 after repair or modification, whichever occurs later.	5,500
4. Repair or modification per Revision 9 or 10 of the Service Bulletin.	Visual inspection for sufficient edge margin of all the strap fasterner holes.	2,750 after effective date of this AD	None
5. Modification per Revision 3, 4, 5, 6, 7, 8, 9, 10, or 11 of the Service Bulletin (verfied no cracks in structure by use of eddy current inspection described in Revision 6, 7, 8, 9, 10, or 11.).	No further action required.		

(b) Inspect the E–N window post for cracks in accordance with the schedule set forth in Table 4, 5, or 6 of this AD, as applicable:

TABLE 4.—MODEL 707/720 E–N WINDOW POST INSPECTION

[Applicable Boeing Service Bulletin 2983]

Airplane condition	Inspection required in accordance with revision 5 of the service bulletin	Intial inspection not to exceed (flight cycles)	Repeat inspection interval not to exceed (flight cycles)
1. Service Bulletin not accomplished; or repair or modification per Original Issue or Revision 1, 2, 3, or 4 of the Service Bulletin.	X-ray E–N window post	1,650 after the effective date of the AD or prior to the accumulation of 11,650, whichever occurs later.	3,300
2. Repaired per Revision 5 of the Service Bulletin (cracks in structure.	X-ray E–N window post	1,650 after effective date of the AD or prior to accumulating 16,650 after repair, whichever occurs later.	3,300
3. Modified per Revision 5 of the Service Bulletin (no cracks in structure).	No further action required.		

TABLE 5.—MODEL 727 E–N WINDOW POST INSPECTION

[Applicable Boeing Service Bulletin 727–53–0086]

Airplane condition	Inspection required in accordance with revision 9, 10, or 11 of the service bulletin	Initial inspection not to exceed (flight cycles)	Repeat inspection interval not to exceed (flight cycles)
1. Service Bulletin not accomplished; or repair or modification per Original Issue, or Revision 1, 2, 3, 4, 5, 6, 7, or 8 of the Service Bulletin.	X-ray E–N window post	1,650 after effective date of this AD or prior to the accumulation of 11,650, whichever occurs later.	3,300
2. Repaired per Revision 9, 10, or 11 of the Service Bulletin (cracks in structure).	X-ray E–N window post	1,650 after effective date of the AD or prior to accumulating 16,650 after repair whichever occurs later.	3,300
3. Modified per Revision 9, 10, or 11 of the Service Bulletin (no cracks in structure).	No further action required.		

TABLE 6.—MODEL 737 E–N WINDOW POST INSPECTION

[Applicable Boeing Service Bulletin 737–53–1023]

Airplane condition	Inspection required in accordance with revision 9, 10, 11 of the service bulletin	Initial inspection not to exceed (flight cycles)	Repeat inspection interval not to exceed (flight cycles)
1. Service Bulletin not accomplished; or repaired or modified per Original Issue, Revision 1, 2, 3, 4, 5, 6, 7, or 8 of the Service Bulletin.	X-ray E–N window post	2,750 after the effective date of this AD or prior to the accumulation of 12,750, whichever occurs later.	5,500
2. Repaired per Revision 9 or 10 of the Service Bulletin (cracks in structure).	X-ray E–N window post	2,750 after the effective date of this AD or prior to accumulating 17,750 after repair, whichever occurs later.	5,500
3. Modified per Revision 9 or 10 of the Service Bulletin (no cracks in structure).	No further action required.		

(c) Reinspect the affected areas for cracks at intervals not to exceed those specified in the "Repeat Inspection Interval" column of the Tables of paragraphs (a) and (b) of this AD.

(d) Cracks and short edge margins must be repaired, prior to further flight, in accordance with the "Accomplishment Instructions" of the following service bulletins. After such repair, inspections must continue in accordance with the Tables of paragraphs (a) and (b) of this AD.

(1) For Boeing Model 707/720 series airplanes: Boeing Service Bulletin 2983, Revision 5, dated January 31, 1991.

(2) For Boeing Model 727 series airplanes: Boeing Service Bulletin No. 727–53–0086, Revision 11, dated August 8, 1991.

(3) For Boeing Model 737 series airplanes: Boeing Service Bulletin No. 737–53–1023, Revision 11, dated May 16, 1991.

(e) 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. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

Issued in Renton, Washington, on February 24, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4984 Filed 3–3–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–11–AD]

Airworthiness Directives; Boeing Model 737–400 and 737–500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–400 and 737–500 series airplanes. This proposal would require inspection of certain side-of-body floor panels, and repair or replacement, if necessary. This proposal is prompted by reports of disbonded one-piece inserts found in certain side-of-body floor panels. The actions specified by the proposed AD are intended to prevent floor panels from breaking away under certain loads.

DATES: Comments must be received by April 27, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–11–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Rodriguez, Airframe Branch, ANM–120S, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2779; fax (206) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92–NM–11–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–11–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

Inspections have revealed disbonding of the one-piece inserts used in certain floor panels installed on Boeing Model 737–400 and 737–500 series airplanes. Test results indicate that side-of-body floor panels with disbonded one-piece inserts have a shear strength below what is necessary to withstand a 9g forward load event. A 9g load transmitted by the seat tracks to these floor panels could cause the floor panels to break away.

The FAA has reviewed and approved Boeing Service Bulletin 737–53A1152, Revision 1, dated October 24, 1991, which describes procedures for inspection for, and reinforcement of, disbonded one-piece inserts installed on floor panels manufactured by Hexcel prior to a certain date. (The subject panels were manufactured by Hexcel prior to January 7, 1991; panels manufactured after that date are not subject to the disbonding problem.) The reinforcement procedure will increase the strength of those floor panels so that they will carry a 9g forward load. The service bulletin also provides procedures for replacing the panel in lieu of reinforcing the insert.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require a one-time inspection of the side-of-body floor panels to determine the manufacturer and the date of manufacture. Panels manufactured by Hexcel prior to January 7, 1991, would be required to be replaced or the insert repaired. These actions would be required to be accomplished in accordance with the service bulletin previously described.

There are approximately 231 Model 737–400 and 737–500 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 71 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 7 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $27,335.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 92–NM–11–AD.

Applicability: Model 737–400 and 737–500 series airplanes; as listed in Boeing Service Bulletin 737–53A1152, Revision 1, dated October 24, 1991; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent floor panels from breaking away under certain loads, accomplish the following:

(a) Within 18 months after the effective date of this AD, inspect the side-of-body floor panels forward of Body Station 887 to determine if the panels were manufactured by Hexcel and the date of their manufacture; in accordance with the Accomplishment Instructions of Boeing Service Bulletin 737–53A1152, Revision 1, dated October 24, 1991.

(1) If the floor panels were not manufactured by Hexcel; or if the floor panels were manufactured by Hexcel on or after January 7, 1991; no further action is necessary.

(2) If the floor panels were manufactured by Hexcel before January 7, 1991, prior to further flight, either replace the floor panels, or repair all one piece inserts in the panels, in accordance with the service bulletin.

(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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

Issued in Renton, Washington, on February 24, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4983 Filed 3–3–92; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 92-NM-12-AD]

Airworthiness Directives; Boeing Model 747 and 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD) that is applicable to certain Boeing Model 747 and Model 767 series airplanes. The existing AD currenly requires modification of the Model 747 off-wing escape slide compartment door opening thrusters and the Model 767 off-wing escape slide compartment door opening/snubbing actuator, by replacing certain O-rings. This action would require inspection of the door opening thrusters and door opening/snubbing actuators for proper oil quantity, and modification of the off-wing compartment latching assemblies. This proposal is prompted by reports of the off-wing escape slide system failing to deploy when commanded. The actions specified by the proposed AD are intended to prevent failure of the escape slide to deploy, thus delaying and possibly jeopardizing successful emergency evacuation of an airplane.

DATES: Comments must be received by April 27, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-12-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from OEA, Inc., P.O. Box 10488, Denver, Colorado 80210; or Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, Aerospace Engineer, Seattle Aircraft Certification Office, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, 1601, Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2784; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-12-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-12-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

On July 29, 1988, the FAA issued AD 88-18-04, amendment 39-5992 (53 FR 29652, August 8, 1988), to require modification of the off-wing slide compartment door opening thrusters installed on Model 747 series airplanes equipped with a two-piece off-wing escape ramp and slide; and modification of the off-wing escape slide compartment door opening/snubbing actuators installed on Model 767 series airplanes. The modification in both cases consists of replacement of certain O-rings. That action was prompted by reports of actuator and thruster malfunctions that were the result of insufficient oil in the thruster or actuator, due to leakage of oil past defective or contaminated O-rings. The requirements of that AD are intended to prevent failure of the escape slide to deploy, thus delaying and possibly jeopardizing successful emergency evacuation of an airplane.

Since the issuance of that AD, the FAA has received numerous reports of malfunctions of the off-wing systems on Model 747 and Model 767 series airplanes. Subsequent investigation has revealed that one of the causes of the malfunctions was insufficient oil in the thruster or actuator due to leakage past defective or contaminated O-rings (similar to the condition that was addressed in AD 88-18-04). Another cause of these malfunctions was attributed to improper operation of the latch release mechanism of the escape system compartment door. These conditions, if not corrected, could result in the failure of the off-wing escape slide to deploy, thus delaying and possibly jeopardizing successful emergency evacuation of an airplane.

The FAA has reviewed and approved the following service bulletins:

a. OEA Service Bulletin 2174200-25-013, dated July 29, 1991, which describes procedures for inspection of the escape system door opening/snubbing actuators on Model 747 series airplanes equipped with two piece off-wing escape ramp and slide. (OEA is the manufacturer of the actuators.)

b. OEA Service Bulletin 3092100-25-002, dated July 26, 1991, which describes procedures for inspection of the off-wing escape slide door opening/snubbing actuators on certain Model 767 series airplanes.

c. Boeing Service Bulletin 747-25-2951, dated August 15, 1991, which describes procedures for replacement of latch assemblies on Model 747 series airplanes equipped with two piece off-wing escape ramp and slide.

d. Boeing Alert Service Bulletin 767-25A0174, dated August 15, 1991, which describes procedures for replacement of latch assemblies on off-wing escape slides on certain Model 767 series airplanes.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 88-18-04 to require repetitive inspections of the escape slide door opening/snubbing actuators for proper oil quantity, and replacement of escape slide compartment door latching mechanism. The actions would be required to be accomplished in accordance with the service bulletins previously described.

There are approximately 400 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 125 Model 747 series airplanes of U.S. registry would be

affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $510 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $146,250 for Model 747 series airplanes.

There are approximately 400 Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 200 Model 767 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Required parts would cost approximately $1,380 per airplane. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $408,000 for Model 767 series airplanes.

Based on the figures discussed above, the total cost impact of the proposed AD on U.S. operators of Model 747 and Model 767 series airplanes is estimated to be $554,250.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-5992 (53 FR 29652, August 8, 1988), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 92–NM–12–AD. Supersedes AD 88–18–04, Amendment 39–5992.

Applicability: Model 747 series airplanes equipped with two-piece off-wing escape ramp and slides; and Model 767 series airplanes equipped with off-wing escape slides; certificated in any category.

Compliance: Required as indicated, unless acccomplished previously.

To prevent failure of the escape slide to deploy, thus delaying and possibly jeopardizing successful emergency evacuation of an airplane, accomplish the following:

(a) For Model 747 series airplanes equipped with two-piece off-wing escape slide, accomplish the requirements specified in paragraphs (a)(1) and (a)(2) of this AD:

(1) Within 12 months after the effective date of this AD, perform an inspection of the escape system door opening/snubbing actuators in accordance with OEA Service Bulletin 2174200–25–013, dated July 29, 1991. Repeat this inspection thereafter at intervals not to exceed 20 months.

(2) Within 12 months after the effective date of this AD, inspect and modify the escape slide compartment door latching mechanism in accordance with Boeing Service Bulletin 747–25–2951, dated August 15, 1991.

(b) For Model 767 series airplanes equipped with off-wing escape slides, accomplish the requirements specified in paragraphs (b)(1) and (b)(2) of this AD:

(1) Within 12 months after the effective date of this AD, inspect the off-wing escape slide door opening/snubbing actuators in accordance with OEA Service Bulletin 3092100–25–002, dated July 26, 1991. Repeat this inspection thereafter at intervals not to exceed 20 months.

(2) Within 12 months after the effective date of this AD, inspect and modify the escape slide compartment door latching mechanism in accordance with Boeing Alert Service Bulletin 767–25A0174, dated August 15, 1991.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

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

Issued in Renton, Washington, on February 24, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92–4988 Filed 3–3–92; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 92–NM–09–AD]

Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1125 Westwind Astra Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the supersedure of an existing airworthiness directive (AD), applicable to all Israel Aircraft Industries (IAI) Model 1125 Westwind Astra series airplanes, that currently requires repetitive visual inspections to detect cracks in the outer lugs of the horizontal stabilizer hinge fittings, and replacement of any cracked fittings. This action would expand the area originally specified for inspection. This proposal is prompted by a report of cracks found around the hinge pin head and nut of lugs located outside the inspection area specified in the existing AD. The actions specified by the proposed AD are intended to prevent reduced structural integrity of the horizontal stabilizer assembly.

DATES: Comments must be received by April 28, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–09–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Astra Jet Corporation, Technical Publications, 77 McCullough Drive, suite 11, New Castle, Delaware 19720. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2145; fax (206) 227–1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 29–NM–09–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–09–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

On May 1, 1990, the FAA issued AD 90–10–08, Amendment 39–6597 (55 FR 9060, May 8, 1990), to require repetitive visual inspections to detect cracks in the outer lugs of the horizontal stabilizer hinge fittings, and replacement of any cracked fittings. That action was prompted by a damage tolerance analysis conducted by the manufacturer, which revealed that cracks may develop in the horizontal stabilizer hinge fitting lugs. The requirements of that AD are intended to prevent reduced structural integrity of the horizontal stabilizer assembly.

Since the issuance of that AD, there has been a report of cracks found around the hinge pin head and nut of lugs, which is an area located outside the area originally specified for inspection. This condition, if not corrected, could result in reduced structural integrity of the horizontal stabilizer assembly.

Astra Jet Corporation has issued Service Bulletin 1125–55–017, Revision 1, dated April 24, 1991, that describes procedures for repetitive visual inspections of the horizontal stabilizer hinge fitting to detect cracks in the outer lug root radius and fore and aft surfaces, and around the hinge pin head and nut of the lugs; and replacement of any cracked fittings. The Civil Aviation Administration of Israel (CAAI), which is the airworthiness authority for Israel, classified this service bulletin as mandatory.

This airplane model is manufactured in Israel and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAAI has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAAI, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 90–10–08 to require repetitive visual inspections of the horizontal stabilizer hinge fitting to detect cracks in the outer lug root radius and fore and aft surfaces, and around the hinge pin head and nut of the lugs; and replacement of any cracked fittings. The actions would be required to be accomplished in accordance with the service bulletin described previously.

The FAA estimates that 40 airplanes of U.S. Registry would be affected by this proposed AD, which includes 28 airplanes that were affected by AD 90–10–08, and 12 additional airplanes that would be affected by this proposed AD. The FAA estimates that it would take approximately 0.5 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the cost impact of AD 90–10–08 on U.S. operators (28 airplanes) was $770. This proposed AD would add $330 for the 12 additional airplanes to accomplish the actions required by this proposal. Based on these figures, the total cost impact of this proposed AD on U.S. operators is estimated to be $1,100 (or $27.50 per airplane).

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

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

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6597 (55 FR 19060, May 8, 1990), and by adding a new airworthiness directive (AD), to read as follows:

Israel Aircraft Industries (IAI), Ltd.: Docket 92–NM–09–AD. Supersedes AD 90–10–08, Amendment 39–6597.

Applicability: Model 1125 Westwind Astra series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the horizontal stabilizer assembly, accomplish the following:

(a) Within the next 50 hours time-in-service after June 15, 1990 (the effective date of AD 90-10-08, Amendment 39-6597), unless previously accomplished within the last 150 hours time-in-service prior to June 15, 1990, perform a visual inspection to detect cracks in the outer lugs of the horizontal stabilizer hinge fitting, in accordance with Astra Service Bulletin 1125-55-017, dated October 16, 1989.

(b) If no cracks are found, repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 200 hours time-in-service.

(c) If cracks are found, prior to further flight, replace the hinge fitting, in accordance with Astra Service Bulletin 1125-55-017, dated October 16, 1989, or Revision 1, dated April 24, 1991.

(d) Within the next 50 hours time-in-service after the effective date of this AD, unless previously accomplished within the last 150 hours time-in-service, perform a visual inspection of the horizontal stabilizer hinge fitting to detect cracks in the outer lug root radius and fore and aft surfaces, and around the hinge pin head and nut of the lugs, in accordance with Astra Service Bulletin 1125-55-017, Revision 1, dated April 24, 1991. Accomplishment of this inspection terminates the requirements of paragraphs (a), (b), and (c) of this AD.

(e) If no cracks are found, repeat the inspection required by paragraph (d) of this AD at intervals not to exceed 200 hours time-in-service.

(f) If cracks are found, prior to further flight, replace the hinge fitting, in accordance with Astra Service Bulletin 1125-55-017, Revision 1, dated April 24, 1991. After replacement, repeat the inspection required by paragraph (d) of this AD at intervals not to exceed 200 hours time-in-service.

(g) 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. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

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

Issued in Renton, Washington, on February 25, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR DOC. 92-4986 Filed 3-3-92; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 92-NM-07-AD]

Airworthiness Directives; SAAB-SCANIA Models SAAB SF340A and SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes the adoption of a new airworthiness directive (AD) that is applicable to certain SAAB-SCANIA Models SAAB SF349A and SAAB 340B series airplanes. This proposal would require inspections of the lower drag strut assembly to detect loose, damaged, or worn parts, and repair of discrepant parts. This proposal is prompted by recent field experience, which has revealed that the bolts and collars attaching the lower drag strut fitting have been losing their torque. The actions specified by the proposed AD are intended to prevent loss of structural integrity of the powerplant installation and subsequent damage to the engine forward frame.

DATES: Comments must be received by April 28, 1992.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-07-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, Except Federal holidays.

The service information referenced in the proposed rule may be obtained from SAAB-Scania AB, Product Support, S-581.88, Linkping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; Telephone (206) 227-2145; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 92-NM-07-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 92-NM-07-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain SAAB-SCANIA Models SAAB SF340A and SAAB 340B series airplanes. The LFV advises that recent field experience has revealed that the bolts and collars attaching the lower drag strut fitting have been losing their torque. This condition, if not corrected, could result in loss of structural integrity of the powerplant installation and subsequent damage to the engine forward frame.

In December 1989, SAAB-SCANIA issued Service Bulletin 340-54-026 to address procedures to perform an inspection of the drag strut bolts, lower fittings, and attaching bolts to verify the type of nuts/collars installed; and to change the collars to MS21042 L3 nuts on the attaching Hi-Loks or Eddie Bolts. (The FAA addressed these actions in AD 90-05-10, Amendment 39-6530 (55 FR 7702, March 5, 1990).) Subsequently, SAAB-SCANIA has advised the FAA that, after accomplishment of the procedures specified in that service bulletin, a more comprehensive inspection of the attaching holes on the

upper and lower drag strut attaching points, upper longeron and inner side beam skins, and attaching frame and angle, is necessary; and that corrective action for possible abnormal wear or damage may be required.

Consequently, SAAB–SCANIA has issued Service Bulletin 340–54–027, Revision 1, dated July 4, 1991, which describes procedures for inspections of the lower drag strut assembly to detect loose, damaged, or worn parts, and repair of discrepant parts. The LFV classified this service bulletin as mandatory and issued Swedish Airworthiness Directive SAD No. 1–049, Revision A, in order to assure the continued airworthiness of these airplanes in Sweden.

This airplane model is manufactured in Sweden and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require inspections of the lower drag strut assembly to detect loose, damaged, or worn parts, and repair of discrepant parts. The actions would be required to be accomplished in accordance with SAAB Service Bulletin 340–54–027, Revision 1, dated July 4, 1991.

The FAA estimates that 139 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5.5 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Basd on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $42,048.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB-SCANIA: Docket 92–NM–07–AD.

Applicability: Model SAAB SF340A series airplanes, serial numbers 004 through 159; and Model SAAB 340B series airplanes, serial numbers 160 through 166; certificated in any category.

Compliance: Required as indicated unless accomplished previously. To prevent loss of structural integrity of the powerplant installation and subsequent damage to the engine forward frame, accomplish the following:

(a) If, when accomplishing the inspections required by AD 90–05–10, Amendment 39–6530 (reference SAAB Service Bulletin 340–54–026), it was determined that MS21042 nuts had already been installed, and no change from collars to nuts had taken place, then accomplishment of this AD is not required.

(b) Except as provided in paragraph (a) of this AD, within 1,500 hours time-in-service after the effective date of this AD; and thereafter at intervals not to exceed 1,500 hours time-in-service; accomplish a visual inspection of the upper and lower drag strut attachment fittings and the adjacent skin area, the upper longeron and attaching frame, and the angle attaching the frame to the side wall to detect loose fasteners, loose fittings, and cracks; and accomplish a torque inspection of the MS21042 nuts, in accordance with section 1.B(i) or SAAB Service Bulletin 340–54–027, Revision 1, dated July 4, 1991.

(1) If loose fasteners or fittings are found, prior to further flight, perform the detailed inspection required by paragraph (c) of this AD.

(2) If the installed MS21042 nuts are not loose, check the torque; and retorque, prior to further flight, if nuts are out of torque tolerance.

(3) If cracks are found, prior to further flight, repair in a manner approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(c) Except as provided in paragraph (a) of this AD, within 3,000 hours time-in-service after the effective date of this AD; and thereafter at intervals not to exceed 3,000 hours time-in-service; inspect the drag strut attaching holes at each end of the drag strut (one upper and one lower attached fitting) to detect elongation, damage, and abnormal wear, in accordance with section 2.B.(ii) of SAAB Service Bulletin 340–54–027, Revision 1, dated July 4, 1991.

(1) If any holes are elongated or outside the specified tolerance, prior to further flight, repair in accordance with sections E. anf F. of the service bulletin, as appropriate.

(2) If any damage found exceeds the limits of the modifications described in the service bulletin, prior to further flight, repair in a manner approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(d) Except as provided in paragraph (a) of this AD, prior to the total accumulation of 22,000 landings, or within 500 landings after the effective date of this AD, whichever occurs later, accomplish a detailed inspection of the lower drag strut attachment holes (Eddy Bolt/Hi-Lok) of the lower drag strut fitting, the inner side beam skin and the upper longerons, and the drag strut attachment holes in the upper and lower fittings, in accordance with section 2.D. of SAAB Service Bulletin 340–54–027, Revision 1, dated July 4, 1991.

(1) If the attaching holes are elongated or out of the specified tolerance, prior to further flight, repair in accordance with sections E. and F. of the service bulletin, as appropriate.

(2) If defects such as gouges, nicks, cracks, and creases are found, or if the damage found exceeds the limits of the modifications described in the service bulletin, prior to further flight, repair in a manner approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(e) Accomplishment of paragraph (d) of this AD constitutes terminating action for the requirements of paragraphs (b) and (c) of this AD.

(f) 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. The request shall be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on February 25, 1992.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 92-4987 Filed 3-3-92; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1500

Revision of Costs Chargeable in Connection With Relabeling and Reconditioning Inadmissible Imports

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments.

SUMMARY: The Commission is proposing to amend its regulation providing for reimbursing the government for the costs of reconditioning noncomplying imported hazardous substances.

DATES: Comments must be received on or before April 3, 1992. The amended regulation is proposed to become effective 30 days following final publication.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207. Submitted comments may be seen at 5401 Westbard Avenue, Bethesda, Maryland between the hours of 9 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; Telephone (301) 504-0400.

SUPPLEMENTARY INFORMATION: Section 1500.272 of title 16 of the Code of Federal Regulations is based on section 14(c) of the Federal Hazardous Substances Act (FHSA), 15 U.S.C. section 1273(c). That section provides for reimbursing the government for the costs of supervising the reconditioning of noncomplying imported hazardous substances. The reimbursement is made by the owner or consignee of the imported hazardous substances who requests such action. The regulation establishes a flat rate of $8 per hour for the supervising officer and a flat rate of $10 per hour for the analyst (which shall include the use of the chemical laboratories and equipment of the Consumer Product Safety Commission). These rates have remained the same for over 18 years. See **Federal Register** notice 38 FR 27012, published on September 27, 1973.

The revision of the costs for relabeling and reconditioning of inadmissible imported products is necessitated by the face that the present amounts do not adequately reimburse the government for its costs incurred. The present amounts were established by the Food and Drug Administration of the Department of Health, Education and Welfare, the predecessor agency of the Consumer Product Safety Commission. When the Consumer Product Safety Commission was established in 1973, the rates were not changed. Because of inflation, the rates are not in line with the actual cost to the government.

The revised rates are proposed to be based upon the starting salary of a GS 11 investigator and the starting salary of a GS 12 analyst. Since the rates would be based on GS (government service) salary grades than specific dollar amounts, there would be no need, in the future, to revise this provision to account for inflation.

List of Subjects in 16 CFR Part 1500

Consumer protection, Hazardous substances, Imports, Infants and children, Labeling, Law enforcement, Reporting and recordkeeping requirements, and Toys.

For the reasons stated above, title 16, chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

1. The authority citation for part 1500 continues to read as follows:

Authority: 15 U.S.C. 2079(a).

2. Section 1500.272 is amended by revising paragraphs (c) and (d) to read as follows:

§ 1500.272 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.

* * * * *

(c) Services of the supervising officer, to be calculated at the rate of a GS 11, step 1 employee, except that such services performed by a customs officer and subject to the provisions of the Act of February 13, 1911, as amended (sec. 5, 36 Stat. 901 as amended; 19 U.S.C. section 267), shall be calculated as provided in that act.

(d) Services of the analyst, to be calculated at the rate of a GS 12, step 1 employee (which shall include the use of the chemical laboratories and equipment of the Consumer Product Safety Commission).

* * * * *

Dated: February 20, 1992.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 92-4809 Filed 3-3-92; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE TREASURY

United States Mint

31 CFR Parts 91, 92, and 100

Solicitation of Views of the Public Concerning Regulations and Programs of the Mint

AGENCY: United States Mint, Department of the Treasury

ACTION: Solicitation of views of the public concerning regulations and programs of the Mint.

SUMMARY: In connection with the President's initiative on regulatory reform, the United States Mint invites the public to comment on the regulations and programs of the Mint. We seek information on how our requirements or methods of operation adversely impact on the public. Comments are invited both as to our numismatic and bullion coin programs, and our mission of providing circulating coins for the nation's commerce. While special emphasis is placed on those regulations and programs that impose a substantial burden on the economy, we also welcome constructive suggestions on changes we should make in our operations.

DATES: Comments will be most helpful if received by March 18, 1992. Comments received before March 31, 1992 may also be considered.

ADDRESSES: Send comments to: Chief Counsel's Office, United States Mint, 633 3rd Street, NW., Washington DC 20220.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Gubin, Chief Counsel, United States Mint, 633 3rd Street, NW., Washington, DC 20220; telephone (202) 874-6040.

Brenda Gatling,

Chief, Executive Secretariat, U.S. Mint.

[FR Doc. 92-4975 Filed 3-3-92; 8:45 am]

BILLING CODE 4810-37-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 58

[AD-FRL-4099-6]

Ambient Air Quality Surveillance

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes to revise the ambient air quality surveillance regulations (40 CFR part 58) to include provisions for enhanced monitoring of ozone and oxides of nitrogen, and for additional monitoring of volatile organic compounds (including aldehydes) and meteorological parameters. These revisions are being proposed in accordance with title I, section 182 of the 1990 Clean Air Act Amendments. The revisions would require States to establish photochemical assessment monitoring stations (PAMS) as part of their State Implementation Plan (SIP) monitoring network in ozone nonattainment areas classified as serious, severe, or extreme. Included in the proposal are minimum criteria for network design, monitor siting, monitoring methods, operating schedule, quality assurance, and data submittal.

DATES: Comments must be received on or before April 3, 1992.

ADDRESSES: Submit comments to (duplicate copies are preferred) to: Central Docket Section, U.S. Environmental Protection Agency, Attn. Docket No. A–91–22, 401 M Street, SW., Washington, DC 20460. Docket No. A–91–22 is located in the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Lobby Gallery I, 401 M St., SW., Washington, DC 20460. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Gerladine J. Dorosz, Technical Support Division (MD–14), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, phone: 919–541–5492 or (FTS) 629–5651.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a)(2)(C) of the Clean Air Act requires ambient air quality monitoring for purposes of the State Implementation Plan (SIP) and reporting of the data to EPA. Uniform criteria for measuring air quality and provisions for the reporting of a daily air pollution index are required by section 319 of the Act. To satisfy these requirements, on May 10, 1979 (44 FR 27571), EPA established 40 CFR part 58 which provided detailed requirements for air quality surveillance and data reporting for all the pollutants except lead for which ambient air quality standards (criteria pollutants) has been established. On September 3, 1981 (46 FR 44164) similar rules were promulgated for lead and on July 1, 1987 (52 FR 24740) for particulate matter (PM_{10}).

The intent of the enchanced ozone monitoring revisions being proposed today is to provide an air quality data base that will assist air pollution control agencies in evaluating, tracking the progress of, and, if necessary, refining control strategies for attaining the ozone National Ambient Air Quality Standards (NAAQS). Ambient concentrations of ozone (O_3), oxides of nitrogen (NO_x, NO_2, and NO), and speciated volatile organic compounds (VOC) including aldehydes (or their surrogates) and meteorological data collected by the PAMS will be used to make attainment/nonattainment decisions, aid in tracking VOC and NO_x emission inventory reductions, better characterize the nature and extent of the ozone problem, and prepare air quality trends. In addition, data from the PAMS will provide an improved data base for evaluating model performance, especially for future control strategy mid-course corrections as part of the continuing air quality management process. The data will be particularly useful to states in ensuring the implementation of the most cost effective, socially acceptable regulatory controls.

The regulations proposed in this notice address the minimum requirements for the enhancement of ambient air monitoring for ozone and nitrogen oxides as well as monitoring for speciated VOC and meteorological parameters. Title I, section 182 of the 1990 Clean Air Act Amendments requires enchanced monitoring for ozone and its precursors. Also, section 184(d) requires that the best available air quality monitoring and modeling techniques be used in making determinations concerning the contribution of sources in one area to concentrations of ozone in another area which is a nonattainment area for ozone. In the process of developing proposed regulations to address this requirement, the EPA sought the assistance of the Standard Air Monitoring Work Group (SAMWG). SAMWG members represent State and local air pollution control agencies and EPA program and regional offices. SAMWG members were an active partner in developing and reviewing the 1979 part 58 rulemaking package which formally established the existing framework of the ambient air quality surveillance and data reporting regulations. They also played a prominent role in all subsequent revisions to part 58.

Accordingly, the Agency is soliciting comment on all aspects of the proposed rules and particularly on the general scope and adequacy of the proposal, the necessity and/or adequacy of the individual components of the monitoring approach, and the Agency's estimated monitoring costs.

Proposed Revisions to Part 58—Ambient Air Quality Surveillance

Section 58.1 Definitions

The revisions proposed today would add definitions of the terms "PAMS" (photochemical assessment monitoring stations), "NO_2" (nitrogen dioxide), "NO" (nitrogen oxide), "NO_x" (oxides of nitrogen), "VOC" (volatile organic compounds), and meteorological measurements.

Section 58.2 Purpose

Currently, part 58 contains a provision to establish a national ambient air quality monitoring network for the purpose of providing timely air quality data upon which to base national ambient air assessments and policy decisions. This national network is a subset of the State and Local Air Monitoring Stations (SLAMS), and these stations in the network are designated as National Air Monitoring Stations (NAMS). The NAMS are subject to monitoring and reporting requirements contained in subpart D of part 58. The proposed revision to this section adds a revised paragraph (d) which explains that part 58 acts to establish a network of PAMS which are also subsets to SLAMS but subject to monitoring and reporting requirements contained in the redesignated and revised subpart E of this part.

Section 58.13 Operating Schedule

The current operating schedule for SLAMS continuous analyzers is given in paragraph (a) of this section and requires collecting consecutive hourly averages except during periods of routine maintenance, instrument calibration, and periods or seasons exempted by the Regional Administrator. This same operating schedule also applies to the proposed PAMS continuous O_3 and NO_x analyzers and automated gas chromatographs. For manual methods except for lead, the

current requirements are specified in paragraph (b) and require States to obtain at least one 24-hour sample every 6 days except during periods or seasons exempted by the Regional Administrator. Paragraph (b) is being revised to also exempt manual VOC samples. In addition, a new paragraph (c) is proposed which presents the operating schedule for manual speciated VOC measurements. Changes to operating schedules for PAMS must be approved by the Administrator. The existing paragraph (c) is redesignated as paragraph (d). The Agency seeks comment on the proposed operating schedule for PAMS and the sampling frequencies for VOC and aldehydes.

Section 58.20 Air quality surveillance: Plan content

This section originally required States by January 1, 1980 to submit a SIP revision which included provisions for establishing and operating the SLAMS network to measure ambient concentrations of those pollutants for which standards have been established in part 50 of title 40 (criteria pollutants). The section included provisions to apply to criteria of part 58 of title 40, appendices A (quality assurance), C (monitoring methods), D (network design), and E (probe siting) to designing and implementing the SLAMS network. It also provided for an annual network review and monitoring during all stanges of air pollution episodes. Currently, § 58.20 does not require States to include in their SIP a provision for monitoring non-criteria pollutants. Because enhanced ozone monitoring will require monitoring of non-criteria pollutants (NO_x, NO, and speciated VOC) and meteorology, paragraph (a) of this section is revised to include a provision that SLAMS designated as PAMS will obtain these additional measurements. It is likely that due to the multiple monitoring objective for PAMS, that the site locations will, in some cases, coincide with existing SLAMS (or NAMS) monitoring sites. In these cases, the sites only need to be supplemented with those instruments necessary to comply with PAMS monitoring requirements. To establish the PAMS, a new paragraph (f) provides that States with ozone nonattainment areas designated as serious, severe, or extreme will be required to submit a SIP revision which includes additional provisions for monitoring these non-criteria pollutants and obtaining meteorological data. These revisions would be due 6 months after the effective date of promulgation or redesignation and reclassification of any area to serious, severe, or extreme ozone nonattainment. The Agency seeks comment regarding the adequacy of the 6-month period for preparation and promulgation of SIP revisions to accommodate PAMS.

This revision is in accord with section 182 of title I of the 1990 Clean Air Act Amendments. Other revisions to § 58.20 include a change to paragraph (c) which adds the word "criteria" before the words "pollutant except Pb". This change is being proposed since the proposed revisions in paragraph (a) include monitoring non-criteria pollutants while the requirement for monitoring during an emergency episode was only intended to apply to criteria pollutants.

Subpart E—Air Quality Index—Redesignation as Photochemical Assessment Monitoring Stations

For purposes of continuity in Subpart Headings and Content (subpart C addresses SLAMS, subpart D addresses NAMS) the existing subpart E—Air Quality Index Reporting, and subpart F—Federal Monitoring are proposed to be redesignated as subparts F and G, respectively. In addition to being redesignated, subpart F would be renumbered starting with § 58.50 and subpart G would be renumbered starting with § 58.60. The newly designated subpart E would start with § 58.40 and address PAMS network establishment.

Section 58.40 PAMS Network Establishment

This section would require that a description of the PAMS network and a schedule for implementation be submitted to the Administrator within 6 months of the effective date of promulgation of the regulations or redesignation and reclassification of any area to serious, severe, or extreme ozone nonattainment. The network description is not a part of the SLAMS SIP revision required by § 58.20 and need not be submitted with the SLAMS SIP revision which also has the same submittal date. The Agency requests comment concerning the adequacy of the 6-month period to prepare the PAMS network description. Also included in this section is a requirement that the network design criteria in appendix D be followed in the process of designing the PAMS network. In cases where the ozone nonattainment areas extend beyond State or EPA Regional boundaries, the affected States are encouraged to collectively design and submit a combined PAMS network for the adjoining areas and to cooperate in establishing PAMS sites in areas which fall outside of a nonattainment area, if necessary. If States choose to submit individual network descriptions for each affected nonattainment area irrespective of its proximity to other affected areas, those networks must fulfill the requirements for isolated areas as described in section 4 of appendix D. In all cases, network descriptions are to be submitted to the Administrator through the appropriate Regional office(s). Provisions are included which allow the submittal of alternative network designs, but those designs must include a demonstration that they satisfy the monitoring data uses and fulfill the PAMS monitoring objectives described in sections 4.1 and 4.2 of appendix D. Certain alternative plans must be published in the **Federal Register**, subjected to public comment, and subsequently approved by the Administrator. The Agency seeks comment on what criteria should be used to determine whether such alternative monitoring plans are "equivalent" to the proposed statutory minimum, given the intended uses for the PAMS data.

Section 58.41 PAMS Network Description

In order for the Administrator to approve individual or combined State PAMS network descriptions certain information pertaining to the stations such as station location, AIRS site identification codes, methodology, operating schedule and schedule for implementation are needed at the national level. This section describes the information to be included in the network description submittal required by § 58.40.

Section 58.42 PAMS Approval

Ambient air data from the PAMS are intended for diverse multiple uses including supporting NAAQS attainment decisions and demonstrations, corroborating VOC and NO_x emission inventories and tracking emission reductions, evaluating the effectiveness of control strategies, providing input for future photochemical grid modeling exercises and evaluating model performance, characterizing population exposure, preparing national air quality trends, and developing national policies. Users of the data collected from the PAMS will include State and local air pollution control agencies and EPA regions. EPA offices at the national level will likewise be a major user of the data particularly for preparing national trends, evaluating national control strategies, and developing national policy. Because of these latter uses, the need for national consistency, the concern for uniformity of methods and

operating schedule, and the recognized need for flexibility, the PAMS networks will be subject to the approval of the Administrator. More detailed information regarding the uses of PAMS data may be found in appendix D of the proposal. The Agency seeks comment on the appropriateness of the intended PAMS data uses and probable data users.

Section 58.43 PAMS Methodology

This section would require that all PAMS meet the PAMS monitoring methodology requirements specified in appendix C. Existing stations would be required to meet the method requirements at the time of network description submittal. Future stations would need to meet those requirements upon their establishment.

Section 58.44 PAMS Network Completion

The completion date for the establishment of the PAMS network would be 5 years after the effective date of the promulgation of the regulations or redesignation and reclassification of the area to serious, severe, or extreme ozone nonattainment. A five-year phase-in period was proposed to follow a reasonable buildup of resources at the State and local agency level, to accommodate the expected evolution of the sampling technology, and to allow a "gearing-up" period to develop the necessary expertise and infrastructure to conduct this complex mointoring effort. Full details of the proposed 5-year transition process are provided in appendix D.

In light of the importance of the PAMS data to the development and evaluation of alternative State Implementation Plan (SIP) strategies, the Agency seeks comment on the pros and cons of shorter or longer phase-in periods, especially as they relate to modelling demonstrations required of the affected areas. The Agency therefore seeks comment on periods of 1, 2, 3 years or longer.

Section 58.45 PAMS Data Submittal

This section would establish the reporting requirements for the PAMS data. The data from O_3, and NO_x (including NO and NO_2 data) monitors would be required to be submitted to EPA's Aerometric Information Retrieval System (AIRS)—Air Quality Subsystem (AQS) within 60 days following the end of each quarterly reporting period. Meteorological data and speciated VOC data must be submitted within 6 months after the end of the quarterly reporting period. Inasmuch as meteorological data will often be used to interpret ozone precursor ambient data and how they relate to ozone precursor emissions, it also is required to be submitted within the 6-month time frame specified for speciated VOC data. Given the complexity and interpretive expertise required to analyze speciated VOC data and especially given the rapid evolution of the monitoring technology, 6 months was established as a reasonable time period for speciated VOC data submittal. The Agency seeks comment on the reasonableness of this time peirod.

Section 58.46 System Modification

This section would include a requirement that any changes in the PAMS network be evaluated during the annual SLAMS review specified in § 58.20. Changes that are proposed by the State would be evaluated by the EPA Regional Office and must be approved by the Administrator. An implementation time of 1 year would be granted to complete the approved changes. This procedure would also apply to changes to the PAMS network which resulted from a redesignation of the area to attainment.

Revisions to Appendix A–Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS)

Appendix A is being revised to include a provision that refers to Agency guidance on quality assurance criteria for VOC measurements. Monitoring techniques for speciated VOC are emerging technologies, and quality assurance criteria equivalent to that in part 58 for the criteria pollutants are currently not available for VOC. EPA is, however, preparing guidance on VOC mointoring technology and this document will address quality assurance for VOC as well as for meteorological measurements.

Appendix C—Monitoring Methodology

The requirements in appendix C were promulgated to provide limitations on the allowance of methods to be used in the SLAMS and NAMS network. The purpose of the limitations are to restrict allowable methods to those which have been tested and proven to be reliable or to those which show significant probability of being reliable.

The proposed revisions to appendix C would include a similar but less restrictive limitation on PAMS measurements. The revisions would require that PAMS 0_3 and NO_x monitoring methods be automated reference or equivalent methods. However, reference or equivalent methods for meteorological measurements or speciated VOC measurements are not available since reference or equivalent requirements or specifications for these methods are not currently included in EPA regulations. In the absence of such specifications and because of EPA concerns about the need for minimum uniform criteria concerning measurement methodology, EPA has prepared a document which provides Agency guidance on methods for conducting meteorological measurements and measurements for VOC. Appendix C would require States to use this guideline document in selecting and conducting such measurements at PAMS. Should States prefer to propose alternative methods for conducting VOC measurements, the methods must be detailed in the network description required by § 58.40. Such proposed alternative methodology must be published in the **Federal Register**, subjected to public comment, and subsequently approved by the Administrator.

Appendix D—Network Design for State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS), and Photochemical Assessment Monitoring Stations (PAMS)

Appendix D currently contains criteria to be used in designing networks to meet the monitoring objectives for SLAMS and NAMS. The design criteria are intended to provide uniformity in locating air monitoring stations for the SLAMS and NAMS networks. A new section 4 of appendix D is being proposed to provide a similar concept of minimum criteria for designing a PAMS network. Section 4 contains a description of the major uses of data from the PAMS. These uses include ozone attainment/nonattainment decisions, preparation of control strategies for ozone nonattainment areas, tracking of VOC, NO_x, and toxic air pollutant emission inventory reductions, providing future input to photochemical models and data for model evaluation, preparation of air quality trends, and characterization of population exposure to ozone and urban air toxic pollutants. Specific objectives that must be addressed include assessing ambient trends in VOC and its species, determining spatial and diurnal variability of VOC species and assessing changes in the species profiles that occur over time, particularly those occurring due to the reformulation of fuels. Note that data from stations which operate NO_2 monitors year round can also be utilized to determine attainment or nonattainment with the NO_2 National Ambient Air Quality Standard which is

expressed as an annual arithmetic mean.

Designing and implementing a network to adequately satisfy all of these data uses would require extraordinary resources; consequently, a practical compromise on the minimum number of stations in a PAMS network is proposed. The proposal identifies five types of PAMS, which have different monitoring objectives or functions relative to the MSA/CMSA nonattainment area. The number and types of stations vary depending on the size of the MSA/CMSA or nonattainment area, whichever is larger. For a larger MSA/CMSA, as many as five sites would be needed to provide a data base sufficient to consider spatial variations and to develop trends for VOC and its species within that MSA/CMSA. By utilizing population as a surrogate for total MSA/CMSA (or nonattainment area) emissions density, the requirements for numbers of sites is stratified from two to five sites per area. Such differing criteria are required to accomodate the impact of transport on the smaller MSA's/CMSA's, to account for the spatial variations inherent in large areas, and to satisfy the differing data needs of large versus small areas due to the intractability of the ozone nonattainment problem. Given these assumptions, the Agency seeks comment on the extent to which the aforesaid "practical compromise" network requirements would provide sufficient data to fulfill the data uses described in appendix D, section 4.1 and 4.2, and summarized in Table 1. Additionally, comment is sought regarding the cost and content of substitute mechanisms for establishing the minimum monitoring requirements which would also fulfill the proposed objectives and data uses. In particular, the Agency seeks information on substitute sampling regimes (both frequency and duration), the use of statistical approaches to supplement (or in lieu of) sampling, and other sampling methods.

The Agency recognizes that other proxies for emissions density, and therefore requirements for numbers of sampling sites, could have been tendered. The Agency also seeks comment on whether more complex mechanisms which include factors such as precursor emissions, geography, meteorology, other demographical indicators, etc., should be utilized.

BILLING CODE 6560-50-M

TABLE 1. MEASUREMENTS NEC

MONITORING OBJECTIVES			(1) OZN	VOC	NOX	TOX	MET	OZN	
NAAQS ATTAINMENT & CONTROL STRATEGY DEVELPMNT	OVERWHELMING TRANSPORT		*	*	*		*	**	
	PHOTOCHEMICAL GRID MODELS	BOUNDARY CONDITIONS	*	*	*		*		
		MODEL INPUT REQUIREMENT	*	*	*		*	*	
		MODEL PERFORMANCE	*	*	*		*	*	
	ATTAINMENT DECISIONS		**		**		**	*	
SIP CONTROL STRATEGY EVALUATION	EVALUATE EFFECTIVENESS OVER LONG-TERM		*	*	*		*	*	
EMISSIONS TRACKING	CORROBORATE NOX AND VOC EMISSION INVENTORIES		**	*	*		*	**	
	TRACK NOX AND VOC EMISSION INVENTORY REDUCTIONS			*	*	*	*		
TRENDS			*	*	*	*	*	**	
EXPOSURE ASSESSMENT			**	**	**	**	**	*	

LEGEND VOC – VOLATILE ORGANIC COMPOUNDS
NOX – OXIDES OF NITROGEN (NO, NO2, & NOX)
TOX – TOXIC AIR POLLUTANTS ALSO MEASURED AS VOC
OZN – OZONE

* – PRIMA
** – SECON

BILLING CODE 6560-50-C

NECESSARY TO MEET MONITORING OBJECTIVES

NECESSARY MEASUREMENTS																			
SITE TYPE																			
(2)					(3)					(4)					(5)				
OZN	VOC	NOX	TOX	MET	OZN	VOC	NOX	TOX	MET	OZN	VOC	NOX	TOX	MET	OZN	VOC	NOX	TOX	MET
**	**	**		**															
					**	**	**		**	*	*	*		*	*	*	*		*
*	*	*		*	*	*	*		*	*	*	*		*	*	*	*		*
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*	**	**	*	*	*	**	**	*	*	*	**	**	**	*	*	**	**	**	*

PRIMARY OBJECTIVE ,
SECONDARY OBJECTIVE

Type (1) PAMS sites would characterize the upwind background and transported precursor concentrations entering the nonattainment area. Type (2) sites would be intended to monitor areas of maximum precursor (VOC and NO_x) emissions, be ideally suited for the monitoring of urban air toxic pollutants, and might typically be located near the predominantly downwind edge of the central business district or other area of maximum precursor emissions such as from a large industrial area or major traffic area. Type (2) sites, however, should not be unduly influenced by single emission sources. The Agency seeks comment on the reasonableness of the view that this one site would suffice for the purpose of reporting on urban air toxics and assessing exposure. Type (3) sites would monitor changes in precursor concentrations and ratios downwind of the emission sources and would be located between sites (2) and (4) typically at the population fringe of the urbanized area. Type (4) and Type (5) sites would be sites located to measure the maximum ozone concentrations. Site (4) would be located in the predominant downwind direction during the ozone period and site (5) would be located in the second most predominant downwind direction. Given the large variability in emissions, meteorology, geography, etc., from area to area, the Agency recognizes that situations may occur where the minimum monitoring system required by the proposed rule is inadequate. The Agency also seeks comment on the criteria for determining such inadequacy and on a process for resolving the issue.

Because of the relatively large resource requirements to conduct PAMS monitoring, 3 months is being proposed as the minimum annual precursor monitoring period for the PAMS; however, EPA encourages the establishment of a monitoring period for the entire ozone season in order to provide a more comprehensive air quality data base and increase the possibility of actually conducting monitoring during most of the worst ozone episodes. PAMS ozone monitors must adhere to the ozone monitoring season specified in section 2.5 of appendix D.

Also included in appendix D are ciriteria for establishing ground level meteorological stations and a recommendation for obtaining upper air meteorological data. Ground level stations would be required to be operational upon establishment of the station. The Agency requests comment on the general need for meteorological stations and the adequacy of the proposed on-site measurements. Based on comments received during the Streamlined review process, the Agency recognizes that in rare cases it may not be possible to site a 10-meter meteorological monitoring tower at a particular PAMS site. The Agency, therefore, seeks comments on the criteria to determine how meteorological data collected at a nearby site could be used to represent the meteorology at a PAMS site where the tower and the air monitoring equipment cannot be collocated.

Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring

This appendix currently contains detailed provisions for specifically locating the sampler or analyzer probe inlet after the general location of the SLAMS or NAMS sampler or monitor has been selected.

Overall, the siting criteria for the PAMS monitors are similar to the NAMS/SLAMS criteria for such items as the minimum distance of the inlet probe from obstructions, vertical and horizontal probe placement, minimum distances from trees and spacing from roadways. The intent is that nearby roadways should not provide a local ozone sink for site Types (2) and (3), nor serve as precursor sources for site Types (1), (4), and (5).

Waiver provisions are revised to indicate that written requests for PAMS waivers must be forwarded to the Administrator for consideration.

In addition to seeking comment on the issues previously mentioned, the Agency solicits comment on adding the following requirements: Monitoring upper air meteorology in each area; adding more PAMS sites; increasing the monitoring frequency at those sites operating less than everyday, e.g., to daily; requiring shorter sampling averaging times, e.g., hourly samples, at all sites; elevated (altitude) sampling for all parameters; monitoring for other nitrogen and oxygen containing compounds which participate in ozone formation (e.g., peroxyacetylnitrate, nitric acid, etc.), often termed NOy; and ozone-season long monitoring for all precursor and meteorological parameters.

Estimated Cost of Proposal

The regulations proposed in this notice affect only those MSA/CMSAs which are located in ozone nonattainment areas designated as serious, severe, or extreme; therefore, the economic impact will be focused on the State and local air pollution control agencies having jurisdiction in those areas. These affected areas have been formally designated by amendments to 40 CFR part 81, published in the **Federal Register** on Wednesday, November 6, 1991. The specific MSA/CMSAs affected by this notice, and therefore subject to the enhanced ozone monitoring requirements, are lsited in Table 2. Each of the involved State and local air pollution control agencies have previously been sent a detailed compendium of the monitoring requirements and expected costs associated with the PAMS program. The primary responsibility for implementing the program with its associated costs rests with the States. EPA expects to supplement the funds provided by the States with grant monies pursuant to section 105 of the Clean Air Act.

TABLE 2. ESTIMATED REQUIREMENTS FOR PAMS

[Jan. 8, 1992]

CMSA/MSA	Number of new sites					Estimated cumulative cost FY-93 to FY-97
	03	NO2	Meteor.	Aldehyde	VOC	
Los Angeles-Anaheim-Riverside, CA	0	0	5	2	5	$2,050,000
Houston-Galveston-Brazoria, TX	0	0	5	2	5	2,050,000
New York-Northern New Jersey-Long Island, NY-NJ-CT	0	0	5	2	5	2,050,000
Baltimore, MD	0	2	5	2	5	2,117,900
Chicago-Lake County (IL), IL-IN-WI	0	0	5	2	5	2,050,000
San Diego, CA	0	0	5	2	5	2,050,000
Philadelphia-Wilmington-Trenton, PA-NJ-DE-MD	0	0	5	2	5	2,050,000
Milwaukee-Racine, WI	0	2	4	2	4	1,973,820
Muskegon, MI	1	2	2	1	2	1,383,520

TABLE 2. ESTIMATED REQUIREMENTS FOR PAMS—Continued

[Jan. 8, 1992]

CMSA/MSA	Number of new sites					Estimated cumulative cost FY-93 to FY-97
	03	NO2	Meteor.	Aldehyde	VOC	
Sheboygan, WI	1	2	2	1	2	1,383,520
Hartford-New Britain-Middletown, CT	1	3	4	2	4	2,072,420
Fresno, CA	0	0	3	1	3	1,590,160
El Paso, TX	0	2	3	1	3	1,729,560
Bakersfield, CA	0	0	3	1	3	1,590,160
Springfield, MA	1	2	3	1	3	1,742,060
Boston-Lawrence-Salem, MA-NH	0	1	5	2	5	2,080,000
Washington, DC-MD-VA	0	0	5	2	5	2,050,000
Portsmouth-Dover-Rochester, NH-ME	1	2	2	1	2	1,383,520
Baton Rouge, LA	0	1	3	1	3	1,653,060
Atlanta, GA	1	3	5	2	5	2,217,000
Providence-Pawtucket-Fall River, RI-MA	2	3	4	2	4	2,124,820
Sacramento, CA	0	0	4	2	4	1,890,120
Beaumont-Port Arthur, TX	0	0	2	1	2	1,208,320
Totals	8	25	89	37	89	42,489,960

Table 2 also delineates the estimated increases in monitoring costs (above the present national ambient air monitoring network) associated with the establishment of PAMS sites in the affected areas. For the purpose of these estimates, EPA has assumed that 84 ozone monitors and 66 NO_x monitors which are currently in operation will be converted to PAMS components. The cost estimates, therefore, do not include any provision for these monitors since operation and sample analysis costs are already included in the current national ambient air monitoring program. The cost estimates for each MSA/CMSA do include new capital expenditures, operational costs, and labor costs associated with the hiring of new senior environmental chemists/chromatographers and statisticians/data analysts. The PAMS costs are expressed as 5-year cumulative costs, from initiation of the network through required completion (based on the phase-in schedule proposed in appendix D) which amounts to a total of approximately $45 million nationally. Continuing annual costs for the operation and maintenance of the PAMS system, including an allowance for equipment replacement, are about $11.6 million. By comparison, current national costs for routine ozone-related monitoring programs involve the operation of 826 ozone monitors for $13.8 million and 329 NO_x monitors at $6.9 million per year. Current total criteria monitoring capital and operating costs amount to $57 million annually. Further detail on the bases for these cost estimates is provided in Table 3.

TABLE 3. COST PER ENHANCED OZONE MONITORING STATION

Item	Yearly operational cost	Capital cost
Establish Monitoring Station (1st year only)	$900	$8,700
Ozone (03)		20,300
7-month	7,500	
9-month	9,600	
12-month	12,800	
Nitrogen Dioxide (NO_2)		22,100
7-month	7,900	
9-month	10,200	
12-month	13,600	
Volatile Organic Compounds (VOC)		
Frequency "A" (Canister)	90,300	47,700
Frequency "B" (GC & Canister)	57,300	85,400
Frequency "C" (GC & Canister)	41,500	80,800
Aldehydes		
Frequency "D"	15,400	2,800
Frequency "E"	41,600	6,000
Meteorology	2,400	9,000
Data Analysis & Trends	12,500	

During the first year of operation, the PAMS network is likely to cost approximately $5.2 million. Additionally, present ozone control cost estimates amount to $8–10 billion on an annual basis compared to a continuing investment of less than $12 million to operate PAMS (only 0.2 percent). PAMS are designed to ensure that the most cost-effective ozone control strategies are devised in implemented and provide the basis to track their success.

Impact on Small Entities

The Regulatory Flexibility Act requires that all Federal Agencies consider the impacts of final regulations on small entities, which are defined to be small businesses, small organizations, and small governmental jurisdictions (5 U.S.C. 601 et seq.). EPA's consideration pursuant to this Act indicates that no small entity group would be significantly affected in an adverse way by the proposal. Therefore, pursuant to 5 U.S.C. 605(b), the Administrator certifies that these proposed amendments would not have a significant economic impact on a substantial number of small entities

Other Reviews

Since this revision is classified as minor, no additional reviews are required. The proposed revisions to part 58 were submitted to the Office of Management and Budget (OMB) for review (under Executive Order 122291). This is not a "major" rule under E.O. 12291 because it does not meet any of the criteria defined in the Executive Order.

Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements for Ambient Air Quality Networks under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060–0084. The information collection requirements in this proposed rule, which will amend the Information Collection Request (ICR) for Ambient Air Quality Networks, have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An ICR has been prepared by EPA (ICR No. 940.09) and a copy may be obtained from Sandy Farmer, Information Policy Branch (PM–223Y); U. S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 or by calling (202) 260–2740.

This proposed rule is estimated to increase the annual burden of affected control agencies by 99,840 hours for the

first full year of operation. This burden would increase to 287,495 hours in the fifth year of implementation when all required sampling is operational. This estimate includes the time for site installation, sampler operation, data reduction, data reporting, and data analysis.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch (PM–223Y); U. S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 58

Air pollution control, Intergovernmental relations, Air quality surveillance and data reporting, Pollutant standard index, Quality assurance program, Ambient air quality monitoring network design and siting.

Dated: January 22, 1992.

William K. Reilly,

Administrator.

For the reasons set forth in the Preamble, part 58 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 58—AMBIENT AIR QUALITY SURVEILLANCE

1. Authority citation for 40 part 58 is revised to read as follows:

Authority: 42 U.S.C. 7410, 7601(a), 7613, and 7619.

2. Section 58.1 is amended by revising paragraph (f) and by adding paragraphs (w), (x), and (y) to read as follows:

§ 58.1 Definitions.

* * * * *

(f) *NO_2* means nitrogen dioxide. *NO* means nitrogen oxide. *NO_x* means oxides of nitrogen and is defined as the sum of the concentrations of NO_2 and NO.

* * * * *

(w) *PAMS* means Photochemical Assessment Monitoring Stations.

(x) *VOC* means volatile organic compounds.

(y) *Meteorological* measurements means continuous measurements of wind speed, wind direction, barometric pressure, temperature, relative humidity, and solar radiation.

3. Section 58.2 is amended by redesignating paragraph (d) as paragraph (e) and by adding a new paragraph (d) to read as follows:

§ 58.2 Purpose.

* * * * *

(d) This section also acts to establish a Photochemical Assessment Monitoring Stations (PAMS) network as a subset of the State's SLAMS network for the purpose of enhanced monitoring in ozone nonattainment areas listed as serious, severe, or extreme. The PAMS network will be subject to the data reporting and monitoring methodology requirements as contained in subpart E of this part.

4. Section 58.13 is amended by revising paragraph (b); redesignating paragraph (c) as paragraph (d); and adding a new paragraph (c) to read as follows:

§ 58.13 Operating schedule.

* * * * *

(b) For manual methods (excluding PM_{10} samplers and PAMS VOC samplers), at least one 24-hour sample must be obtained every sixth day except during periods or seasons exempted by the Regional Administrator.

(c) For PAMS VOC samplers, samples must be obtained as specified in section 4.4 of appendix D to this part. PAMS operating schedules must be included as part of the network description required by § 58.40 and must be approved by the Administrator.

* * * * *

5. Section 58.20 is amended by revising paragraphs (a) and (c) and adding paragraph (f) to read as follows:

§ 58.20 Air quality surveillance: Plan content.

* * * * *

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in part 50 of this chapter. SLAMS (including NAMS) designated as PAMS will also obtain ambient concentrations of speciated VOC and NO_x, and meteorological measurements. PAMS may therefore be located at existing SLAMS or NAMS sites when appropriate.

* * * * *

(c) Provide for the operation of at least one SLAMS per criteria pollutant except Pb during any stage of an air pollution episode as defined in the plan.

* * * * *

(f) Within 6 months after the effective date of promulgation or date of nonattainment designation (whichever is later), States with ozone nonattainment areas designated as serious, severe, or extreme shall adopt and submit a plan revision to the Administrator. The plan revision will provide for the establishment and maintenance of PAMS. Each PAMS site will provide for the monitoring of ambient concentrations of criteria pollutant (O_3, NO_2,), and non-criteria pollutant (NO_x, NO, and speciated VOC) as stipulated in section 4.2 of appendix D to this part, and meteorological measurements. The PAMS network is part of the SLAMS (including NAMS) network and the plan provisions in paragraphs (a) through (e) of this section will apply to the revision.

Subpart E (§ 58.40) [Redesignated as Subpart F (§ 58.50)]

Supart F (§§ 58.50, 58.51) [Redesignated as Subpart G (§§ 58.60, 58.61)]

6. Subparts E (§ 58.40) and F (§§ 58.50 and 58.51) are redesignated as subparts F (§ 58.50) and G (§§ 58.60 and 58.61), respectively. Subpart E is added to read as follows:

Subpart E—Photochemical Assessment Monitoring Stations (PAMS)

Sec.

Subpart E—Photochemical Assessment Monitoring Stations (PAMS)

§ 58.40 PAMS network establishment.

(a) In addition to the plan revision, the State shall submit a photochemical assessment monitoring network description including a schedule for implementation to the Administrator within 6 months after the effective date of promulgation or redesignation and reclassification of the area to serious, severe, or extreme ozone nonattainment. The newtwork description will apply to all serious, severe, and extreme ozone nonattainment areas within the State. Some ozone nonattainment areas may extend beyond State or Regional boundaries. In instances where PAMS network design criteria as defined in appendix D to this part require monitoring stations located in different States and/or Regions, the network description and implementation schedule may be submitted jointly by

the States involved. Network descriptions shall be submitted through the appropriate Regional Office(s). Alternative networks may be submitted, but they must include a demonstration that they satisfy the monitoring data uses and fulfill the PAMS monitoring objectives described in sections 4.1 and 4.2 of appendix D to this part. Certain alternative plans described in section 4.2 of appendix D to this part must be published in the Federal Register, subjected to public comment, and subsequently approved by the Administrator.

(b) For purposes of plan development and approval, the stations in the PAMS network must be stations from the SLAMS network required by § 58.20.

(c) The requirements of appendix D to this part applicable to PAMS must be met when designing the PAMS network.

§ 58.41 PAMS network description.

The PAMS network description required by § 58.40 must contain the following:

(a) Identification of the monitoring area represented.

(b) The AIRS site identification form for existing stations.

(c) The proposed location for scheduled stations.

(d) Identification of the site type and location within the PAMS network design for each station as defined in appendix D to this part.

(e) The sampling and analysis method for each of the measurements.

(f) The operating schedule for each of the measurements.

(g) A schedule for implementation. This schedule should include the following:

(1) A timetable for locating, and submitting the AIRS site identification form for each scheduled PAMS that is not located at the time of submittal of the network description,

(2) A timetable for phasing-in operation of the required number and type of sites as defined in appendix D to this part, and

(3) A schedule for implementing the quality assurance procedures of appendix A to this part for each PAMS.

§ 58.42 PAMS approval.

The PAMS network required by § 58.40 is subject to that approval of the Administrator. Such approval will be contingent upon completion of the network description as outlined in § 58.41 and upon conformance to the PAMS network design criteria contained in appendix D to this part.

§ 58.43 PAMS methodology.

PAMS monitors must meet the monitoring methodology requirements of appendix C to this part applicable to PAMS.

§ 58.44 PAMS network completion.

(a) The complete, operational PAMS network will be phased in as described in appendix D to this part over a period of 5 years after the effective date of promulgation or redesignation and reclassification of any area to serious, severe, or extreme ozone nonattainment.

(b) The quality assurance criteria of appendix A to this part must be implemented for all PAMS.

§ 58.45 PAMS data submittal.

(a) The requirements of this section apply only to those stations designated as PAMS by the network description required by § 58.40.

(b) All data shall be submitted to the Administrator in accordance with the format and for the reporting periods specified in § 58.35.

(c) The State shall report O_3, NO, NO_2, and NO_x data within 60 days following the end of each quarterly reporting period.

(d) The State shall report speciated VOC data and meteorological data within 6 months following the end of each quarterly reporting period.

§ 58.46 System modification.

(a) Any proposed changes to the PAMS network description will be evaluated during the annual SLAMS Network Review specified in § 58.20. Changes proposed by the State must be approved by the Administrator. The State will be allowed 1 year (until the next annual evaluation) to implement the appropriate changes to the PAMS network.

(b) PAMS network requirements are mandatory only for serious, severe, and extreme ozone nonattainment areas. When such area is redesignated to attainment, the State may revise its PAMS monitoring program subject to approval by the Administrator.

7. A new sentence is added before the last sentence in the first paragraph of section 2.2 of appendix A to read as follows:

Appendix A—Quality Assurance Requirements for State and Local Air Monitoring Stations (SLAMS)

* * * * *

2.2 * * * Quality assurance guidance for VOC and meteorological measurements at PAMS is contained in reference 5. * * *

* * * * *

8. References 5, 6, and 7, of Appendix A are redesignated as references 6, 7, and 8 repectively and new reference 5 is added to read as follows:

References

* * * * *

5. Technical Guidance for Monitoring Ozone Precursor Compounds. Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC. Draft May 1991.

* * * * *

9. Sections 4.0, 5.0 and 5.1 of appendix C are redesignated as sections 5.0, 6.0, and 1, respectively (reference 5.1 therefore will become reference 1 of section 6.0), sections 4.0, 2, and 3 are added and newly redesignated Section 6.0 is revised to read as follows:

Appendix C—Ambient Air Quality Methodology

* * * * *

4.0 Photochemical Assessment Monitoring Stations (PAMS)

4.1 Methods used for O_3 monitoring at PAMS must be automated reference or equivalent methods as defined in § 50.1 of this chapter.

4.2 Methods used for NO and NO_x monitoring at PAMS must be automated reference or equivalent methods as defined for NO_2 in § 50.1 of this chapter.

4.3 Methods for meteorological measurements and speciated VOC monitoring are included in the guidance provided in references 2. and 3. If alternative VOC monitoring methodology, which is not included in the guidance, is proposed, it must be detailed in the network description required by § 58.40 and must be published in the Federal Register, subject to public comment, and subsequently approved by the Administrator.

* * * * *

6.0 References

1. Pelton, D.J. Guideline for Particulate Episode Monitoring Methods, GEOMET Technologies, Inc., Rockville, MD. Prepared for U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA Contract No. 68-02-3584. EPA 450/4-83-005. February 1983.

2. Technical Guidance for Monitoring Ozone Precursor Compounds. Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. Draft May 1991.

3. Quality Assurance Handbook for Air Pollution Measurement Systems: Volume IV. Meteorological Measurements. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. EPA 600/4-82-060. February 1983.

10. The heading of Appendix D is revised to read as follows:

Appendix D—Network Design for State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS), and Photochemical Assessment Monitoring Stations (PAMS)

11. The second sentence of the first paragraph of Section 1 of Appendix D is revised to read as follows:

1. * * * It also describes criteria for determining the number and location of National Air Monitoring Stations (NAMS) and Photochemical Assessment Monitoring Stations (PAMS). These criteria will also be used by EPA in evaluating the adequacy of the SLAMS/NAMS/PAMS networks.* * *

* * * * *

12. Section 4 and section 5 of appendix D are redesignated as section 5 and section 6, respectively. A new section 4 is added to read as follows:

4 Network Design for Photochemical Assessment Monitoring Stations (PAMS)

In order to obtain more comprehensive and representative data on ozone air pollution, the 1990 Clean Air Act Amendments require enhanced monitoring for ozone (O_3),oxides of nitrogen (NO_x), and volatile organic compounds (VOC) in ozone nonattainment areas classified as serious, severe, or extreme. This will be accomplished through the establishment of a network of photochemical assessment monitoring stations (PAMS).

4.1 PAMS data uses.—Data from the PAMS are intended to satisfy several coincident needs related to attainment of the National Ambient Air Quality Standards (NAAQS), SIP control strategy development and evaluation, corroboration of emissions tracking, preparation, of trends appraisals, and exposure assessment.

(a) *NAAQS attainment and control strategy development.* Like SLAMS and NAMS data, PAMS data will be used for monitoring ozone exceedances and providing input for attainment/nonattainment decisions. In addition, PAMS data will help resolve the roles of transported and locally emitted ozone precursors in producing an observed exceedance and may be utilized to identify specific sources contributing to observed exceedances and excessive concentrations of ozone precursors. PAMS data will also assist in characterizing the concentrations of ozone and precursors occurring on days when high ozone levels are measured and therefore extend the data base available for future attainment demonstrations. These demonstrations will be based on photochemical grid modeling and other approved analytical methods and will provide a basis for prospective mid-course control strategy corrections. PAMS data will provide (1) information concerning which areas and episodes to model to develop appropriate control strategies; (2) boundary conditions required by the models to produce quantifiable estimates of needed emissions reductions; and (3) a means to evaluate the predictive capability of the models used.

(b) *SIP control strategy evaluation.* The PAMS will provide data for SIP control strategy evaluation. Long-term PAMS data will be used to evaluate the effectiveness of these control strategies. Data could be used to validate the impact of VOC and NO_x emission reductions on air quality levels for ozone if retrieved at the end of a time period during which control measures were implemented. Additionally, ambient monitoring data will be used to determine in what portion of the day, the VOC emissions reductions occur. Speciation of measured VOC data will allow determination of which organic species are most affected by the emissions reductions and assist in developing cost effective selective VOC reductions and control strategies. A State or local air pollution control agency can therefore ensure that strategies which are implemented in their particular nonattainment area, are those which are best suited for that area and achieve the greatest VOC and NO_x emissions reductions (and therefore largest impact) at the least cost.

(c) *Emissions tracking.* PAMS data will be used to corroborate the quality of VOC and NO_x emission inventories. Although a perfect mathematical relationship between emission inventories and ambient measurements does not yet exist, a qualitative assessment of the relative contributions of various compounds to the ambient air could be roughly compared to current emission inventory estimates to judge the accuracy of the emission inventories. In addition, PAMS data which is gathered year round will allow tracking of VOC and NO_x emission reductions, provide additional information necessary to demonstrate Reasonable Further Progress (RFP) toward the specific reductions required to achieve the ozone NAAQS, and corroborate emissions trends analyses. While the regulatory assessments of progress will be made in terms of emission inventory estimates, the ambient data can provide independent trends analyses and corroboration of these assessments which either verify or highlight possible errors in emissions trends indicated by inventories. The ambient assessments, using speciated data, can gage the accuracy of estimated changes in emissions. The speciated data can also be used to assess the quality of the VOC speciated and NO_x emission inventories for input during photochemical grid modeling exercises and identify urban air toxic pollutant problems which deserve closer scrutiny.

The speciated VOC data will be used to determine changes in the species profile, resulting from the emission control program, particulary those resulting from the reformulation of fuels.

(d) *Trends.* Long-term PAMS data will be used to establish speciated VOC, NO_x, and toxic air pollutant trends, and supplement the O_3 trends data base. Multiple statistical indicators will be tracked, including ozone and its precursors on the ten days during each year with the highest ozone concentration, the seasonal means for these pollutants, and the annual means at representative locations.

The more PAMS that are established in and near nonattainment areas, the more effective the trends data will become. As the spatial distribution and number of ozone and ozone precursor monitors improves, trends analyses will be less influenced by instrument or site location anomalies. The requirement that surface meteorological monitoring be established at each PAMS, will help maximize the utility of these trends analyses by comparisons with meteorological trends, and transport influences. The meteorological data will also help interpret the ambient air pollution trends.

(e) *Expasure assessment.* PAMS data will be used to better characterize ozone and toxic air pollutant exposure to populations living in serious, severe, or extreme areas. Annual mean toxic air pollutant concentrations will be calculated to determine the risk to the population associated with individual VOC species in urban environment.

4.2 *PAMS monitoring objectives.*—Unlike the SLAMS and NAMS design criteria which are pollutant specific, PAMS design criteria are specific to site location. Concurrent measurements of O_3, NO_x, speciated VOC, and meteorology are obtained at PAMS. Design criteria for the PAMS network are based on selection of an array of site locations relative to ozone precursor source areas and predominant wind directions associated with high ozone events. Specific monitoring objectives are associated with each location. The overall design should enable characterization of precursor emission sources within the area, transport of ozone and its precursors into and out from the area, and the photochemical processes related to ozone nonattainiment, as well as developing an initial urban air toxic pollutant data base. Specific objectives that must be addressed include assessing ambient trends in O_3, NO, NO_2, NO_x, VOC, and VOC species, determining spatial and diurnal variability of O_3, NO, NO_2, NO_x, and VOC species and assessing changes in the VOC species profiles that occur over time, particularly those occurring due to the reformulation of fuels. A maximum of five PAMS sites are required in an affected nonattainment area depending on the population of the Metropolitan Statistical Area/Consolidated Metropolitan Statistical Area (MSA/CMSA) or nonattainment area, whichever is larger. Specific monitoring objectives associated with each of these sites result in five distinct site types.

Type (1) sites are established to characterize upwind background and transported ozone and its precursor concentrations entering the area and will identify those areas which are subjected to overwhelming transport. Type (1) sites are located in the predominant upwind direction from the local area of maximum precursor emissions during the ozone season and at a distance sufficient to ensure urban scale measurements are obtained as defined elsewhere in this Appendix. Typically, the (1) sites will be located 10–30 miles in the predominant upwind direction from the city limits or fringe of the urbanized area. Data measured at site type (1) will be used principally for the following purposes:

- Future development and evaluation of control strategies,
- Identification of incoming emissions,
- Corroboration of NO_x and VOC emission inventories,
- Establishment of boundary conditions for future photochemical grid modeling and mid-course control strategy changes,
- Analysis of pollutant trends.

Type (2) sites are established to monitor the magnitude and type of precursor emissions in the area where maximum emissions are expected to impact and are ideally suited for the monitoring of urban air toxic pollutants. Type (2) sites are located immediately downwind of the area of maximum precursor emissions and are typically placed near the downwind boundary of the central business district to ensure neighborhood scale measurements are obtained. Data measured at site type (2) will be used principally for the following purposes:

- Development and evaluation of imminent and future control strategies,
- Corroboration of NO_x and VOC emission inventories,
- Augumentation of RFP tracking,
- Verification of photochemical grid model performance,
- Characterization of ozone and toxic air pollutant exposures (maximum site for toxic emissions impact),
- Analysis of pollutant trends, particularly toxic air pollutants and annual ambient speciated VOC trends to compare with trends in annual VOC emission estimates,
- Determination of attainment with the NAAQS for NO_2 and O_3

Type (3) sites monitor changes in precursor concentrations and ratios downwind of the emissions source. Type (3) sites should be located in an intermediate position between the area of maximum precursor emissions and the downwind area where maximum ozone concentrations would be expected to ensure neighborhood scale measurements are obtained (between sites (2) and (4)). Typically, type (3) sites are 10–20 miles from the central business district or at the fringe of the urbanized area in the predominant downwind direction during the ozone season. Data measured at site type (3) will be used principally for the following purposes:

- Determination of attainment with the NAAQS, for NO_2 and O_3 (this site may coincide with an existing maximum NO_2 NAMS monitoring site),
- Measurement of transport and reactivity of precursors,
- Verification of photochemical grid model performance,
- Characterization of air pollutant exposures,
- Corroboration of NO_x and VOC emission inventories,
- Augmentation of RFP tracking,
- Analysis of pollutant trends.

Type (4) and (5) sites are intended to monitor maximum ozone concentrations occurring downwind from the area of maximum precursor emissions in the first and second most frequently occurring wind directions, respectively. Locations for type (4) and (5) sites should be chosen so that urban scale measurements are obtained. Typically, type (4) and (5) sites will be located 10–30 miles downwind from the fringe of the urban area or from site type (3). Data measured at site types (4) and (5) will be used principally for the following purposes:

- Determination of attainment with the NAAQS for ozone and NO_2 (this site may coincide with an existing maximum concentration ozone or a population exposure NO_2 NAMS monitoring site),
- Establishment of boundary conditions for photochemical grid modeling,
- Future development and evaluation of control strategies,
- Analysis of pollutant trends,
- Characterization of ozone pollutant exposures.

States choosing to submit individual network descriptions for each affected nonattainment area irrespective of its proximity to other affected areas, must fulfill the requirements for isolated areas as described in section 4 of appendix D and illustrated by Figure 1. States containing areas which experience significant impact from long-range transport or are proximate to other nonattainment areas (even in other States) may collectively submit a network description which contains alternative sites to those that would be required for an isolated area. Such a submittal should, as a guide, be based on the example provided in Figure 2, but must include a demonstration that it satisfies the monitoring data uses and fulfills the PAMS monitoring objectives described in sections 4.1 and 4.2 of this Appendix D. EPA recognizes that specific monitoring sites identified for one area may serve to fulfill the monitoring objectives for different site in another area; for example, a downwind site for one area may suffice as an upwind site for another. These alternative network designs must be reviewed and approved by the Administrator.

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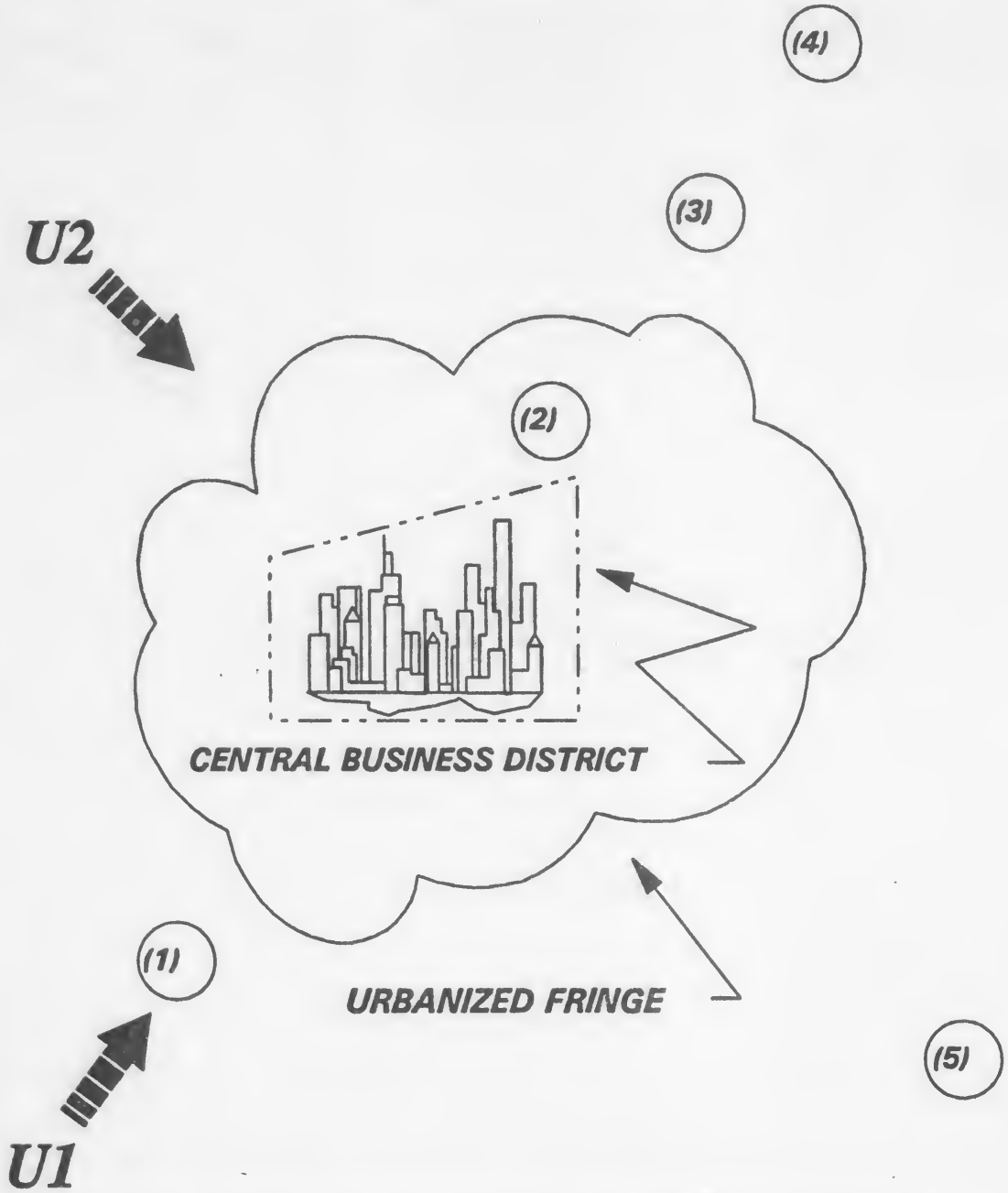
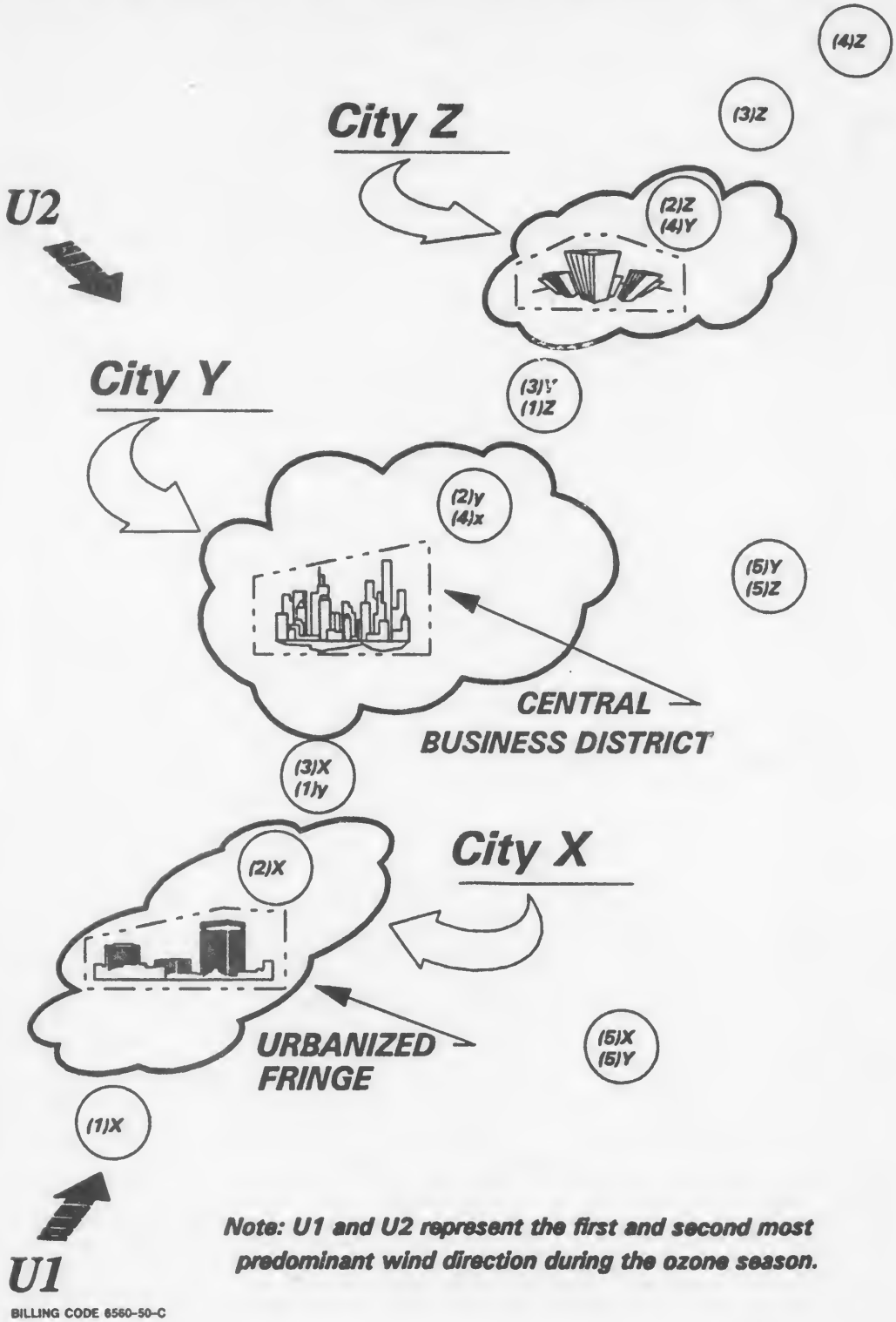
Figure 1 - Isolated Area Network Design



Note: U1 and U2 represent the first and second most predominant wind direction during the ozone season.

Figure 2 - Multi-Area/Transport Network Design



Note: U1 and U2 represent the first and second most predominant wind direction during the ozone season.

BILLING CODE 6560-50-C

Alternative plans which propose different or reduced frequencies of sampling or reduced spatial coverage must also be proposed for approval by the Administrator in the **Federal Register**, subjected to public comment, and subsequently considered by the Administrator for final approval or disapproval based on the comments received. Site locations are submitted as part of the network description required by § 58.40 and are subject to approval by the Administrator.

4.3 Monitoring period.—PAMS precursor monitoring will be conducted annually throughout the months of June, July and August (as a minimum) when peak ozone values are expected in each area; however, precursor monitoring during the entire ozone season for the area is preferred. Alternate precursor monitoring periods may be submitted for approval as a part of the PAMS network description required by § 58.40. Changes to the PAMS monitoring period must be identified during the annual SLAMS Network Review specified in § 58.20. PAMS ozone monitors must adhere to the ozone monitoring season specified in Section 2.5 of this Appendix D.

4.4 Minimum network requirements.—The minimum required number and type of monitoring sites and sampling requirements are based on the population of the affected MSA/CMSA or nonattainment area (whichever is larger). The MSA/CMSA basis for monitoring network requirements was chosen because it typically is the most representative of the area which encompasses the emissions sources contributing to nonattainment. The MSA/CMSA emissions density can also be effectively and conveniently portrayed by the surrogate of population. Additionally, a network which is adequate to characterize the ambient air of an MSA/CMSA often must extend beyond the boundaries of such an area (especially for ozone and its precursors); therefore, the use of smaller geographical units (such as counties or nonattainment areas which are smaller than the MSA/CMSA) for monitoring network design purposes is inappropriate. Various sampling requirements are imposed according to the size of the area to accommodate the impact of transport on the smaller MSA's/CMSA's, to account for the spatial variations inherent in large areas, to satisfy the differing data needs of large versus small areas due to the intractability of the ozone nonattainment problem, and to recognize the potential economic impact of implementation on State and local government. Population figures must reflect the most recent decennial U.S. census population report. Specific guidance on determining network requirements is provided in reference 19. Minimum network requirements are outlined below:

Population of MSA/CMSA or nonattainment area [1]	Required site type [2]	Minimum VOC sampling frequency [3]	Minimum aldehyde sampling frequency [3]
Less than 500,000.	(1)	A	—
	(2)	A	D
500,000 to 1,000,000.	(1)	A	—
	(2)	B	E
	(4)	A	—
1,000,000 to 2,000,000.	(1)	A	—
	(2)	B	E
	(3)	C	E
	(4)	A	—
More than 2,000,000.	(1)	A	—
	(2)	B	E
	(3)	C	E
	(4)	A	—
	(5)	A	—

[1] Whichever area is larger.
[2] See figure 1.
[3] Frequency requirements are as follows: A—Eight 3-hour samples every third day and one 24-hour sample every sixth day during the monitoring period; B—Eight 3-hour samples, everyday during the monitoring period and one 24-hour sample every sixth day year-round; C—Eight 3-hour samples, everyday and one 24-hour sample every sixth day during the monitoring period; D—Four 6-hour samples, every third day during the monitoring period; E—Four 6-hour samples, everyday during the monitoring period.

Note that for purposes of network implementation and transition only, priority has been given to the particular monitoring sites as follows:

- Site type (2) which provides the most comprehensive data concerning ozone precursor emissions and toxic air pollutants,
- Site type (1) which delineates the effect of incoming precursor emissions and concentrations of ozone,
- Site type (4) which provides a maximum ozone measurement and total conversion of ozone precursors,
- Site type (3) which depicts the changes in concentrations of ozone and precursors as the pollutants travel across an area, and
- Site type (5) which serves a similar purpose as site type (4) in the second most predominant wind direction.

4.5 *Transition period.*—A variable period of time is proposed for phasing in the operation of all required PAMS. Within 1 year after the effective date of promulgation or redesignation and reclassification of the area to serious, severe, or extreme ozone nonattainment (whichever is later), a minimum of one type (2) site must be operating. Operation of the remaining sites must, at a minimum, be phased in over the subsequent 4 years as outlined below:

Years after promulgation/designation	No. of sites operating	Operating site type [1]
1	1	(2)
2	2	(1),(2)
3	3	(1),(2),(4)
4	4	(1),(2),(3),(4)
5	5	(1),(2),(3),(4),(5)

[1] See figure 1

Note that given the need to differentiate the monitoring network requirements due to the spatial and emissions characteristics of the various sizes of MSA/CMSA or nonattainment areas, the criteria and priorities given in Section 4.4 were applied. These criteria and priorities result in networks of varying proportions, providing reasonable data coverage, and stratified monitoring requirements.

4.6 *Meteorological monitoring.*—In order to support monitoring objectives associated with the need for various air quality analyses and model inputs and performance evaluations, meteorological monitoring at 10 meters above ground is required at each PAMS site. Monitoring should begin with site establishment. In addition, upper air meteorological monitoring should be initiated as warranted in areas where such data is not available. The upper air station may be located separately from sites (1) through (5). The location should be representative of the upper air data in the nonattainment area. Upper air meteorological data should be collected for approximately 10 to 20 key days per year corresponding to model input requirements. Specific guidance on monitoring methods and siting is provided in reference 20 and 21.

5 Summary

* * * * *

13. In appendix D references 19 through 23 are added to section 6 to read as follows:

6 References

* * * * *

19. Enhanced Ozone Monitoring Network Design and Siting Criteria Guideline Document. Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC. Draft May 1991.

20. Technical Guidance for Monitoring Ozone Precursor Compounds. Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC. Draft May 1991.

21. Quality Assurance Handbook for Air Pollution Measurement Systems: Volume IV. Meteorological Measurements. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. EPA 600/4–82–060. February 1983.

22. Criteria for Assessing the Role of Transported Ozone/Precursors in Ozone Non-Attainment Areas. Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC. EPA–450/4–91–015. May 1991.

23. Guidelines for Regulatory Application of the Urban Airshed Model. Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC. Draft, March 1991.

14. Appendix E is amended by adding a new paragraph after the first paragraph in section 9, by redesignating sections 10, 11, and 12 as sections 11, 12, and 13, redesignating Table 5 as Table 6, adding a new Table 5, adding a new section 10, amending the last sentence in

newly redesignated section 11 to add reference to PAMS, and amending newly redesignated section 12 by adding an entry to the bottom of Table 6 for VOC to read as follows:

Appendix E—Probe Siting Criteria for Ambient Air Quality Monitoring

* * * * *

9 * * *

For VOC monitoring at those SLAMS designated as PAMS, FEP teflon is unacceptable as the probe material because of VOC adsorption and desorption reactions on the FEP teflon. Borosilicate glass, stainless steel, or its equivalent are the acceptable probe materials for VOC and aldehyde sampling. Care must be taken to ensure that the sample residence time is 20 seconds or less.

* * * * *

10 Photochemical Assessment Monitoring Stations (PAMS)

10.1 *Horizontal and Vertical Probe Placement.*—The height of the probe inlet must be located 3 to 15 meters above ground level. This range provides a practical compromise for finding suitable sites for the multi-pollutant PAMS. The probe inlet must also be located more than 1 meter vertically or horizontally away from any supporting structure.

10.2 *Spacing From Obstructions.*—The probe must be located away from obstacles and buildings such that the distance between the obstacles and the probe inlet is at least twice the height that the obstacle protrudes above the sampler. There must be unrestricted airflow in an arc of at least 270° around the probe inlet and the predominant wind direction for the season of greatest pollutant concentration must be included in the 270° arc. If the probe is located on the side of the building, 180° clearance is required.

10.3 *Spacing From Roods.*—It is important in the probe siting process to minimize destructive interferences from sources of nitrogen oxide (NO) since NO readily reacts with ozone. Table 5 below provides the required minimum separation distances between roadways and PAMS (excluding upper air measuring stations):

TABLE 5.—SEPARATION DISTANCE BETWEEN PAMS AND ROADWAYS

[Edge of nearest traffic lane]

Roadway average daily traffic	Minimum separation distance between roadways and stations in meters
Vehicles per day:	
<10,000	[1]>10
15,000	20
20,000	30
40,000	50
70,000	100
>110,000	>250

[1] Distances should be interpolated based on traffic flow.

Sites types (1), (4) and (5) are intended to be regionally representative and should not be unduly influenced by an NO_x source from a nearby roadway. Similarly, a nearby roadway should not act as a local ozone sink for site types (2) and (3).

10.4 *Spacing From Trees.*—Trees can provide surfaces for adsorption and/or reactions to occur and can obstruct normal wind flow patterns. To minimize these effects at PAMS, the probe inlet should be placed at least 20 meters from the drip line of trees. Since the scavenging effect of trees is greater for ozone than for the other criteria pollutants, strong consideration of this effect must be given in locating the PAMS probe inlet to avoid this problem. Therefore, the samplers must be at least 10 meters from the drip line of trees that are located between the urban city core area and the sampler along the predominant summer daytime wind direction.

10.5 *Meteorologicol Meosurements.*—The 10-meter meteorological tower at each PAMS site should be located so that measurements can be obtained that are not immediately influenced by surrounding structures and trees. It is important that the meteorological data reflect the origins of, and the conditions within, the air mass containing the pollutants collected at the probe. Specific guidance on siting of meteorological towers is provided in references 31 and 32.

11 Waiver Provisions

* * * * *

For those SLAMS also designated as NAMS or PAMS, the request will be forwarded to the Administrator.

12 Discussion ond Summory

* * * * *

TABLE 6.— SUMMARY OF PROBE SITING CRITERIA

Pollutant	Scale	Height above ground, meters	Distance from supporting structure, meters		Other spacting criteria
			Vertical	Horizontal [a]	
* * *					
VOC	—	3–15	>1	>1	1. Should be >20 meters from the dripline and must be 10 meters from the dripline when the tree(s) act as an obstruction. 2. Distance from probe inlet to obstacle must be at least twice the height the obstacle protrudes above the inlet probe. 3. Must have unrestricted air flow in an arc of at least 270° around the probe inlet and the predominant wind direction for the season of greatest polutant concentration must be included in the 270° arc. If probe located on the side of a building unrestricted air flow must be 180°. 4. Spacing from roadways (see Table 5).

[a] When probe is located on rooftop, this separation distance is in reference to walls, parapets, or penthouses located on the roof.

* * * * *

15. References number 31 and 32 are added to newly redesignated section 13 of appendix E to read as follows:

13 References

* * * * *

31. Technical Guidance for Monitoring Ozone Precursor Compounds. Atmospheric Research and Exposure Assessment Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC. Draft May 1991.

32. Quality Assurance Handbook for Air Pollution Measurement Systems: Volume IV. Meteorological Measurements. Environmental Monitoring Systems Laboratory, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. EPA 600/4–82–060. February 1983.

[FR Doc. 92–2535 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OPP–300239; FRL–3948–9]

RIN 2070 AC–18

Acetic Acid; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a

tolerance be established for residues of acetic acid (CAS Registry No. 64-19-7) when used as an inert ingredient (catalyst) in pesticide formulations applied to animals. This proposed regulation was requested by the Hoechst-Roussel Agri-Vet Co.

DATES: Comments, identified by the document control number [OPP-300239] must be received on or before April 3, 1992.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7252.

SUPPLEMENTARY INFORMATION: At the request of Hoechst-Roussel Agri-Vet Co., Route 202-206 North, Somerville, NJ 08876, the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for the chemical acetic acid when used as an inert ingredient (catalyst) in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The information submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will not present an unreasonable risk of injury to health or the environment. The Agency has decided that the data normally required to support the proposed tolerance exemption for acetic acid will not need to be submitted. The rationale for this decision is described below.

1. Residues of acetic acid are already exempt from the requirement of a tolerance when used in accordance with good agricultural practices, as inert (or occasionally active) ingredients in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest under 40 CFR 180.1001(c).

2. Acetic acid is affirmed as generally recognized as safe (GRAS) when added directly to human food by the Food and Drug Administration under 21 CFR 184.1005.

3. Acetic acid is approved by the Food and Drug Administration for use in animal food or feed under 21 CFR 582.1005. It is generally recognized as safe (GRAS) when used in accordance with good manufacturing or feeding practice.

4. Acetic acid is approved for use as an ingredient in sanitizing solution for food processing equipment under 21 CFR 178.1010.

The Food and Drug Administration conducted a comprehensive safety review of those chemicals classified as generally recognized as safe (GRAS) and those subject to prior sanctions (proposed rule, 44 FR 19430; final rule, 47 FR 27813). Under this review, the safety of acetic acid was evaluated according to the data available in the scientific literature. Based on a review of this data, the Select Committee on GRAS Substances (chosen by the Life Sciences Research Office of the Federation of American Society for Experimental Biology) and the Food and Drug Administration have determined that there is no evidence demonstrating or suggesting that acetic acid is a hazard to the public.

Under the EPA review procedures for tolerance exemptions for inert ingredients, the Agency conducts a review of the data base supporting any prior clearances, the data available in the scientific literature, and any other relevant data. Based on a review of such data, the Agency has determined that no additional test data will be required to support this regulation.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and does not pose a risk to human health or the environment. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300239]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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 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 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, Recording and recordkeeping requirements

Dated: February 8, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be 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. Section 180.1001(e) is amended in the table therein by adding and alphabetically inserting the inert ingredient, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * * *

(e) * * *

Inert ingredients	Limits	Uses
Acetic acid (CAS Reg. No. 64-19-7).	Not more than 0.5 % of pesticide formulation.	Catalyst
* *	* *	*

[FR Doc. 92-4778 Filed 3-3-92; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[OPP-300244; FRL-4048-3]

RIN 2070-AC18

Acrylic Acid-Stearyl Methacrylate Copolymer; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that an exemption from the requirement of a tolerance be established for residues of acrylic acid-stearyl methacrylate copolymer (CAS Reg. No. 27756-15-6) when used as an inert ingredient (drift control agent) in pesticide formulations applied to growing crops only. This proposed regulation was requested by the B. F. Goodrich Co.

DATES: Comments, identified by the document control number [OPP-300244], must be received on or before April 3, 1992.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part of all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by the EPA without prior notice. The public docket is available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie Welch, Registration Support Branch, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 711I, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-305-7252.

SUPPLEMENTARY INFORMATION: At the request of BF Goodrich, 3925 Embassy Parkway, Akron, OH 44313-1799, the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), proposes to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement of a tolerance for residues of acrylic acid-stearyl methacrylate copolymer (CAS Reg. No. 27756-15-6) when used as an inert ingredient (drift control agent) in pesticide formulations applied to growing crops only.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

The data submitted in the petition and other relevant material have been evaluated. As part of the EPA policy statement on inert ingredients published in the **Federal Register** of April 22, 1987 (52 FR 13305), the Agency established data requirements which will be used to evaluate the risks posed by the presence of an inert ingredient in a pesticide formulation. Exemptions from some or all of the requirements may be granted if it can be determined that the inert ingredient will present minimal or no risk. The Agency has decided that the data normally required to support the proposed tolerance exemption for acrylic acid-stearyl methacrylate copolymer will not need to be submitted. The rationale for this decision is described below.

In the case of certain chemical substances which are defined as "polymers" the Agency has established a set of criteria which identify categories of polymers that present low risk. These criteria (described in 40 CFR 723.250) limit potential risks by identifying polymers that are relatively unreactive and stable compared to other chemical substances as well as polymers that typically are not readily absorbed. These properties generally limit a polymer's ability to cause adverse effects. In addition, these criteria exclude polymers about which little is known. The Agency believes that polymers meeting the criteria noted above will present minimal or no risk. Acrylic acid-stearyl methacrylate copolymer conforms to the definition of a polymer given in 40 CFR 723.250(b)(11) and meets the following criteria which are used to identify low-risk polymers:

1. The minimum average molecular weight acrylic acid-stearyl methacrylate copolymer is 1,250,000. Substances with molecular weights greater than 400 are generally not readily absorbed through the intact skin, and substances with molecular weights greater than 1,000 are generally not absorbed through the intact gastrointestinal (GI) tract. Chemicals not absorbed through the skin or GI tract are generally incapable of eliciting a toxic response.

2. Acrylic acid-stearyl methacrylate copolymer is not a cationic polymer, nor is it reasonably expected to become a cationic polymer in a natural aquatic environment.

3. Acrylic acid-stearyl methacrylate copolymer does not contain less than 32.0 percent by weight of the atomic element carbon.

4. Acrylic acid-stearyl methacrylate copolymer contains as an integral part of its composition the atomic elements carbon, hydrogen, nitrogen, and oxygen.

5. Acrylic acid-stearyl methacrylate copolymer does not contain as an integral part of its composition, except as impurities, any elements other than those listed in 40 CFR 723.250(d)(3)(ii).

6. Acrylic acid-stearyl methacrylate copolymer is not a biopolymer, a synthetic equivalent of a biopolymer, or a derivative or modification of a biopolymer that is substantially intact.

7. Acrylic acid-stearyl methacrylate copolymer is not manufactured from reactants containing, other than as impurities, halogen atoms or cyano groups.

8. Acrylic acid-stearyl methacrylate copolymer does not contain reactive functional groups that are intended or reasonably anticipated to undergo further reaction.

9. Acrylic acid-stearyl methacrylate copolymer is not designed or reasonably expected to substantially degrade, decompose, or depolymerize.

Based upon the above information and review of its use, EPA has found that, when used in accordance with good agricultural practice, this ingredient is useful and does not pose a risk to human health or the environment. Therefore, EPA proposes that the exemption from the requirement of a tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [OPP-300244]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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 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, Recording and recordkeeping requirements.

Dated: February 10, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be 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. In subpart D, new § 180.1109 is added, to read as follows:

§ 180.1109 Acrylic acid-stearyl methacrylate copolymer; exemption from the requirement of a tolerance.

Acrylic acid-stearyl methacrylate copolymer (CAS Reg. No. 27756-15-6), minimum molecular weight 1,250,000, is exempted from the requirement of a tolerance when used as an inert ingredient (drift control agent) in pesticide formulations applied to growing crops only. The inert will constitute no more than 0.5 percent by weight of any pesticide formulation. Registration of each new pesticide formulation incorporating this drift control agent must be supported by residue data for the active ingredient(s).

[FR Doc. 92-4779 Filed 3-3-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91-230; RM-7753]

Radio Broadcasting Services; Graham, WA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; denial of.

SUMMARY: The Commission denies the petition for rule making filed by Brian J. Lord, d/b/a Skywave Broadcasting Company, requesting the allotment of Channel 285A at Graham, Washington, as its first local aural transmission service. See 56 FR 40592, August 15, 1991. We find that there is insufficient factual basis to conclude that Graham is a "community" for allotment purposes. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 91-230, adopted February 18, 1992, and released February 27, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission

Michael C. Ruger,

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

[FR Doc. 92-4930 Filed 3-3-92; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 92-29, RM-7774]

Radio Broadcasting Services; Washington, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Dee Broadcasting Corporation seeking the substitution of Channel 284C3 for Channel 284A at Washington, Louisiana, and the modification of its license for Station KNEK-FM to specify operation on the higher powered channel. Channel 284C3 can be allotted to Washington in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.0 kilometers (13.0 miles) southwest to accommodate Dee's desired site. The coordinates for Channel 284C3 at Washington are 30-26-45 and 92-09-24.

In accordance with section 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 284C3 at Washington or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before April 20, 1992, and reply comments on or before May 5, 1992.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Peter Gutmann, Esq., Pepper & Corazzini, 1776 K Street, NW., Washington, DC 20006 (Counsel for petitioner).

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 92–29, adopted February 13, 1992, and released February 27, 1992. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 92–4931 Filed 3–3–92; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 198

[Docket No. PS–119, Notice 2]

RIN 2137–AC 12

Allocation Formula for State Grants

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes revisions to the allocation formula for distributing Federal pipeline safety grants to states beginning in Calendar Year (CY) 1992. The notice also summarizes comments received in response to a February 25, 1991 Advance Notice of Proposed Rulemaking (ANPRM) soliciting ideas on revising the allocation formula. The Department of Transportation is modifying the formula to focus attention on program performance. Formula revisions would be phased in over a 2-year period to allow states time to reassess their programs from a performance perspective and take steps to meet performance criteria. The intent is to encourage states to further enhance pipeline safety, improve the effectiveness of their programs, and assume jurisdictional responsiblity over all intrastate pipeline operators.

DATES: Interested persons are invited to submit written comments in duplicate by April 3, 1992. 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 (RSPA), U.S. Department of Transporation (DOT), 400 Seventh Street SW., Washington, DC 20590. Identify the docket and notice number 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 8421, 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: G. Tom Fortner (202) 366–4564, or Karen Sagett (202) 366–4577, regarding the subject matter of this NPRM, or the Dockets Unit (202) 366–4453 for copies of this documentation or other materials in the docket.

SUPPLEMENTARY INFORMATION:

Background

The purpose of the Federal pipeline safety grants is to encourage states to adopt and enforce minimum Federal pipeline safety regulations. RSPA is proposing to revise the allocation formula used to distribute the grants to reflect the evolution of the program over the years. Initially, in distributing grants, emphasis was placed on assisting states in establishing their pipeline safety programs. Now that this objective has largely been accomplished, attention is shifting to assiting states in enhancing program performance. Accordingly, the intent is to revise the formula to parallel this shift in program emphasis.

Emphasis on performance will lead to a more uniform, consistent pipeline safety program across the country. States which have below average programs will be encouraged to upgrade their operations. States which have not yet assumed full jurisdiction over all intrastate pipeline operators will have incentive to do so. By tying Federal funds to performance, RSPA anticipates that states will pay more attention to the adequacy of their operating and recordkeeping practices; the quality of their inspections, investigations, and enforcement actions; and the caliber of their personnel.

Currently, the formula allocates funds on a 75/25 percent split, with 75 percent based on program size and 25 percent based on program performance. The 75 percent portion is calculated by multiplying the state request by a percentage factor inversely related to the level of the request. The 25 percent portion reflects the number of points a state received for achieving a specific level of performance (extent of state jurisdiction over pipeline operators, inspector qualifications, number of inspectors, number of inspection person days, compliance with underground utility damage program requirements, and attendance at Federal/state meetings). The current formula results in states with smaller programs receiving a greater percent of their request than states with larger programs, which receive more funding but a small percentage of the cost of running their programs. A detailed description of the current formula used for distributing CY 1991 funds and the actual state-by-state grant allocations can be obtained through the docket or by writing the information contacts listed above.

Revision of the formula should be considered in the context of two other related actions—an effort to attain 50 percent funding and development of a staffing formula.

The Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act both authorize grant funding of up to 50 percent of the cost of personnel, equipment, and activities reasonably required by a state agency to carry out its safety program. Since 1981, state request for funds have exceeded appropriations. RSPA is committed to moving toward full 50 percent funding on a phased basis tied to state assumption of jurisdictional responsiblity over all intrastate pipeline operators and the transition to a performance-based formula for distributing grant funds. Increased grant funding would provide a more cost-effective approach to an increased inspection capability since states provide matching or greater funding.

In a related area, the National Association of Pipeline Safety Representatives (NAPSR) Staffing Formula Committee is working on a staffing formula which will define a reasonable number of inspectors necessary for an adequate state pipeline safety program. The formula would include factors such as miles of pipeline and number of inspection units—factors that also might be taken into account in the allocation formula for distributing state grants. The intent is to fund state programs at a baseline level regarded appropriate to achieve pipeline safety objectives, provided the states also meet performance criteria. While RSPA encourages states to go beyond the baseline level to assure public safety, RSPA does not intend to fund any state activities over and above the baseline level.

In December 1990, RSPA staff met with NAPSR's Grant Formula Committee which NAPSR established expressly to develop state views related to revising the formula. The Committee, composed of seven state pipeline safety representatives from across the country, discussed options for revising the formula. In addition, RSPA published an ANPRM February 25, 1991, soliciting ideas on revising the allocation formula and specifically requested comments on the best mix of formula allocation factors and appropriate weights to be assigned to each. In June 1991, RSPA staff met again with members of the NAPSR Grant Formula Committee to discuss responses to the ANPRM and to present the proposed approach for revising the formula that is described in this NPRM. In July 1991, RSPA reviewed the proposed approach with members of the National Association of Regulatory Utility Commissioners (NARUC) Gas Committee/Subcommittee on Pipeline Safety. Additionally, the proposed approach was discussed at the five NAPSR regional meetings held during the fall of 1991 involving all state pipeline safety representatives.

Summary of ANPRM Comments

The February 25, 1991 ANPRM soliciting ideas on revising the allocation formula specifically requested comments on the best mix of formula allocation factors and appropriate weights to be assigned to each. Ten factors were included for consideration (most of the factors in the current formula plus a number of new ones). Additionally, the ANPRM sought reaction to seven issues related to revising the formula (minimum level of performance, protection from abrupt drop in funding, phasing in the revised formula, incentives, annual aberrations, state monitoring of program performance, and set asides for special projects).

Fourteen comments were received in response to the ANPRM. Thirteen of the 14 were from state agencies and one was from a trade association. Eleven of the 14 commenters were generally supportive of revising the allocation formula. Of the remaining three commenters, two said the current system of allocating 25 percent of the funds based on performance seems reasonable and should be continued. The other commenter wanted to return to a formula similar to the one used in 1981, the first year a formula was used to allocate funds (each state requesting less than $75,000 was allocated its full request; states with larger expenses were allocated $75,000 plus an amount based on proportionate sharing of the remaining funds).

On average, only five states commented on each of the ten proposed factors for inclusion in the revised formula. One of these states ranked the importance of each factor on a scale of high-medium-low. Another said criteria would have to be developed on full, partial, or inadequate performance. Two states said they supported all the proposed factors but did not make any specific comments on the individual factors. Another state said the factors give a good picture of state performance but it was difficult to assign weights. The comments made by those responding specifically to the ten proposed allocation factors are summarized below:

1. The Extent to Which a State Inspects all Pipeline Operators and Enforces Minimum Federal Pipeline Safety Standards

Five states responded. Two states said the formula should recognize the extent of state jurisdiction. One of these states went on to say, however, that states not having full jurisdiction should not be precluded from receiving full funding for efforts performed. One state not having full jurisdiction felt strongly that there should not be a penalty for lack of full jurisdiction. Another state said this factor should be ranked medium to low on a high-medium-low scale.

2. The Frequency, Quality, and Type of State Inpsections and Incident Investigations Conducted.

Seven states commented. One state said this factor should be considered and that the annual monitoring visit was a good starting point. Another state said recognition should be given to the number of inspection units, size of units (miles of lines and number of customers), and inspection frequency intervals. Yet another state said this factor should be ranked high. One other state said its inspection program always exceeded requirements. Three states had some concerns: one state questioned whether frequency would be determined by the state's ability to inspect or by a RSPA data base; another state said this was a very difficult factor to judge and therefore should be dropped. The third state said states should not be penalized for noncompliance with arbitrary RSPA goals.

3. The Number of State Inspectors and Support Staff Available

Four states commented. One said the minimum staffing requirement being proposed by the NAPSR Staffing Formula Committee should be considered for this factor. Another said this factor should be ranked high. One other said its personnel numbers paralleled Federal expectations. The remaining state commenting said the number of inspectors should not be linked to funding; that number depends upon state funding and any reduction in Federal funds because a state cannot meet the recommended number would only add to budget problems.

4. The Percent of Staff Time Spent on Inspections

Five states commented. One proposed ranking this factor high. Another proposed consideration of the number of inspection person days, not percent of

staff time. One other mentioned that inspection time already exceeds Federal minimums. Another questioned whether this factor meant actual field time or if it included report writing, follow-up, and travel time. The remaining state said the current level of 85 inspection person days seems reasonable and that funding should not be reduced if a state cannot meet the required level for a valid reason (illness, maternity leave, etc.).

5. State Inspector Qualifications, Including Compliance With Training Requirements

Six states commented. Five of the six generally thought state inspector qualifications should be included in the formula; one said a point system should favor registered engineers rather than inspectors without recognized credentials. One other said all of its inspectors exceed qualifications requirements now and that the Federal requirements should be increased or maintained. Another said inspector qualifications should be ranked high in the formula. With respect to training, two states said they should not be penalized if they were unable to meet the training requirements. One state said RSPA should fund 100 percent of new inspector training, allocating each state up to two training courses per year for each new inspector.

6. State Adoption of Applicable Federal Regulations

Four states commented. Three of the four wanted state adoption of Federal Regulations in the formula; one of these said it should be ranked high. The fourth state said state adoption of Federal regulations is time consuming. It could take 2–3 years to process rule changes. If a state is taking steps to adopt, its funds should not be penalized.

7. State Adoption of Damage Prevention Program

Four states and the one trade association that responded to the ANPRM commented. Three of the four states said state adoption of damage prevention programs should be included in the formula, with one ranking it low as a factor. The fourth state merely said that RSPA should not withhold funds due to lack of complete compliance. The trade association, in its only comments on the contents of the ANPRM, thought state adoption/enforcement of effective damage prevention requirements should be weighed heavily in the formula, citing that over 63 percent of all gas pipeline incidents during the last 16 years resulted from third-party damage.

8. State Enforcement of Regulations Including Assessment of Penalties

Five states commented. Two states thought enforcement should be included in the formula; one of these states said it should be ranked high. Three states were wary of including assessment of penalties in the formula. One was not aware of a uniform system for assessing penalties or formal RSPA policy on enforcement in relation to fines; another said funding should have nothing to do with assessment of penalties because states use different methods to achieve compliance and the method used should be left to the discretion of the states.

9. State Attendance at Federal/State Pipeline Safety Meetings

Six states commented. Five of the six said meeting attendance should be included in the formula. Three of these five commenters said RSPA should continue the current practice of funding State travel to attend these meetings. One state objected to including this proposed factor, saying the purpose of the pipeline safety program is to inspect pipelines and all funding should be based on that purpose.

10. Adequacy of State Recardkeeping Procedures and Ability to Retrieve Data

All four states commenting on this factor believe that recordkeeping should be reflected in the formula.

In addition to the ten allocation factors proposed in the ANPRM, several states surfaced other factors such as level of safety achieved (based on 5 year average of accidents per mile of pipeline and per number of services), number of inspection units, size of units (miles of lines and number of customers), and construction activity.

With respect to the seven issues related to revising the formula, states made more comments on these issues than they did on the ten proposed allocation factors. On average, 11 or 12 states commented on each issue. A summary of these comments follows:

1. Should the Farmula Address Funding of State Pipeline Safety Programs at Only a Base (or "Minimum") Level of Performance?

Eleven states made comments. Ten of the 11 states thought the formula should provide funding at a base level; one state believed the formula should provide funding for performance over and above the base level. Additionally, four states thought the formula should provide incentives, but only if funds were available after all states were minimally funded.

2. How can Relatively Smaller State Programs and Marginal Programs Be Protected From an Abrupt Drop in Funding Level if the Farmula is revised?

Thirteen states responded. Eleven think smaller state programs should be protected from a drop in funding if more weight is given in the formula to performance. Two states disagreed; one said funds should not be allocated just because a safety program is in place.

3. Should the Revised Farmula Be Phased in Over a Several Year Period or Should it be Intraduced Immediately Without any Transition?

Thirteen states responded. Twelve thought the formula should be phased in, with most feeling a 2–3 year period would be appropriate. One state felt the new formula should apply right away.

4. What Incentives Might Be Used to Convince States Currently not in the Program To Participate?

Ten states suggested a number of incentives that might be used to keep states in the program. Seven said that increased (50 percent) funding would be a major incentive. Two said minimizing red tape and retaining the Federal/State Partnership (equal status) would help. Other incentives mentioned included developing video material and showing tolerance to different methods of achieving compliance.

5. Should the Farmula Take Into Accaunt Annual Aberrations a State may Experience but Over Which it has Little Control That Could Adversely Affect its Funding Level?

Twelve states responded. Eleven felt some provision should be made for annual aberrations. One state thought it might be difficult, given the difference in Federal/state fiscal years and the disconnect between the state budget cycle and certification time frame. Proposed approaches included using: The greater of the annual evaluation and a 3-year evaluation; a straight 3-year average; a 2–3 year smoothing function; and a 5-year averaging basis.

6. Should Results of the State Manitaring Visit by the RSPA Office of Pipeline Safety Staff be Factared Into the Formula?

Eleven states responded. Eight thought the state monitoring visit should be used to assess performance for purposes of the formula. Two states disagreed. The remaining state questioned the purpose of the monitoring visit, wondering if it was to verify the state certification or review the program. That state noted that the

monitoring form has a lot of duplication with the certification form.

7. Should a Portion of the Grant Funds be set Aside for Special Projects and Initiatives That may Come up From Year to Year?

Twelve states responded. Eight said that funds should be used for special projects but five of these states said only if funds were left over after the base-level allocations were made. Three states do not want funds used for special projects. The remaining state said if it is done, funding should be at 100 percent.

Based on the comments received in response to the ANPRM and the comments received at NAPSR and NARUC meetings, most states believe the allocation formula should be revised to put greater emphasis on program performance. Additionally, most states are in general agreement that the revised formula should be phased in over several years, and that no state should receive less funding under the revised formula than it does under the current formula. There is no clear consensus among states, however, with respect to what allocation factors (or performance criteria) should be included in the formula nor what weight should be assigned to each factor. RSPA, therefore, proposes to select factors and assign weights that reflect overall program priorities and national concerns.

Proposed Approach

Given the desirability of an increasingly performance-based formula, the effort to attain full 50 percent grant funding, the emphasis upon state assumption of jurisdictional responsibility for all intrastate pipeline operators, and the comments received on the ANPRM and in subsequent discussions with state pipeline safety representatives, RSPA is proposing a phased approach toward revising the grant allocation formula. This approach would use the existing formula for distributing grants in CY 1991 as a point of departure. CY 1992 and 1993 would be transition years, to assure some stability while the states assess their programs from a performance perspective and take steps to meet performance criteria. No state would receive less funding than it did in CY 1991, provided its request is at the CY 1991 level or higher and appropriated funds are at the CY 1991 level or higher. In CY 1994, RSPA would re-evaluate continuation of funding states at the CY 1991 level.

CY 1992

The following changes are proposed to the CY 1991 formula:

—Adjust the current primary/secondary allocation split from 75/25 percent to 50/50 percent. The primary allocation, reflecting program size, is currently calculated by multiplying the state request by a percentage factor inversely related to the level of the request (e.g., a state requesting $45,000 would have a percentage factor of 82; while a state requesting $245,000 would have a percentage factor of 42). The secondary allocation, reflecting program performance, is calculated by totaling the number of points a state receives for achieving specific program objectives. (This change would put increased emphasis on performance.)

—Modify the existing table used for the primary allocation percentage factors so that state requests of $200,001 and over would all have a percentage factor of "50," instead of the sliding scale from 50 to 35. (This change would allow larger programs to receive a somewhat greater percentage of the cost of running their programs than they currently receive, resulting in greater equity among the states.)

Tentative state allocations for the natural gas and hazardous liquid programs based on the proposed CY 1992 formula revisions (50/50 split; modified percentage factor) appear in an Appendix to this NPRM, along with state allocations based on the CY 1991 formula (75/25 split). These two breakouts show on a state-by-state basis the differences in funding levels resulting from the proposed formula revisions for CY 1992. They are based on CY 1991 state request levels and Federal funding in CY 1992 of $7 million.

CY 1993

The following additional changes are proposed to the CY 1991/92 formula:

—Adjust the primary/secondary allocation split from 50/50 percent to 25/75 percent.

—Revise the state point criteria used in the secondary allocation for assessing state program performance to take into account the results of the annual state monitoring visit as well as information provided in the annual pipeline safety program certification/agreement packages. A maximum of 100 performance points would be assigned (50 from the state monitoring visit and 50 from the certification/agreement package).

Both the monitoring form and certification/agreement packages would be revised so the monitoring form is used primarily to assess state field performance (e.g., operating practices; quality of state inspections, investigations, and enforcement actions; adequacy of recordkeeping) and the certification/agreement packages are used primarily to assess state program compliance (e.g., extent of jurisdiction, inspector qualifications, number of inspectors, number of inspection person days, state adoption of applicable Federal regulations including one-call notification system requirements, attendance at Federal/state meetings). These revisions would also eliminate existing duplication between the monitoring form and certifications/agreements. The information provided by a state on the certifications/agreements would be validated during the annual monitoring visit.

By CY 1994, RSPA intends that the formula would be performance based. In anticipation of this objective, RSPA would undertake a wholesale re-examination of the formula along with a reassessment of what constitutes adequate state performance at a baseline program level. Consideration would be given to program size/need, level of state request, actual state program costs for the prior year, number of pipeline miles, number of services, or some combination of factors. An objective would be for larger programs to receive funding in proportion to their need and not be penalized as in the past due to insufficient Federal grant funds. Actual funding levels would, of course, always depend upon the annual grant fund appropriation. In the event state requests exceed the grant funds available, each states's allocation would be prorated accordingly. Larger programs would not take a disproportionate reduction.

While this preamble describes the proposed allocation formula for use in CY 1992 and CY 1993 in some detail, proposed language to be included in the regulations is general to allow RSPA the discretion of making annual adjustments in the formula without having to revise the regulation each time a change is made. As the pipeline safety program continues to evolve, safety priorities and national concerns will change. RSPA needs flexibility in distributing funds to target specific areas that may require state attention (e.g., aging infrastructure, environmental protection). Any proposed changes would be discussed with states in various NAPSR and NARUC meetings as well as other appropriate forums prior to implementation. State agencies would also be notified in writing of any

proposed changes to the formula at least 6 months prior to allocating funds for the following year. RSPA is also considering extablishing a joint RSPA/state committee that would meet annually to provide advice on specific formula revisions.

Accordingly, the proposed regulations, §§ 198.5 and 198.7, establish that a performance-based formula will be used to distribute grants to states but the regulations do not specify all factors nor weights assigned to each factor that will be considered in allocating grants.

Impact Assessment

This proposal is considered to be nonmajor under Executive Order 12291 and is not considered significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Also, based on the facts available concerning the impact of this proposal, I certify under section 605 of the Regulatory Flexibility Act that it would not, if adopted as final, have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

As part of a state's assumption of responsibility for adopting minimum Federal pipeline safety regulations, routinely inspecting pipeline operators for compliance with those regulations, investigating accidents and complaints, and in many cases taking appropriate enforcement actions in the event of violations or noncompliance, the state must enter into an annual certification/agreement with RSPA indicating the scope of its activities. As part of this process, the state must provide RSPA information on the extent to which it is fulfilling basic program requirements. That information is used in the allocation formula for distributing grants to states.

Inasmuch as this information collection imposes a reporting burden on the states, it has been submitted to the Office of Management and Budget (OMB) for review under Section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). Persons desiring to comment on the information collection requirements should submit their comments to: Desk Officer, Research and Special Programs Administration, Office of Regulatory Policy, Office of Managemnt and Budget, 728 Jackson Place, NW., Washington, DC 20503. Persons submitting comments to OMB are requested to send a copy of their comments to RSPA as indicated above under **ADDRESSEE.**

Federalism

This action has been analyzed under the criteria of E.O. 12612 and found not to warrant preparation of a Federalism Assessment. The action, in fact, supports the intent of the fundamental principles in the Executive Order. The Federal government through grant allocations is seeking to strengthen the Federal-State Partnership for pipeline safety.

List of Subjects in 49 CFR Part 198

Grant programs, Formula, Pipeline safety.

In consideration of the foregoing, RSPA proposes to amend 49 CFR part 198 as follows:

PART 198—REGULATIONS FOR GRANTS TO AID STATE PIPELINE SAFETY PROGRAMS

1. The authority citation for part 198 continues to read as follows:

Authority: 49 App. U.S.C. 1674, 1687, and 2004; 49 CFR 1.53.

2. New §§ 198.5 and 198.7 would be added in subpart A to read as follows:

§ 198.5 Grant authority.

Section 5(d)(1) of the Natural Gas Pipeline Safety Act and Section 205(d)(1) of the Hazardous Liquid Pipeline Safety Act authorize the Administrator to pay out of funds appropriated or otherwise made available up to 50 percent of the cost of the personnel, equipment, and activities reasonably required for each state agency to carry out a safety program for intrastate pipeline facilities under a certification or agreement with the Administrator or to act as an agent of the Administrator with respect to interstate pipeline facilities.

§ 198.7 Grant allocation formula.

(a) Beginning in calendar year 1992, the Administrator places increasing emphasis on program performance in allocating state agenacy funds under § 198.5. The percent of each state agency allocation that is based on performance follows: 1992–50 percent; 1993–75 percent; 1994 and subsequent years—100 percent.

(b) The Administrator assigns weights to various performance factors reflecting program compliance, safety priorities, and national concerns identified by the Administrator and communicated to each State ageancy. At a minimum, the Administrator considers the following performance factors in allocating funds:

(1) Adequacy of state operating practices;

(2) Quality of state inspections, investigations, and enforcement actions;

(3) Adequacy of recordkeeping;

(4) Extent of state safety regulatory jurisdiction over pipeline facilities;

(5) Qualifications of state inspectors;

(6) Number of state inspection person-days;

(7) State adoption of applicable Federal pipeline safety standards;

(8) Any other factor the Administrator deems necessary to measure performance.

(c) Notwithstanding these performance factors, the Administrator may, in 1992 and subsequent years, continue funding any state at the 1991 level, provided its request is at the 1991 level or higher and appropriated funds are at the 1991 level or higher.

(d) The Administrator notifies each state agency in writing of the performance factors to be used each year at least 6 months prior to allocating funds.

(e) Grants are limited to the appropriated funds available. If total state agency requests for grants exceed the funds available, the Administrator prorates each state agency's allocation.

(Approved by the Office of Management and Budget under Control number 2137–xxx)

Issued in Washington, D.C., on February 27, 1992.

George W. Tenley, Jr.,

Associate Administrator for Pipeline Safety.

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

APPENDIX

PROPOSED 1992 ALLOCATION BASED ON 1991 REQUESTS 50/50 (GAS) [1]

State	Request	Percent	Primary	Secondary	Final allocation	Percent of fund
Alabama	301,074.00	50	90,025	109,346	119,371	33
Arizona	327,352.00	50	97,883	118,094	215,977	33
Arkansas	103,230.00	70	51,513	47,886	99,399	48
California	749,592.00	50	224,138	87,477	311,615	21

PROPOSED 1992 ALLOCATION BASED ON 1991 REQUESTS 50/50 (GAS) [1]—Continued

State	Request	Percent	Primary	Secondary	Final allocation	Percent of fund
Colorado	132,358.00	64	58,107	66,001	124,108	47
Connecticut	248,375.00	50	74,268	113,720	187,988	38
Georgia	174,349.00	56	62,594	107,616	170,210	49
Illinois	199,185.00	51	61,551	109,346	170,897	43
Indiana	107,287.00	69	52,465	50,761	103,226	48
Iowa	130,218.00	64	57,168	64,934	122,102	47
Kansas	279,406.00	50	83,546	100,599	184,145	33
Kentucky	182,550.00	54	61,887	83,103	144,990	40
Louisiana	563,000.00	50	168,345	104,972	273,317	24
Massachusetts	309,000.00	50	92,395	91,851	184,246	30
Michigan	177,300.00	55	61,880	115,420	177,300	50
Minnesota	455,899.00	50	133,330	113,720	247,050	28
Mississippi	110,457.00	68	52,910	55,415	108,325	49
Missouri	209,060.00	50	62,512	100,599	163,111	39
Nevada	82,889.00	74	44,678	38,211	82,889	50
New Jersey	226,124.00	50	67,614	96,225	163,839	36
New Mexico	150,780.00	60	60,163	90,617	150,780	50
New York	911,696.00	50	272,609	113,720	386,329	21
North Carolina	132,106.00	64	57,996	71,365	129,361	49
Ohio	321,038.00	50	95,995	109,348	205,341	32
Oklahoma	150,692.00	60	60,128	87,210	147,338	49
Pennsylvania	234,328.00	50	70,067	74,355	144,422	31
Rhode Island	58,469.00	79	34,439	24,030	58,469	50
Tennessee	222,320.00	50	66,477	118,094	184,571	42
Texas	723,578.00	50	216,360	109,348	325,706	23
Utah	89,730.00	73	47,468	42,262	89,730	50
Virginia	208,370.00	50	62,305	83,103	145,408	35
West Virginia	159,668.00	59	62,113	90,329	152,442	48
Wisconsin	112,499.00	68	53,888	39,074	92,962	41
Wyoming	102,750.00	70	51,274	41,944	93,218	45
Totals	8,636,729.00		2,870,091	2,870,091	5,740,182	
Hold Harmless						
Delaware	15,992.00	87	12,409	3,451	15,860	49
Florida	61,972.00	78	42,508	16,580	59,088	48
Hawaii	25,177.00	85	16,165	7,009	23,174	47
Maine	10,743.00	88	8,443	1,959	10,402	48
Maryland	92,926.00	72	58,164	27,491	85,655	46
Montana	25,518.00	85	19,290	5,306	24,596	48
Nebraska	81,451.00	74	52,611	22,431	75,042	46
New Hampshire	46,853.00	81	33,543	8,366	42,909	46
North Dakota	33,024.00	84	24,633	7,458	32,091	49
Oregon	77,100.00	75	50,572	25,546	76,118	49
Puerto Rico	27,752.00	85	20,978	4,516	25,494	46
Vermont	47,356.00	81	33,903	12,955	46,858	49
Dist. of Col.	42,321.00	82	30,722	11,170	41,892	49
Totals	588,185.00		403,941	154,238	559,179	
Totals	9,224,914.00		3,274,032	3,024,329	6,299,361	

[1] Revised formula.

PROPOSED 1992 ALLOCATION BASED ON 1991 REQUESTS 50/50 (LIQUID) [1]

State	Request	Percent	Primary	Secondary	Final allocation	Percent of fund
Arizona	33,247.00	84	18,714	14,533	33,247	50
California	749,760.00	50	167,109	121,995	289,104	19
Louisiana	137,600.00	63	48,557	78,568	127,125	46
Oklahoma	66,947.00	77	32,997	33,950	66,947	50
Texas	127,690.00	65	47,614	65,945	113,559	44
Totals	1,115,244.00		314,991	314,991	629,982	
Hold Harmless						
Alabama	17,897.00	87	12,621	4,656	17,277	48
Iowa	13,400.00	88	9,584	3,367	12,951	48
Minn	4,504.00	90	3,311	1,123	4,434	49
Miss	10,924.00	88	7,813	2,745	10,558	48
WVA	25,752.00	85	17,645	7,153	24,798	48
Totals	72,477.00		50,974	19,044	70,018	
Totals	1,187,721.00		365,965	334,035	700,000	

[1] Revised formula.

1992 Proposed Natural Gas Grant Allocation—7 Million 75/25 [1]

State	Request	Percent	Primary allocation	State points	Second allocation	Final allocation	Percent of fund
Alabama	301,074.00	38	126,839	25	55,021	181,860	30
Arizona	327,352.00	38	137,910	27	59,423	197,333	30
Arkansas	103,230.00	70	76,523	25	24,728	101,251	49
California	749,592.00	36	300,803	20	44,017	344,820	23
Colorado	132,358.00	64	90,174	24	37,497	127,671	48
Connecticut	248,375.00	41	112,089	26	57,222	169,311	34
Delaware	15,992.00	87	14,573	26	1,366	15,939	49
Florida	61,972.00	78	50,897	23	9,434	60,331	49
Georgia	174,349.00	56	104,834	26	57,222	162,056	46
Hawaii	25,177.00	85	22,440	21	2,129	24,569	49
Illinois	199,185.00	51	109,808	25	55,021	164,829	41
Indiana	107,287.00	69	78,458	25	26,694	105,152	49
Iowa	130,218.00	64	88,716	24	36,891	125,607	48
Kansas	279,406.00	40	123,299	23	50,620	173,919	31
Kentucky	182,550.00	54	106,114	19	41,816	147,930	41
Louisiana	563,000.00	36	225,926	24	52,820	278,746	25
Maine	10,743.00	88	9,897	23	720	10,617	49
Maryland	92,926.00	72	70,744	22	18,075	88,819	48
Massachusetts	309,000.00	38	130,178	21	46,218	176,396	29
Michigan	177,300.00	55	104,836	27	59,423	164,259	46
Minnesota	445,899.00	36	178,934	26	57,222	236,156	26
Mississippi	110,457.00	68	79,671	26	29,645	109,316	49
Missouri	209,060.00	49	111,071	23	50,619	161,690	39
Montana	25,518.00	85	22,744	23	2,363	25,107	49
Nebraska	81,451.00	74	63,637	21	13,856	77,493	48
Nevada	82,889.00	74	64,760	27	18,129	82,889	50
New Hampshire	46,853.00	81	39,885	19	4,903	44,768	48
New Jersey	226,124.00	45	111,092	22	48,419	159,511	35
New Mexico	150,780.00	60	96,694	27	54,086	150,780	50
New York	911,696.00	35	356,737	26	57,222	413,959	23
North Carolina	132,106.00	64	90,002	26	40,544	130,546	49
North Dakota	33,024.00	84	29,104	24	3,485	32,589	49
Ohio	321,038.00	38	135,250	25	55,021	190,271	30
Oklahoma	150,692.00	60	96,637	26	52,053	148,690	49
Oregon	77,100.00	75	61,008	26	15,496	76,504	49
Pennsylvania	234,328.00	44	112,779	17	37,414	150,193	32
Puerto Rico	27,752.00	85	24,735	18	2,011	26,746	48
Rhode Island	58,469.00	79	48,605	27	9,864	58,469	50
Tennessee	222,320.00	46	111,447	27	59,423	170,870	38
Texas	723,578.00	36	290,364	25	55,021	345,385	24
Utah	89,730.00	73	69,208	27	20,522	89,730	50
Vermont	47,356.00	81	40,314	26	6,782	47,096	49
Virginia	208,370.00	49	110,705	19	41,816	152,521	37
District of Columbia	42,321.00	82	36,451	26	5,653	42,104	49
West Virginia	159,668.00	59	100,797	25	54,511	155,308	49
Wisconsin	112,499.00	68	81,144	18	20,903	102,047	45
Wyoming	102,750.00	70	76,167	22	21,660	97,827	48
Total	9,224,914.00		4,725,000		1,575,000	6,300,000	34

Note: The 'request' represents 50% of the state's estimated budget. The '% of fund' is the percentage of the budget represented by the allocation.

Alabama	17,897.00	87	14,712	15	2,811	17,523	49
Arizona	33,247.00	84	26,332	17	6,915	33,247	50
California	749,760.00	36	233,935	16	49,591	283,526	19
Iowa	13,400.00	88	11,149	15	1,986	13,135	49
Louisiana	137,600.00	63	80,085	15	46,491	126,576	46
Minnesota	4,504.00	90	3,837	16	627	4,464	49
Mississippi	10,924.00	88	9,089	15	1,619	10,708	49
Oklahoma	66,947.00	77	48,337	17	18,610	66,947	50
Texas	127,690.00	65	76,871	14	41,851	118,722	46
West Virginia	25,752.00	85	20,653	15	4,499	25,152	49
Total	1,187,721.00		525,000		175,000	700,000	29

Note: The 'request' represents 50% of the state's estimated budget. The '% of fund' is the percentage of the budget represented by the allocation.

[1] Existing formula.

[FR Doc. 92-4969 Filed 3-3-92; 8:45 am]
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National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 91-16; Notice 2]

RIN 2127-AD97

Federal Motor Vehicle Safety Standards; Tire Selection and Rims; Vehicles Other Than Passenger Cars

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

ACTION: Termination of rulemaking.

SUMMARY: This notice terminates a rulemaking proceeding in which the agency issued a notice proposing to amend the labeling requirements of Standard No. 120 to specify that manufacturers list the "vehicle capacity weight" and "designated seating capacity" of the vehicle. After reviewing the comments, the agency has determined that there are insufficient demonstrated safety benefits to warrant further rulemaking on this matter. Accordingly, the agency has decided to terminate this rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: Mr. George Soodoo, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington DC, 20590 (202) 366-5892.

SUPPLEMENTARY INFORMATION:

Background

Three of this agency's regulations require manufacturers to affix labels to each of their vehicles containing certain information, including information about the vehicle's weight and carrying capacity. First, part 567, Certification (49 CFR part 567), requires motor vehicle manufacturers to affix a certification label to each vehicle containing information including: the Gross Vehicle Weight Rating (GVWR, i.e., the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the number of designated seating positions), and the Gross Axle Weight Rating for each axle (GAWR, i.e., the value specified by the vehicle manufacturer as the load carrying capacity of a single axle system).

Second, Standard No. 120, Tire selection and rims for vehicles other than passenger cars (49 CFR 571.120), requires manufactures of multipurpose passenger vehicles (MPV's), trucks, buses, trailers and motorcycles to include certain additional information either on the part 567 certification label described above, or, at the manufacturer's option, on a tire information label affixed to the vehicle. Specifically, Standard No. 120 requires manufacturers to provide information including: an appropriate GVWR-GAWR-tire combination; the size designation of tires appropriate for the GAWR; the size and, if applicable, type designation of rims appropriate for the recommended tires; and the cold inflation pressure for the recommended tires. Standard No. 120's labeling requirements are intended to promote safe performance by ensuring that vehicles are equipped with tires of adequate size and load rating, and with rims of appropriate size and type designation.

Third, Standard No. 110, Tire selection and rims, requires manufacturers of passenger cars to affix a placard to each vehicle's glove compartment door (or an equally accessible location), containing information that is also intended to promote the passenger car's safe performance by preventing overloading of the tires or the vehicle itself. Standard No. 110 requires the placard to list the "vehicle capacity weight" (the rated cargo load and luggage load plus 150 pounds times the number of designated seating positions) and the designated seating capacity, as well as the manufacturer's recommended tire size designation and tire cold inflation pressure for the maximum vehicle weight.

Petition for Rulemaking

On May 22, 1990, Mr. Durkovich submitted a petition to NHTSA requesting the agency to amend the certification label requirements of part 567 to require manufacturers to list the "rated cargo load" which a vehicle has been designed to carry and control safely. The petitioner requested that the rated cargo load and its definition appear on the label with the vehicle's GVWR, printed in larger text and contrasting color. The petitioner did not submit any data demonstrating the existence of a safety problem due to vehicle overloading. Instead, the petitioner based his request on the general assertion that operators frequently load their vehicles beyond the load capacity of the vehicles' braking, steering, suspension and other components, and beyond the manufacturer's design intent. The petitioner further claimed that excessive overloading of a vehicle can cause loss of vehicle control and lead to accidents, thus creating an unreasonable safety risk to the public. Accordingly, the petitioner stated his belief that providing consumers with information about the safe carrying capacity of their vehicles would decrease the incidence of overloading, thus reducing this safety risk.

Notice of Proposed Rulemaking

NHTSA granted Mr. Durkovich's petition on August 22, 1990, although the agency decided to propose a slightly different information requirement than one he requested. On April 16, 1991 (56 FR 15315), the agency published a notice containing proposals responding to Mr. Durkovich's petition, as well as several proposals to update Standard No. 120.

Instead of proposing to require "rated cargo load" to be listed on a vehicle's part 567 certification label, NHTSA proposed to amend the labeling requirements of Standard No. 120 to specify that manufacturers list the "vehicle capacity weight" and "designated seating capacity" of the vehicle. The agency further proposed to modify the definition of "vehicle capacity weight" to clarify that the "rated cargo load" includes luggage.

The agency proposed to require manufacturers to provide information about vehicle capacity weight and designated seating capacity for several reasons. First, since Standard No. 110 currently requires manufacturers to label passenger cars with information about vehicle capacity weight, the agency had believed that adoption of the proposal would have resulted in uniform provisions requireing the same loading information to be provided for all vehicles. Second, the agency believed that the term "vehicle capacity weight, " a constant amount for a particualar vehicle which refers to the vehicle's total carrying capacity, was less confusing than the term "rated cargo load". The rated cargo load does not include passengers and luggage and thus changes depending on the number of passengers. Further, rated cargo load is often confused with a vehicle's "payload", which sometimes does include the weight of passengers. Finnally, NHTSA noted that the vehicle's rated cargo load could be easily calculated based on the vehicle's GVWR and vehicle capacity weight.

NHTSA's proposal to amend Standard No. 120 was based on the agency's tentative conclusion that providing consumers with information about vehicle capacity weight and designated seating capacity would assist them in determining the safe carrying capacity of their vehicles, thus reducing the likelihood of overloading. NHTSA believed that this information could be of particular use to those who purchase

MPVs and light trucks for passenger carrying purposes, but also use those vehicles to transport cargo such as lumber, furniture, and various bulk materials. Further, the agency was aware of the general argument that an overloaded vehicle is less safe due to the strain on the tires, brakes, and suspensions system.

The agency did not, however, have any quantitative data, engineering analysis, or other evidence demonstrating the actual existence of a safety problem related to vehicle overloading. As stated above, the petitioner did not submit any such data to substantiate the existence of the safety problem he alleged. Consequently, in the NPRM the agency requested comments about whether vehicle overloading poses a safety problem and if so, whether the proposed labeling requirements would significantly reduce that problem. The agency also requested that commenters indicate whether any other labeling requirements would reduce the likelihood of vehicle overloading.

Finally, the agency also proposed to amend Standard No. 120 to upadate one provision, and delete two other outdated provisions.

Public Comments and Agency Decision

NHTSA received twelve comments on the NPRM. Commenters included manufacturers of MPV's, light trucks, medium and heavy trucks, truck trailers, and buses. The commenters did not address the proposals to update Standard No. 120. However, all of the commenters opposed the proposal to require labeling of vehicle capacity weight and designated seating capacity, primarily because they did not see a safety need for the amendment.

After reviewing the comments, NHTSA has decided not to adopt its proposal to require the labeling of vehicle capacity weight and designated seating capacity. The agency's reasoning for this decision is discussed in more detail below. The agency has decided to address the proposals for updating Standard No. 120 in a separate rulemaking.

Decision not To Amend Standard No. 120 Labeling Requirements To Include Vehicle Capcity Weight and Designated Seating Capacity

As stated above, all commenters on the NPRM opposed the proposal to amend Standard No. 120 to require the labeling of vehicle capacity weight and designated seating capacity. Although commenters raised a number of objections to the proposed requirements, most focused their comments on the lack of a demonstrated safety need.

Manufacturers of medium and heavy trucks, trailers and buses argued that there is no safety problem related to overloading and further, that information on vehicle capacity weight and designated seating capactiy would be of little use to operators of such vehicles, which are often used for commercial applications. The commenters stated that the operators of these vehicles are already aware of the vehicles' safe carrying capacity, largely because such vehicles are typically selected to handle an expected load. These vehicles are also weighed by state enforcement agencies to determine compliance with the vehicle's GAWR/GVWR, as well as highway limits. Accordingly, these commenters argued that the proposed amendments were unnecessary.

Manufacturers of MPV's and light trucks (with a GVWR less than 10,000 pounds) also opposed the proposed labeling requirements. These commenters primarily focused their objections on the lack of a safety need for information about vehicle capacity weight and designated seating capacity. Commenters noted that the proposal was not supported by any statistics or analysis substantiating the assertion that a safety problem exists due to vehicle overloading. Thus, commenters argued that the agency failed to show that the proposed requirements are necessary for safety.

Additionally, commenters claimed that providing information about vehicle capacity weight and designated seating capacity would not be useful to consumers. Commenters explained that a user who bases determination of a vehicle's load carrying capacity on these criteria, instead of the vehicle's GAWR's and GVWR, risks overloading one of the vehicle's axles through improper cargo distribution. This is because the user could overload one of the vehicle's axles, and still not exceed the vehicle capacity weight. Consequently, commenters suggested that providing information about vehicle capacity weight could be adverse to safety because it could mislead consumers into ignoring the vehicle's axle limitations.

Acknowledging that Standard No. 110 currently requires passenger cars to be labeled with vehicle capacity weight and designated seating capacity, these commenters explained that such information is appropriate for users of passenger cars because the distribution of loading for these vehicles is restricted by the seat and truck configurations. For MPVs and light trucks, however, the versatile and convertible seating and cargo configurations of these vehicles make the possibility of axle overloading due to improper cargo distribution the greatest safety risk. In this regard, commenters stated that current labeling requirements already ensure that manufacturers will provide the information necessary to prevent such axle overloading.

Upon review of these comments, the agency has decided not to adopt the proposed labeling requirements because it does not have sufficient data demonstrating the existence of an actual safety problem due to vehicle overloading. Further, the agency is persuaded by commenters that, even if a safety problem existed, the proposed labeling requirements would not address that problem because they could detract consumers' attention away from the vehicle's axle limitations and the importance of proper cargo distribution. The agency also agrees with commenters that the information about vehicle load capacities which part 567 and Standard No. 120 currently require manufacturers to provide is sufficient to inform consumers of the safe carrying capacities of their vehicles, and alert them to the consequences of overloading the vehicle and the individual axles.

For the reasons set forth above, the agency has decided to terminate this rulemaking action.

Issued on: February 26, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-4982 Filed 3-3-92; 8:45 am]

BILLING CODE 4910-59

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

Foreign Proposals To Amend Appendices to the Convention on International Trade In Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of decision.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (Convention) regulates international trade in certain animals and plants. Species for which such trade is controlled are listed in appendices I, II, and III to the Convention. Any country that is a Party to the Convention may

propose amendements to appendix I or II for consideration by the other Parties.

This notice announces decisions by the Fish and Wildlife Service (Service) on negotiating positions to be taken by the United States delegation with regard to proposals submitted by Parties other than the United States. The proposals will be considered in March 1992 at the eighth regular meeting of the Conference of the Parties in Kyoto, Japan.

DATES: Proposals mentioned in this notice are scheduled to be discussed along with a preliminary vote by Party nations in committee on the weekdays from March 5 to 11, 1992. A final vote in plenary sessions is presently scheduled for March 12 and 13, 1992, without discussion unless one-third of the Parties support the reopening of discussion on specific proposals. Any of these proposals that are adopted will enter into effect 90 days afterwards (i.e., on June 10, 1992).

ADDRESSES: Please send correspondence concerning this notice to the Office of Scientific Authority; Mail Stop 725, Arlington Square; U.S. Fish and Wildlife Service; Department of the Interior; Washington, DC 20240. The fax number is (703) 358–2276. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; 4401 North Fairfax Drive, room 750; Arlington, Virginia 22203. Comments and other information received are available for public inspection by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, U.S. Fish and Wildlife Service, Washington, DC telephone: (703) 358–1708.

SUPPLEMENTARY INFORMATION:

Background

The convention regulates import, export, reexport, and introduction from the sea of certain animal and plant species. Species for which trade is controlled are included in one of three appendices. Appendix I includes species threatened with extinction that are or may be affected by international trade. Appendix II includes species that, although not necessarily threatened with extinction, may become so unless such trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those other species). Appendix III includes species that any Party country identifies as being subject to regulation within its juridiction for purposes of preventing or restricting exploitation, and for which it needs the coorperation of other Parties in controlling trade.

Any Party nation may propose amendments to appendices I and II for consideration at meetings of the Conference of the Parties. The proposal must be communicated to the Convention's Secretariat at least 150 days before the meeting. The Secretariat must then consult the other Parties and appropriate intergovernmental agencies, and communicate their reponses to all Parties no later than 30 days before the meeting. Amendments are adopted by a two-thirds majority of the Parties present and voting.

Decisions

This notice announces the negotiating positions to be taken by the United States delegation with regard to proposals submitted by Parties other than the United States for consideration at the forthcoming meeting of the Parties. The Service announced the proposals and invited comments on tentative negotiating positions in the January 3, 1992, **Federal Register** (57 FR 262).

It is neither practical nor in the best interests of the United States to establish inflexible negotiating positions. However, decisions announced in this notice represent formal guidance to the delegation, which will seek to obtain agreement of the Conference of the Parties with these positions. Such positions will only be modified if the U.S. delegation finds it necessary to do so in response to new information presented or obtained during the meeting in Japan.

Comments Received

During the comment period, the Service received substantive written comments from nine organizations with endorsements of selected comments from two other organizations on species other than the African elephant, bluefin tuna captive bred psittacines, and plants. One additional organization commented at the public meeting. In addition, during the comment period the Service received written comments on the African elephant from 12 organizations with endorsement of certain comments from two additional organizations, 1 foreign government, and 215 individuals. One additional organization offered comments at the public meeting. On the bluefin tuna proposal, the Service received comments from 15 organizations, including 2 that commented at the public meeting (some of the comments were endorsed by 2 additional organizations), 1 foreign government, and 1 individual. One individual and 12 organizations with the endorsement of selected comments from 2 other organizations provided comments on the proposals to register commercial captive-breeding facilities for psittacine species. Written comments on plant species were received from 13 organizations, 2 commercial businesses, 3 foreign governments, 4 federal agencies, and 6 individuals. Biological and trade information, especially on plants, was received from individuals and organizations outside the comment period and may have been considered.

In addition, 10 persons expressed support or opposition for various proposals at a public hearing on January 8, 1992, including representatives of four nongovernmental organizations that did not provide written comments. These comments, along with other information received by the Service, were considered in the development of the final U.S. negotiating positions. Several of the tentative positions were modified or reversed. The rationale for these changes and modifications has been provided to those that submitted substantive comments and to other interested persons. The development of this separate "Assessment of Comments on Species Listing Proposals" represents a continuation of the Service's past procedures and allows for more timely and less expensive publication in the **Federal Register**. This "Assessment of Comments on Species Listing Proposals" is available from the Office of Scientific Authority.

Summary of Positions

Additional information has been obtained on several species other than those on which formal comments were received. However, unless revised below and commented upon in the "Assessment of Comments on Species Listing Proposals," the position remains the same as indicated also in the January 3, 1992, **Federal Register** notice. Final negotiating positions of the U.S. delegation on proposals by Parties other than the United States are summarized in the following table; clarification of the U.S. position on selected proposals is indicated by numbers which refer to footnotes after the table.

Species	Proposed amendment	Proponent	Final U.S. position
Mammals:			
Order Primates:			
Tarsius syrichta (Philippine tarsier)	Transfer from II to I	Philippines	Support (3).
Order Edentata:			
Tamandua tetradactyla chapadensis (Tamandua, Collared anteater).	Remove from II (Ten Year Review)	Germany	Support (3, 10).
Order Pholidota:			
Manis temminckii (Common African ground pangolin).	Remove from I	Botswana, Malawi, Namibia, and Zimbabwe.	Oppose (4, 26).
Order Carnivora:			
Acinonyx jubatus (Cheetah)	Transfer from I to II (Botswana, Malawi, Namibia, Zambia, and Zimbabwe populations with quotas).	Namibia, Zimbabwe	Oppose (1).
Dusicyon (=*Cerdocyon*) *thous* (Crab-eating fox).	Add to II	Argentina	Support (2, 3).
Conepatus spp. (Hog-nosed skunks).	....do	....do	Support (2, 7, 27).
Felis geoffroyi (Geoffroy's cat)	Transfer from II to I	Brazil	Support (3).
Hyaena brunnea (Brown hyaena)	Remove from I	Botswana, Malawi, Namibia, Zambia, and Zimbabwe.	Support (11, 26).
Panthera pardus (Leopard)	Transfer from I to II (Sub-Sahara population with quotas).	Botswana, Malawi, Namibia, Zambia, and Zimbabwe.	Oppose (17).
Panthera tigris altaica (Siberian tiger).	Transfer from I to II (captive breeding)	China	Oppose (16).
Ursidae spp. (Bear spp.)	Add to II (USSR and Baltic States populations) [for look-alike reasons—Article II, 2(b)].	Denmark	Support (7).
Ursus arctos	Add to I (populations of China and Mongolia.	....do	Support (3, 28).
Ursus americanus (American black bear).	Add to II [for look-alike reasons—Article II, 2(b)].	....do	Oppose (8).
Order Tubulidentata:			
Orycteropus afer (Aardvark)	Remove from II	Botswana, Malawi, Namibia, and Zimbabwe.	Support (11).
Order Proboscidea:			
Loxodonta africana (African elephant).	Transfer from I to II (Botswana, Malawi, Namibia, Zambia, and Zimbabwe populations).	Botswana, Malawi, Namibia, and Zimbabwe.	See discussion in footnote (18).
Loxodonta africana (African elephant).	Transfer from I to II (Botswana population).	Botswana	(18) and (19).
Loxodonta africana (African elephant).	Transfer from I to II (South Africa population).	South Africa	See discussion in footnote (18).
Order Perissodactyla:			
Ceratotherium simum simum (Southern white rhino).	Transfer from I to II	South Africa	Oppose (22).
Ceratotherium simum (Southern white rhino).	Transfer from I to II (Zimbabwe population).	Zimbabwe	Oppose (4, 22).
Diceros bicornis (Black rhino)	Transfer from I to II (Zimbabwe population).	....do	Oppose (4, 22).
Diceros bicornis (Black rhino)	Transfer from I to II	....do	Oppose (16, 22).
Order Artiodactyla:			
Capra falconeri falconeri (Astor markhor).	Transfer from II to I	United Kingdom	Support (2, 29).
Capra falconeri heptneri (Bukhara markhor.	....do	....do	Support (3, 6).
Hippotragus equinus (Roan antelope).	Remove from II	Botswana, Malawi, Namiba, Zambia, and Zimbabwe.	Support (30).
Birds:			
Order Rheiformes:			
Rhea americana (Greater rhea)	Add to II	Argentina	Support (20).
Order Anseriformes:			
Anas formosa (Baikal teal)	Add to II	United Kingdom	Support (3).
Cygnus columbianus jankowskii (Jankowski's swan).	Remove from II (Ten Year Review)	Germany	Support (10).
Order Galliformes:			
Polyplectron emphanum (Palawan peacock).	Transfer from I to II	Philipplines	Oppose (16).
Order Columbiformes:			
Caloenus nicobarica (Nicobar pigeon both subspecies).	Transfer from I to II (captive breeding)	Philippines	Oppose (16).
Goura spp. (Crowned pigeons)	Transfer from II to I	Netherlands	Oppose (4).
Order Psittaciformes:			
Amazona leucocephala (Cuban Amazon).	Transfer from I to II (captive breeding)	Germany	See discussion in footnote (30).
Amazona leucocephala Cuban amazon).	Transfer from I to II (captive breeding)	Philippines	Oppose (16).
Anodorhynchus hyacinthinus (Hyacinth macaw).	....do	....do	Do.
Ara ambiqua (Buffon's macaw)	....do	....do	Do.
Ara macao (Scarlet macaw)	....do	....do	Do.
Ara maracana (Illiger's macaw)	....do	....do	Do.

Species	Proposed amendment	Proponent	Final U.S. position
Ara militaris (Military macaw)	.....do	.....do	Do.
Ara rubrogenys (Red-fronted macaw).	.....do	.....do	Do.
Cacatua haematuropygia (Red-vented cockatoo).	Transfer from II to I	Philippines	Support [3].
Cacatua moluccensis (Moluccan cockatoo).	Transfer from I to II (captive breeding)	.....do	See discussion in footnote [35].
Probosiger aterrimus (Palm-cockatoo).	.....do	.....do	Oppose [16].
Order Coraciiformes:			
Aceros spp. (Hornbills)	Add to II (8 spp.)	Netherlands	Support [7].
Aceros (-Berenicornis) *comatus* (Hornbill).	Add to I	Thailand	Oppose [4, 9].
Aceros corrugatus (hornbill)	.....do	.....do	Do.
Aceros nipalensis (Rufous-necked hornbill).	.....do	.....do	DO.
Aceros subruficollis (Hornbill)	.....do	.....do	Oppose [4, 9, 31].
Aceros undulatus (Hornbill)	Add to II	.....do	Support [3].
Anorrhinus spp. (Hornbills)	.....do	Netherlands	Support [7].
Anorrhinus austeni (Hornbill)	.....do	Thailand	Support [3, 31].
Anorrhinus galeritus (Hornbill)	.....do	.....do	Do.
Anthracoceros spp. (Hornbills)	.....do	Netherlands	Oppose [34].
Anthracoceros coronatus convexus (Malabar pied hornbill).	.....do	Thailand	Oppose [31, 32].
Anthracoceros albirostris (=malabaricus) (oriental pied hornbill).	.....do	.....do	Support [3].
Athracoceros malayanus (black hornbill).	Add to I	.....do	Oppose [4, 5, 9].
Buceros spp. (Giant hornbills)	Add to II	Netherlands	Support [7].
Buceros bicornis (Great Indian hornbill).	Transfer from II to I	Thailand	Oppose [4, 5, 33].
Buceros bicornis homrai (Great pied hornbill).	Transfer from I to II	Netherlands	Oppose [4, 5, 33].
Buceros rhinoceros (Rhinoceros hornbill).	Transfer from II to I	Thailand	Oppose [4, 5].
Penelopides spp. (Hornbills)	Add to II	Netherlands	Oppose [34].
Ptilolaemus spp. (Hornbills)	.....do	.....do	Oppose [34].
Order Piciformes:			
Ramphastos spp	Add to II	Paraguay	Support [3, 7, 34].
Pteroglosus spp. (Toucans)	.....do	.....do	Do.
Order Passeriformes:			
Pittidae spp. (Pittas)	.....do (24–26 spp.)	Malaysia	Oppose [21].
Reptiles:			
Order Crocodylia:			
Alligator sinensis (Chinese alligator).	Transfer from I to II (captive breeding)	China	Oppose [15].
Crocodylus cataphractus (African slender-snouted crocodile.	Transfer from II to I (Congo population)	Switzerland	Support [14].
Crocodylus niloticus (Nile crocodile).	Transfer Ethiopia population from I to II, pursuant to Resolution Conf. 3.15 on ranching.	Ethiopia	Support [12].
Crocodylus niloticus (Nile crocodile).	.....do Kenya population	Kenya	Support [12].
Crocodylus niloticus (Nile crocodile).	.....do Madagascar population	Madagascar	Oppose [37].
Crocodylus niloticus (Nile crocodile).	.....do Tanzania population	Tanzania	Support [12].
Crocodylus niloticus (Nile crocodile).	Maintain Sudanese population in II, subject to an export quota.	Sudan	Oppose [4, 13, 14, 25].
Crocodylus niloticus (Nile crocodile).	Transfer from I to II (South Africa population).	South Africa	Support [23].
Crocodilus niloticus (Nile crocodile)	Transfer from I to II (Uganda population subject to an export quota pursuant to resolution Conf. 7.14).	Uganda and Zimbabwe	Support [12].
Crocodilus niloticus (Nile crocodile)	Transfer from II to I (Cameroon, Congo, Kenya, Madagascar, Sudan, and Tanzania populations).	Switzerland	Support [14].
Crocodylus porosus (Saltwater crocodile).	Transfer Indonesia population from I to II, pursuant to resolution Conf. 3.15 on ranching.	Indonesia	Oppose [38].
Crocodylus porosus (Saltwater crocodile).	Transfer from II to I (Indonesia population).	Switzerland	Support [14].
Osteolaemus tetraspis (Dwarf crocodile).	Transfer from II to I (Congo population)	.....do	Support [14].
Order Squamata:			
Corucia zebrata (Prehensile-tailed skink).	Add to II	Germany	Support [3].
Vipera wagneri (Wagner's viper)	.....do	Sweden	Support [3].
Amphibians:			
Rana artaki (Frog)	Add to II	Germany	Support [7, 39].
Rana blythii (Frog)	.....do	.....do	Do.

Species	Proposed amendment	Proponent	Final U.S. position
Rana cancrivora (Frog)	....do	....do	Do.
Rana crassa (Frog)	....do	....do	Do.
Rana cyanophlyctis (Frog)	....do	....do	Do.
Rana grunniens (Frog)	....do	....do	Do.
Rana ibanorum (Frog)	....do	....do	Do.
Rana ingeri (Frog)	....do	....do	Do.
Rana kuhlii (Frog)	....do	....do	Do.
Rana limnocharis (Frog)	....do	....do	Do.
Rana macrodon (including *R. microtympanum.*	....do	....do	Do.
Rana magna (Frog)	....do	....do	Do.
Rana malesiana (Frog)	....do	....do	Do.
Rana modesta (Frog)	....do	....do	Do.
Rana paramacrodon (Frog)	....do	....do	Do.
Rana rugulosa (Frog)	....do	....do	Do.
Bony Fishes:			
Order Clupeiformes:			
Clupea harenqus	Add to I	Botswana, Malawi, Namibia, and Zimbabwe.	Oppose (4).
Order Cypriniformes:			
Gymnocharacinus bergi (Characin)	....do	Argentina	Support (2, 6).
Order Atheriniformes:			
Cynolebius constanciae (Killifish)	Remove from II (Ten Year Review)	Switzerland	Support (10).
Cynolebius marmoratus (Killifish)	....do	....do	Do.
Cynolebius minimus (Killifish)	....do	....do	Support (10)
Cynolebius opalescens (Killifish)	....do	....do	Do.
Cynolebius splendens (Killifish)	....do	....do	Do.
Order Perciformes:			
Thunnus thynnus (Bluefin tuna)	Add to I (Western Atlantic population)	Sweden	Oppose (24).
Thunnus thynnus (Bluefin tuna)	Add to II (Eastern Atlantic population)	....do	Oppose (24).
Plants:			
Family Anacardiaceae:			
Schinopsis spp. (quebrachos)	Add to II (3-7) spp.)	Argentina	Oppose (2, 4, 46).
Family Araceae:			
Alocasia sanderiana (Sander's alocasia).	Remove from I (Ten Year Review)	Philippines; Switzerland	Support (3, 19).
Family Bromeliaceae:			
Tillandsia spp. (tillandsias)	Add to II [400-500+ spp.]	Austria; Germany	Oppose (4, 23).
Family Cactaceae:			
Ariocarpus spp. (living-rock cacti)	Transfer from II to I (3+ spp.)	Netherlands	Support (3, 7).
Discocactus spp. (discocacti)	Transfer from II to I (8+ spp.)	Brazil	Do.
Melocactus conoideus (conelike Turk's-cap cactus).	Transfer from II to I	Do.	Support (7).
Melocactus deinacanthus (wonderfully bristled Turk's-cap cactus).	....do	....do	Do.
Melocactus glaucescens (grayish blue-green, wooly Turk's-cap cactus).	....do	....do	Do.
Melocactus paucispinus (few-spined Turk's-cap cactus).	....do	....do	Do.
Uebelmannia spp. (Uebelmann cacti).	....do (4+ spp.)	....do	Do.
Family Caryocaraceae			
Caryocar costaricense (ajo; garlic tree).	Remove from II (Ten Year Review)	Switzerland	Oppose (4, 19).
Family Fagaceae:			
Quercus copeyensis (copey oak)	....do	....do	Support (3, 19).
Family Humiriaceae:			
Vantanea barbourii (ira chiricana)	....do	....do	Oppose (4, 19).
Family Juglandaceae:			
Oreomunnea pterocarpa (gavilan)	Remove from I (Ten Year Review)	....do	Oppose (4, 6, 19).
Family Legumaninosae (= Fabaceae):			
Cynometra hemitomophylla (guapinol negro).	Remove from II (Ten Year Review)	....do	Oppose (4, 19).
Dalbergia nigra (Brazilian rosewood).	Add to I	Brazil	Support (3).
Intsia spp. (merbau, Borneo-teak)	Add to II (3 spp.)	Denmark & Netherlands	Oppose (4, 29, 47).
Pericopsis elata (afrormosia)	Add to II	Denmark & United Kingdom	Support (3).
Platymiscium pleiostachyum (cristobal, granadillo).	Remove from II (Ten Year Review)	Switzerland	Oppose (4, 19).
Tachigali versicolor (cana fistula)	....do	....do	Oppose (4, 19).
Family Meliaceae			
Switetenia spp. (American mahoganies).	Add to II (2 spp.)	Costa Rica; [also U.S.A.]	Support (3, 7, 42).
Family Moraceae:			
Batocarpus costaricensis (ojoche macho).	Remove from II (Ten Year Review)	Switzerland	Support (3, 5, 19).
Family Orchidaceae:			
Didiciea cunninghamii (didiciea)	Remove from I (Ten Year Review)	....do	Oppose (5, 8, 10, 26).
Family Palmae (=Arecaceae):			
Areca ipot	Remove from II (Ten Year Review)	do	Oppose (5, 10)

Species	Proposed amendment	Proponent	Final U.S. position
Family Thymelaeaceae: *Gonystylus bancanus* (ramin)	Add to II	Denmark & Netherlands	Support (3, 7, 29).
Family Zingiberaceae: *Hedychium philippinense* (Philippine garland flower).	Remove from I	Switzerland	Support (3, 5, 10, 26).

The bases for the final U.S. negotiating positions on the proposals are:

(1) While this amendment to the appendices has been proposed, the Service has not received any supporting statement from the CITES Secretariat, as of February 18, 1992, and does not believe that documentation received at this late date can be properly considered.

(2) The orginal proposal is in French or Spanish. The Service will provide an English translation upon request.

(3) The listing or desisting of the taxon or taxa, as proposed, appears to be justified by the information in the proposal or currently available to the Service. In terms of some of the timber proposals, however, the Service will support some of the timber proposals only if they are amended to exclude certain parts and/or derivatives of the taxon.

(4) The population status (i.e., the degree of threat of extinction) of the entire species or taxon does not appear to warrant the listing, downlisting, or delisting as proposed.

(5) Available information suggests that there is little likelihood that there has been or will be any significant international trade in this species.

(6) The Service would support listing or retention of this taxon in appendix I on the basis of resolution Conf. 2.19 (i.e., due to the taxon's rarity, and because any trade in this taxon would likely be detrimental), and because trade has been documented and may increase.

(7) Listing of this species (including population) or higher taxon appears justified because of its similarity of appearance to a species or taxa that are at risk of detrimental trade.

(8) This listing has been proposed because of the perceived need to regulate this species in order that trade in Asian bear species listed in appendix I and II may be brought under effective control due to similarity of appearance, particularly for the gall bladder trade (article II, paragraph 2b). The Service believes that the necessary regulation has been achieved with the recent listing of this species in appendix III by Canada. However, the Service is consulting with the principal importing for bear parts to determine whether the appendix III listing of the Amencan black bear provides appropriate protection for the Asian bears.

(9) Biological and trade information presented in this proposal does not appear to support listing in appendix I. However, other information is available or may become available to support listing the species or taxon in Appendix II.

(10) This proposal was submitted under the 10-year review resolution for downlisting or removal of the species and other taxa from the appendices. The Service either supports the proposal because it is believed that the information presented is an accurate interpretation of the likely effect of trade and the lack of risk to the species; or opposes the proposal for removal because it is believed that the lack of reported international trade for the species may be due to rarity or the lack of proper documentation of actual trade.

(11) This downlisting has been proposed under the provisions of resolution Conf. 2.23, which provided for downlisting or removal of species or other taxa that were included in appendix I or II prior to application of the Berne criteria for addition of species to the appendixes. The proposal does not present information sufficient to meet the downlisting criteria under Conf. 1.2, but in most instances it appears that international trade is non-existent or extremely restricted, and therefore, would have been considered for downlisting or delisting under the "10-year review" process (Conf. 3.20) or periodic review process (Conf. 6.1) established subsequent to Conf. 2.23. The Service has consulted with Switzerland (previous chair of the 10-year review committee) and Germany (chair of the periodic review group of the Animals Committee) and has maintained its position while indicating that it would consider a downlisting rather than delisting of some species.

(12) The transfer of certain Nile and saltwater crocodile populations from appendix I to appendix II was proposed pursuant to resolution Conf. 3.15 on ranching, at least one population subject to annual export quotas for wild harvested specimens. The Service's support of these proposals is contingent upon assurance that annual reports are being regularly filed with the CITES Secretariat by the proponent and (1) adequate management programs exist to monitor the wild population, or (2) animals will be returned to the wild in numbers greater than would have survived naturally, thereby benefitting the wild population as per the orginal concept of Conf. 3.15. In addition, with regard to the proposal by Tanzania, the Service will seek to confirm that the rearing operations have the demonstrated ability to successfully raise crocodiles, and with regard to the proposed off take of wild specimens, will need assurance that proper population monitoring programs have been implemented.

(13) The transfer of certain populations from appendix I to II was proposed pursuant to resolution Conf. 5.21 subject to an annual export quota.

(14) Switzerland, as depository government, proposed the transfer from appendix II to I those species that were downlisted from appendix I to II under the provisions of Conf. 5.21. This transfer was called for under the provisions of Conf. 7.14 unless regular downlisting or ranching proposals were submitted for consideration and adopted at the upcoming meeting of the Parties. If the ranching proposals for crocodile populations in Indonesia, Kenya, Madagascar, and Tanzania are adopted by the Parties, Switzerland will presumably withdraw its proposal for those populations. However, the effect of the revised proposal, if all other crocodilian proposals were adopted, would be to return the population of the dwarf and a slender-snouted crocodile in the Congo, and the Nile crocodile in the Cameroon and Congo, and possibly the Sudan and at least a portion of the saltwater crocodile population in Indonesia to appendix I. Furthermore the Service notes that the Congo belatedly requested a quota of 800 skins of *Crocodylus Cataphractus* and 200 skins of *Osteolarynus tetrapsis* for 1992 without any supporting statement. The Parties had accepted an export quota of 600 skins of *C. cataphratus* for 1992, but a zero quota for *Osteolaemus tetraspis*. The Service has no basis to assess such a request, but does believe that the Congo is entitled to the previously adopted quota of 600 skins of *C. cataphractus* to export during 1992.

(15) Present information supports the proposal to register this appendix I animals species as bred-in-captivity for commercial purposes under the provisions of resolution Conf. 7.10 (i.e., criteria for a proposal to register the first commercial captive-breeding operation for an appendix I animal species).

(16) Information presented does not indicate that the breeding program meets the criteria stipulated in resolution Conf. 7.10 for registration of the first commercial captive-breeding operation for an appendix I animal. In most instances, either second-generation stock has not been produced or has not been reliably produced. For the Chinese alligator, the management program has not been presented in a manner to ensure that the collection will be managed in a way to minimize inbreeding. The proposals on the Palawan peacock (*Polyplectron emphanum*) and Nicobar pigeon (*Caloenus nicobarica*) were not identified in the January 3, 1992, FEDERAL REGISTER.

(17) The Service recognizes the difficult, if not impossible, requirements Imposed by the provisions of Conf. 1.2 that expects a showing of improvement in population trends when no adequate surveys were available at the time of the listing. However, until this issue is further clanfied, the Service cannot support this proposal under the provision of Conf. 1.2. The proponent recognized this situation, and the proposal to transfer the leopard from appendix I to appendix II with export quotas adopted by the Parties was submitted under the provisions of resolution Conf. 7.14. This appears to represent an appropnate application of this resolution although such a downlisitng can remain in effect for only two intervals between meetings of the conference of the Parties. However, Conf. 7.14 requires, among other things, "sufficient evidence from a well-documented scientific report on population size and geographical range of the species based on at least a single survey to establish that the species should be included in the appendix II rather than appendix I, according to the criteria of Conf. 1.1." Population estimates are provided in the proposal, but this information does not appear to meet the standard stipulated in the resolution. The Service supports continuation of the export quotas system for trophies and skins for tounsts as previously provided for in resolution Conf. 7.7.

(18) The Service believes that in order for the African countries to maintain substantial populations of African elephants the people in those countries must realize both consumptive and nonconsumptive benefits from this natural resource. The African elephant was listed in appendix I at COP7 for a number of reasons, including to control illegal trade in ivory. A resolution (Conf. 7.9) adopted with this listing acknowledged that some elephant populations may not have met the Berne criteria and set up special criteria for consideration of future downlisting proposals. The Service will consider support for downlisting to appendix II of some of the proposed populations in accordance with the Conf. 7.9 criteria, if it is convinced that these populations are not threatened with extinction, and that trade in illegal ivory will not be stimulated to the detnment of wild populations. However, the Service is persuaded by arguments supporting a continued moratorium on ivory trade until such time as an international ivory marketing system that demonstrably excludes illegally taken ivory is developed and instituted. Therefore, should downlisting occur, the Service will only support trade in non-ivory parts at this time. The challenge to CITES is to assist in the establishment of a regulated marketplace for elephant products from those countries that have abundant and well-managed populations without adversely impacting populations in those countnes that do not. This necessitates a marketing system which demonstrably excludes illegally taken ivory. Several Southern African countries are now working towards this end by developing a Southern African Center for Ivory Marketing (SACIM). CITES should supplement this effort by developing an international system for monitoring the trade of ivory once it has left the SACIM Trade Center for consumer countries, such as allowing only one-time trade from country of harvest to consumer country with no further trade permitted, including no trade in worked ivory.

(19) If the previous proposal is adopted this proposal becomes redundant, and presumably will be withdrawn.

(20) The addition of this species was recommended by the CITES Significant Trade Working Group, in large part because of the concern that large numbers of specimens of the subspecies listed in appendix II were being illegally traded as specimens of the unlisted subspecies.

(21) Biological and/or trade information presented on this taxon seems insufficient to meet the Berne criteria. However, the Service recognizes that sufficient information may exist and/or become available to support the addition of certain of these species to appendix II. The issue then would be whether those not meeting Article II, Paragraph 2(a) criteria could be practically and effectively distinguished from those included in appendix II because of the potential for detnmental trade.

(22) All proposed amendments for rhinoceros were submitted to enable commercial trade in horns with the belief that properly controlled harvest (often involving removal of horns without harm to the animal) would support conservation of the species. The black rhinoceros population in Zimbabwe continue to be under significant poaching pressure, the white rhinoceros population in Zimbabwe is extremely small (about 400 animals), but the white rhinoceros population in South Africa appears to be relatively secure. Nevertheless, the Service believes that allowing legal trade in rhinoceros horn will, because of the extreme demand for this part, impose sufficient enforcement problems so as to contnbute to additional illegal take of wild rhinoceros. However, the Service is concerned that current trade

restrictions have not been effective in halting the illegal trade in rhinoceros horn and the Parties should pursue innovative strategies for addressing this problem at COP8. Perspectives of the affected Range States should weigh heavily in the selection of these strategies.

(23) The Service has supported interim downlistings of crocodile species provided conservative export quotas were established based on population status information. Furthermore, the Service has supported downlisting of crocodilians pursuant to ranching provisions when the wild adult breeding population is adequately protected. Harvest of adult stock has and can quickly result in overharvesting. However, the Service believes that South Africa has the strong management programs and enforcement capabilities necessary to preserve the wild populations.

(24) The Service opposes this proposal for the following reasons: (1) The 1991 population assessment indicates that current management by the International Commission for the Conservation of Atlantic Tunas (ICCAT) may have arrested the past decline in number of immature western Atlantic bluefin tuna; (2) ICCAT has agreed to accelerate recovery of the western Atlantic population by reducing quotas over the next two years and evaluating further reductions early in 1992; and (3) ICCAT has convened a working group to control trade in western Atlantic bluefin tuna by non-members and to better document trade among members of ICCAT. The Service intends to reevaluate its position if ICCAT does not implement these measures or if future assessments show a need for additional measures.

(25) At COP7, Sudan requested a one-time quota to dispose of 5,040 Nile crocodile skins. Furthermore, Sudan reported that they had instituted a ban on hunting for 3 years, from January 1, 1989, to the end of December 1991. Sudan also agreed to inventory and tag all skins. The present proposal notes that an additional 11,960 skins have been stockpiled, of which 8,000 have been adequately preserved. All were reportedly legally taken in 1990. Sudan announces that hunting of wild crocodiles ended completely in 1991 and requests an export quota for 8,000 skins.

(26) The Service will consider accepting the downlisting of this species to appendix II.

(27) The Service will seek to have the proponent stipulate and the minutes reflect that this proposal includes only two species of this genus as listed in "Mammal Species of the World" by Honacki *et al* and does not include *Conepatus leuconotus, C. mesoleucus,* and *C. semistriatus.* Furthermore, the Service will seek confirmation that this proposal is based only on the similarity of appearance provision in Article II.2.(b) of the Convention.

(28) On the presumption that this proposal would, among other things, result in the uplisting of *Ursus arctos* populations in the northeast portion of the People's Republic of China and because insufficient population information is presented in the proposal on this population, the Service will seek such information from the range State.

(29) The Service will seek comments from the range State on the population status and the effect of such a listing on management programs for this species.

(30) While the Service tends to support this proposal, several questions warranting clarification have been raised. Therefore, the Service has solicited further information to support the contention that these birds are reliably producing second-generation offspring and being managed in a manner designed to maintain the breeding stock indefinitely.

(31) The species proposed by Thailand (i.e., *Aceros subruficollis*), is presumed to be a subspecies of *Aceros plicatus*, as listed in Reference List of the Birds of the World of Morony Jr., et al. The species *Anorrhinus austeni* is presumed to be a subspecies of *Ptilolaemus tickelli. Anthracoceros albiostris convexus* is considered to be included in *Anthracoceros malabancus* in the Reference List of the Birds of the World, and included in *A. coronatus* by Wells and Medway (1976).

(32) Inasmuch as the *genus* has been proposed for inclusion in appendix II, if accepted, this proposal becomes moot. However, if the generic proposal is not adopted, the Service would support a geographical listing as opposed to the subspecies listing proposed.

(33) While the Service recognizes the desirability of the species and subspecies being on the same appendix, the information presented for *Buceros bicornis* is not sufficient to meet the Berne criteria for appendix I, and the downlisting of the subspecies does not appear justified. Perhaps the proponent could modify the proposals so that those populations in the principal country(s) within which *Buceros bicornis homrai* occurs would be included in appendix I.

(34) Information presented in the proposal may not meet or barely meets the Berne criteria for inclusion of these species in appendix II, and the Service will strongly consider the position of the range States, and the similarity of appearance concerns.

(35) While the Service tends to oppose this proposal because of questions as to whether birds are reliably producing second-generation offspring, the Service has solicited further information that may clarify this concern.

(36) The Service recognizes that populations in southern Africa are reduced and will take into consideration comments from the range States.

(37) The Service does not see adequate evidence that past overharvest of wild specimens has been resolved nor that reliable population surveys or that an appropriate reintroduction scheme has been developed.

(38) The Service is concerned that the take of wild specimens will occur without adequate population surveys and enforcement of illegal offtake. The Service would consider support of an export program for only ranched specimens in Irian Jaya, contingent upon recommendations from Australia.

(39) The Service understands that some of the proposed *Rana* species may not be in trade and also recognizes the identificaton problem posed by listing only certain species. Nevertheless, there does appear to be substantial trade that may be affecting some species. The Service will consider the appropnateness of listing populations on a geographical basis.

(40) The need for appendix II regulation is not demonstrated, in particular because of the strict legislative controls enacted in recent years in Argentina on the production and extract of tannin. Four species in the genus are not discussed in the proposal's supporting statement.

(41) Biological and/or trade information presented on this taxon is insufficient to meet the Berne criteria. However, the Service recognizes that sufficient information may exist and/or become available to support the addition of a few of these species, or tree populations, to appendix II.

(42) The Service continues to support the listing of *Swietenia mahogani*, and will strongly consider the position of the range States particularly on *S. macrophylla.*

Future Actions

The Nomenclature Committee, in conjunction with the Wildlife Trade Monitoring Unit, has been working to review and resolve numerous ambiguities in the appendices that arose from the listing of taxa at the plenipotentiary and first meetings of the Conference of the Parties. Supporting documents were not a matter of record at these meetings, and either similar names may have had more than one interpretation or the scientific name used may not have been the preferred or commonly accepted name. The Service anticipates that the Nonmenclature Committee will be submitting a list of over 50 such clarifications to the CITIES Secretariat, and this information has just become available to the Service. Presumably only about a dozen of these clarifications will involve more than technical name changes.

Final negotiating positions given in this table are based upon the best available biological and trade information, taking into account comments received from the public and the criteria for listing species in the appendices (resolutions Conf. 1.1 and 1.2 of the first meeting of the Conference of Parties to the Convention) and other provisions for listing species, including Conf. 2.19 on extremely rare species, Conf. 2.23 and Conf. 3.20 on delistings under special 10-year review procedures, Conf. 3.15 on ranching, Conf. 5.14 on uplisting plant species, and Conf. 5.21 and 7.14 on special criteria for the transfer of taxa from appendix I to appendix II with concurrent establishment of export quotas, and Conf. 2.12, 6.21, and 7.10 on captive-breeding facilities. If further information is presented at the meeting in Kyoto, the U.S. delegation will take it into account in determining whether these positions remain appropriate. As indicated above, support or opposition to particular proposals may depend on whether questions about them are satisfactorily answered at the meeting. Furthermore, while the United States may not fully support a proposal, partial support has been discussed in the "Assessment of Comments on Species Listing Proposals" and noted in the footnotes to this table summarizing the U.S. negotiating positions.

The notice was prepared by Drs. Charles W. Dane and Bruce MacBryde, Office of Scientific Authority, under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

Dated: February 25, 1992.

Richard N. Smith,

Acting Director.

[FR Doc. 92-5045 Filed 3-3-92; 8:45 am]

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50 CFR Part 23

Proposed Changes in Appendices to the Endangered Species Convention

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of decision.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES or Convention) regulates international trade in certain animals and plants. Species for which trade is controlled are listed in appendices I, II, and III to CITES. The United States as a Party to the Convention may propose amendments to the appendices for consideration by the other Parties.

In this notice, the U.S. Fish and Wildlife Service (Service) announces the decisions on proposals submitted by the United States to amend appendices I and II, and discusses any changes in its negotiating position from the time that the proposals were submitted. These proposals will be considered at the eighth regular meeting of the Conferences of the Parties. The meeting is scheduled for March 2–13, 1992, in Kyoto, Japan.

DATES: Proposed amendments to the Appendices adopted by the Parties will become effective June 10, 1992, unless the United States enters a reservation before that time.

ADDRESSES: Please send correspondence concerning this notice to Chief, Officed of Scientific Authority; room 725, Arlington Square Building; U.S. Fish and Wildlife Service; Washington, DC 20240. The fax number is 703–358–2276. Express and messenger-delivered mail should be addressed to the Office of Scientific Authority; 4401 North Fairfax Drive, room 750; Arlington, Virginia 22203. Comments and other information received are available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington, Virginia address.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, Chief, Office of Scientific Authority, at the above address, telephone 703–358–1708 (or FTS 921–1708).

SUPPLEMENTARY INFORMATION:

Background

In previous **Federal Register** notices on this subject (56 FR 4965, February 7, 1991; and 56 FR 33894, July 24, 1991), the U.S. Fish and Wildlife Service (Service) first requested information on plant or animal species that might lead it to prepare species listing amendments for the Convention, and then described tentative U.S. proposals and sought additional comments, requesting specific information for each of the tentative proposals. The proposals announced in this notice were submitted by the Service and received by the Convention's Secretariat on October 4, 1991, in order to be considered at the next biennial meeting of the parties in Kyoto, Japan.

Public Comments

Decisions about suggested U.S. proposals discussed in the previous notice of July 24, 1991, are as follows:

1. Painted Stork (*Mycteria leucacephala*). In response to the February 7, 1991 **Federal Register** notice requesting information on species that should be considered for listing changes, the American Association of Zoological Parks and Aquariums (AAZPA) proposed that the painted stork be listed in appendix II under criteria of Article II, paragraph 2(b), i.e., for reasons of similarity of appearance. The intent of this listing is to protect the milky stork (*M. cinera*), which is already listed in appendix I, by regulating trade in *M. leucacephala*. There is an apparent inability of wildlife and customs officials to distinguish between the immatures of these two species. In the past, juveniles of *M. cineria* have been imported into Europe and the United States ostensively as *M. leucocephala*.

Two comments were received in response to the July 24, 1991, notice inviting public comment and seeking information on species that had been identified as candidates for U.S. proposals to amend the appendices. Dr. Koen Brouwer, Co-chairman of the World Conservation Union (IUCN) Specialist Group on Storks, Ibises, and Spoonbills agrees that measures should be taken to prevent misidentification of *M. cinerea* and *M. leucocephala* and that the status of the painted stork in the wild fully justifies adding it to appendix II. TRAFFIC USA appreciates the need to strengthen protection for the milky stork, but does not believe that listing the painted stork in appendix II will necessarily acheive this aim.

Due to similarity of appearance of the juvenile forms of *M. cinerea* and *M leucacephala* and the apparent inability of wildlife and customs officials to distinguish between the immatures of the two species, the protection of *M. cinerea,* which is listed in apendix I, would be further enhanced by placing *M. leucocephala* in appendix II under provisions of Article II, paragraph 2b (for reasons of similarity of appearance).

In submitting this proposal, the United States proposes to interpret the CITES permitting requirements in a manner designed to protect the species that the proposed listing is intended to protect. Thus, this proposal to include the painted stork in appendix II is being put forward solely for look-alike reasons to protect the endangered milky stork. Therefore, when reviewing permit applications for the export of painted storks, Scientific Authority advices and Management Authority considerations should be carried out in a manner to ensure protection of the milky stork rather than the painted stork.

2. Psittacines (Parrots, Parakeets, Macaws, and Lories). The International Wildlife Coalition requested that the Service propose transferring Goffin's cockatoo (*Cacatua goffini*) and the blue-streaked lory (*Eos reticulata*) from appendix II to apendix I. This request was accompanied by complete species proposals. The Humane Society of the United States requested that the United States support proposals to place Goffin's cockatoo (*C. gaffini*) and the blue-fronted amazon (*Amazana aestiva*), in appendix I of CITES.

In 1987, the blue-fronted amazon, Goffin's cockatoo, and the blue-streaked lory were identified by the CITES Parties as species for which the volume of trade may be detrimental to the survival of the species. Although CITES-supported studies have not been conducted as yet to determine whether the trade is detrimental, trade has remained high and other information indicated that these species should be considered for transfer from appendix II to appendix I.

In response to the July 24, 1991 **Federal Register** document, four comments were received. Traffic USA recommends that the Service consider the information recently provided through the CITES Significant Trade Project to the CITES Animals Committee on *A. aestiva*, *C. gaffini*, and *E. reticulata*. Of the three species, TRAFFIC USA believes that only *C. gaffini* meets the Berne Criteria for listing on appendix I. Regarding *A. aestiva*, TRAFFIC USA reported that two studies are currently being conducted in Argentina, both of which have the support of the CITES Secretariat and Argentina's Management Authority.

In comments supplied by TRAFFIC INTERNATIONAL, they report that seven psittacine species were reviewed by the Significant Trade Project and they feel that only *Cacatua gaffini* and *C. haematuropygia* would qualify for transfer to appendix I. TRAFFIC INTERNATIONAL feels strongly that an appendix I listing for *Amazan aestiva* would be counterproductive for conservation in Argentina, but that Argentina should clarify the classification of this species as a pest and re-evaluate the current export quota demonstrating that trade is sustainable.

The American Federation of Aviculture stated that unlike Goffin's cockatoo and the blue-streaked lory, which are insular species having a restricted geographic range (less than 300 sq. miles); the blue-fronted amazon is a mainland species with an extensive geographic range (at least 1,500,000 sq. miles), and it is estimated that there are at least 1 million birds in the wild. In their opinion, placing *A. aestiva* on Appendix I would only serve to undermine Argentina's conservation effort. As for *C. goffini* and *E. reticulata*,

they felt that Indonesia should be encouraged to place a 2-3 year moratorium on the capture and export to allow time for population recovery.

Safari Club International does not support the transfer of the blue-fronted amazon to apendix I. It is a species for which the sustainable use of the wild population is likely to benefit the conservation of the species, and Safari Club recommends that the Service consult with Argentina before considering any listing proposal.

The Service submitted and continues to support § proposals to tranfer the Goffin's cockatoo and blue-streaked lory to appendix I. Although the § Service submitted the blue-fronted amazon proposal to the CITES Secretariat for an appedix I listing, § the Service understands that Argentina may have established an export ban for this species as the population status studies continue. The Service is seeking confirmation of this information and would view such steps as responsible actions to ensure the proper management of this species. Consequently, the Service is considering withdrawing this proposal.

Goliath frog (*Conraua goliath*). The Service received a proposal from Dr. Christina M. Richards and Dr. Victor H. Hutchison to list the Goliath frog in apendix I of CITES. The species is reported to be sparsely distributed in coastal rain forests in the Republic of Cameroon, Equatorial Guinea, and Gabon. It is also reported that its habitat is rapidly being destroyed by the clearing of rain forests and construction of dams. The species is extremely difficult to maintain in captivity, but being the world's largest frog, has generated interest by animal dealers. The species is listed as vulnerable in the "1988 World Checklist of Threatened Amphibians and Reptiles," published by the Nature Conservancy Council, United Kingdom.

In response to this proposal, the Service received two comments. Based on available information, TRAFFIC USA does not believe that the Goliath frog qualifies for an appendix I listing. However, because of the Goliath frog's biological uniqueness, restricted range, specific habitat requirements, and the potential trade threat, TRAFFIC recommends that the Service consider proposing the species for an appendix II listing.

The Lincoln Park Zoological Gardens provided extensive comments based upon information gathered from museum records, from conversations with persons who had physically collected Goliath frogs in Cameroon, and from staff who visited Cameron and collected frogs at two different sites. To their knowledge, there has never been any attempt at a systematic survey of either the distribution or abundance of *C. goliath* in Cameroon. It is also their impression that Goliath frogs are seasonally and locally abundant in suitable habitats throughout its described range.

On September 12, 1991, the Service published a proposed rule to list this species as "threatened" under the Endangered Species Act of 1973. 56 FR 46397. However, the Service does not believe that information exists to support an appendix I listing, but feels that trade should be carefully monitored until surveys are conducted to provide better data on populations and habitats. Therefore, the Service has proposed the inclusion of this species in appendix II.

4. Testudines (Turtles). In response to the February 7, 1991, **Federal Register** notice, the New York Zoological Society submitted proposals to add the genus *Terrapene* to appendix II while retaining *T. coahuila* (aquatic box turtle) in appendix I; to add *Clemmys insculpta* (wood turtle) to appendix II; and to transfer *Clemmys muhlenbergii* (bog turtle) from appendix II to Appendix I.

In response to the July 24, 1991, **Federal Register** notice, the Service received comments during two time periods: first, those comments received within the comment period (September 6, 1991, deadline) and secondly, additional comments received after the close of the comment period.

Information received during the comment period will be acknowledged in this document, and the additional biological and trade information received after September 6, 1991, has been used in the completion of the proposals.

The genus *Terrapene* is comprised of four species (*T. carolina*, *T. cochuila*, *T. nelsoni*, and *T. ornata*) with 11 recognized subspecies, of which *T. coahuila* is already listed in appendix I. *Terrapene nelsoni* has a very small and fragmented range. It has been reported from widely disjunct, high-altitude localities on the west coast of Mexico. *Terrapene ornata* ranges over large sections of the midwestern United States and the Great Plains, from Texas north to southern South Dakota and eastward to Indiana. The most widely distributed species, *T. carolina*, is found from Canada to Mexico. Several studies document declines in *T.* carolina in various locations, but it is especially widespread and other populations may now be threatened.

A total of 17 comments were received by the September 6, 1991, deadline: 12 from professional herpetologists; three from State wildlife agencies (Connecticut, Kansas, and Wisconsin); one from a governmental agency (U.S. Forest Service); and TRAFFIC USA. All favored listing the genus *Terrapene* in appendix II of CITES because of long-term population declines, habitat fragmentation and reports that *Terrepene* species are among the most common North American turtles in trade, both domestically and internationally. However, TRAFFIC USA noted their support was contingent upon confirmation of substantial international trade.

Box turtles (*Terrapene* spp.) are widely distributed and the comments furnished little additional population or trade information. The Service was unable to substantiate the reports of large volumes of international trade, but has expanded its record keeping efforts to monitor the export of this species. Therefore, the Service decided not to submit a proposal to list the box turtles.

The wood turtle (*Clemmys insculpta*) ranges from Nova Scotia west to Minnesota and Iowa, and south to Virginia. They appear to be largely restricted to river and stream bottoms and associated shore-lines and floodplain habitats. Habitat loss and fragmentation are the most serious threats to this species. There are some reports that wood turtles are becoming scarce or are not extirpated in many places where stable populations once existed, but additional quantitative information would be desirable.

Written comments were received from four State agencies (Connecticut, Minnesota, Virginia and Wisconsin); one governmental agency (U.S. Forest Service); one conservation organization (TRAFFIC USA) and 11 professional herpetologists. All those commenting supported the listing of *Clemmys insculpta* in appendix II.

The Minnesota Department of Natural Resources has funded two research projects in an attempt to derive population estimates and distribution. The Society for the Study of Amphibians and Reptiles adopted a resolution at its 1991 annual meeting calling for greater protection of this species. Dr. James H. Harding of Michigan State University has been engaged in field studies of *C. insulpta* in Michigan, and stated that compared to several other eastern North American turtles, wood turtles exist in relatively low population densities.

Over-collecting, coupled with habitat loss and fragmentation has resulted in a long-term decline of this species. Adult breeding populations are very vulnerable to depletion. Wood turtles are desired in the pet trade which has

led to a considerable demand for the species. Wood turtles frequently appear on reptile dealer price lists, and prices paid for adult specimens vary from $35 to as much as $95 apiece. The species is protected by State laws in several States within its range, and stronger enforcement in the United States seems appropriate. The Service has proposed the inclusion of this species in appendix II.

Clemmys muhlenbergii has a fragmented and localized range in the eastern United States, with northern and southern populations. The northern population ranges from southeastern New York and Massachusetts, south to Maryland, west to Pennsylvania, with disjunct populations in western Pennsylvania. The southern population ranges in the Appalachian Mountains from southern Virginia to Georgia, and west to Tennessee. The range of the bog turtle is rapidly contracting, especially in the southern Appalachians and New England, and several disjunct populations are now thought to be extinct.

Thirteen comments were received in response to the July 24, 1991, notice: 11 from professional herpetologists, one from a State agency (Connecticut), and TRAFFIC USA. All recommended the transfer to *C. muhlenbergii* from appendix II to Appendix I.

The Society for the Study of Amphibians and Reptiles, at their 1991 annual meeting, proposed a resolution calling for the prohibition of commercial and private collection of this species. Dennis W. Herman, Assistanct Curator of Herpetology, Atlanta Zoo, has researched the distribution and population status of the bog turtle in the Southern United States since 1976. He states that it is well-documented that this rare species is under constant threat due to habitat loss and alteration and commercial exploitation.

Over the past 5 years, an increasing number of bog turtles have been advertised for sale on reptile dealers' lists, ranging from a low of $250 for a single male to over $850 for a breeding pair. This species has been listed in appendix II since 1975, and only very limited international trade as reported to CITES has been documented. Although international trade in *Clemmys muhlenbergi* is largely unsubstantiated, this rare and reclusive species has declined drastically throughout its restricted range due to over-collecting and loss of wetland habitat. The Berne criteria for appendix I listings provide that "when the biological data show a species to be declining seriously, there need only be a probability of trade." Therefore, the Service has proposed transferring the bog turtle from appendix II to appendix I.

5. Paddlefish (*Polyodon spathula*). The north central regional office (Region 6) of the U.S. Fish and Wildlife Service prepared a proposal to add the paddlefish to appendix I of CITES. Paddlefish were historically abundant in most of the large rivers of the Mississippi River drainage; specifically noted were such rivers as the Missouri, the Ohio, the Tennessee, the Cumberland, the White, the Arkansas, and the Red. Paddlefish also were considered abundant in many of the Gulf slope river drainages in Texas, Louisiana, Mississippi, and Alabama. Around the turn of the century, relict populations occurred in Lake Erie and other Great Lakes, and paddlefish were known to exist in Ontario, Canada. They have been extirpated from Canada, the Great Lakes, and some of the peripheral range States such as New York, Pennsylvania, Maryland, and North Carolina. The peripheral range of the species has continued to decline since the turn of the century. Today, even though paddlefish still occur in 22 States, only remnant populations remain in many of the major river systems and their tributaries where the species once was considered to be abundant.

Of the 11 States that responded, eight States (Arkansas, Illinois, Kansas, Louisiana, Nebraska, North Dakota, Texas, and Wisconsin) recommended an appendix I listing; 1 State (South Dakota) recommended an appendix II listing; 1 State (Oklahoma) opposed any listing because the State had prohibited commercial harvest, and Virginia furnished information on their population status within the State, but made no recommendation. The Tennessee fishery coordinator opposed listing the species on either appendix, principally because of a potential aquaculture program. Two additional comments were received (the John G. Shedd Aquarium, Chicago and TRAFFIC USA). The Shedd Aquarium supports an appendix II listing, while TRAFFIC USA urged the Service to list the paddlefish in appendix I.

Alteration and contamination of paddlefish habitats have been major factors contributing to significant population declines. Dam and reservoir construction have altered most of the original paddlefish habitat in the United States. The commerical catch of paddlefish has fluctuated since the late 1800's varying with the demand for roe and smoked flesh, which are often substituted for sturgeon caviar and smoked sturgeon. The current volume of caviar entering European markets is unknown, but processed paddlefish caviar is reported to be selling for $100 per pound in western Europe as opposed to $40 per pound in the United States. There is the possibility that heavy demands for premium quality paddlefish roe could further impact existing populations.

Paddlefish are protected (no sport or commerical havest) in Alabama, Louisiana, Minnesota, Texas (listed as endangered), and Wisconsin (listed as threatened). Ohio lists the paddlefish as "threatened," but allows harvest by hook and line only. The paddlefish also is listed as "threatened" in West Virginia, but is also classified as a "sport fish" (to hook and line fisherman). Virginia is now considering placing the paddlefish on its threatened list.

Although the Service has submitted the paddlefish proposal to the CITES Secretariat for inclusion in appendix I, the Service did so with a notation that it was seeking additional information relevant to this proposal and might ultimately propose an appendix II listing. Subsequently, the Service has received information on limited commercial aquaculture export programs as well as comments on a small State-approved roe collection program involving the export of roe from sport fishing activities in Montana. An appendix I listing would prohibit any export of paddlefish, their parts or products for primarily commercial purposes. Therefore, inasmuch as an appendix II listing would impose the same penalties for violations of export requirements from the United States and establish the same trade reporting conditions as an appendix I listing, and yet allow for legitimate exports determined not to be detrimental to the survival of the species the Service will propose that the paddlefish be considered for inclusion in appendix II instead of appendix I.

6. Bluefin tuna (*Thunnas thynnus*). In response to the Service's February 7, 1991, Federal Register notice inviting information and comments from the public on animal or plant species that should be considered as candidates for U.S. proposals, the National Audubon Society submitted a proposal to list the western Atlantic population of bluefin tuna is appendix I of CITES.

The species is found on both sides of the Atlantic Ocean and in the eastern Pacific Ocean. In the western Atlantic, it ranges from Labrador to Brazil, and in the eastern Atlantic, from the North Sea to western North Africa. In the eastern Pacific, it occurs from Shelikof Strait, Alaska to southern Baja California.

Mexico. Bluefins attain sizes well over 1,000 pounds and may live to 20 or more years. Western Atlantic bluefins spawn in the Gulf of Mexico, the Caribbean and off the straits of Florida; eastern Atlantic bluefins spawn in the mediterranean.

Management of the Atlantic bluefin tuna falls under the responsibility of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The mean annual catch from the western Atlantic averaged about 9,190 metric tons in the early 1960's. The harvest quota for the western Atlantic population has been set at 2,660 metric tons since 1983. According to the proposal, catches in the eastern Atlantic averaged 20,900 metric tons between 1960 and 1962, and 5,400 in 1987 to 1989.

The National Marine Fisheries Service (NMFS) published a final rule (January 6, 1992; 56 FR 365) to prevent the development of a directed fishery for adult bluefin tuna in the Gulf of Mexico. NMFS has also proposed reducing the bag limit in the recreational fishery for the 1992 year. These two measures will help ensure that the United States fulfills its obligations under the ICCAT agreement. Since establishment of earlier ICCAT quotas, there is evidence that school fish and medium-sized fish have stabilized in recent years.

Since the National Marine Fisheries Service (NMFS) generally has management responsibility for pelagic species, which include the bluefin tuna, the Service requested their assistance in reviewing comments and existing data on the bluefin tuna. The NMFS initially recommended requesting comments on a proposal to list western Atlantic population in appendix II rather than on appendix I as proposed by the National Audubon Society. In the July 24, 1991, **Federal Register** notice, the Service announced that it was considering submitting a proposal to list the entire species in appendix II including the western Atlantic population, and listing the other populations for look-alike reasons under Article II, paragraph 2(b). The U.S. Fish and Wildlife Service (Service) recognized that CITES Article XIV limits the effectiveness of a listing in appendix II. Nevertheless, the Service initially perceived a benefit from the limited additional reporting and documentation required by CITES.

The Service has received and reviewed a total of 83 comments from the general public, commercial and recreational fishermen, conservation organizations, U.S. governmental agencies, Congress, foreign governments, and international organizations. Of the 83 comments, 60 were in favor of an appendix I listing for the western Atlantic bluefin tuna, 22 were opposed, and the NMFS recommended that the United States not forward this proposal for consideration by the CITES Parties at this biennial meeting of the Parties.

Many of those in support of an appendix I listing referred to information that indicated that giant bluefins had declined an estimated 95 percent since 1970, fishing pressure has increased 2200 percent, and that the decline is due primarily to fishing pressure on the giant tuna or breeding stock for the export market to Japan. They contend that the International Commission for the Conservation of Atlantic Tunas (ICCAT) has failed to take appropriate action to prevent the further decline of giant tunas (8+ years).

The National Coalition for Marine Conservation, in their extensive comments, contend that there has been serious mismanagement of the resource, that the spawning poplulation is in serious danger, and that economic sanctions are needed. World Wildlife Fund stated that, by all standards, the bluefin tuna is in serious trouble. The extremely high prices (up to $40 per pound) paid by the Japanese have contributed to the rapid decline of bluefin populations. Also, the ICCAT has failed to stem the decline of this species. They believe that an appendix II listing would not provide effective conservation for the western Atlantic population. Safari Club International supports the proposal to list the Atlantic bluefin tuna based upon information received from the Sport Fishing Institute, which indicates that the species have been overfished and the breeding stock needs protection. The American Fisheries Society originally supported an appendix I listing, but later withdrew their support for the proposal.

The majority of those opposed to either an appendix II or I listing stated that CITES is an organization that handles trade issues of endangered species and that the Atlantic bluefin tuna is not an endangered species, and that CITES involement with the management of the bluefin tuna is inappropriate, counter-productive, and would undermine the effectiveness of the ICCAT.

The Federation of Japan Tuna Fisheries Cooperative Associations contend that: bluefin tunas are neither endangered nor threatened; Atlantic bluefin tuna are managed effectively; U.S. recreational fishing, not trade, may be the problem; National Audubon Society's data are flawed; and that adoption of the proposal would usurp ICCAT's authority and undermine international conservation treaties. The National Fisheries Institute states that the ICCAT Commission should have been consulted, that the criteria of CITES Article II (as well as the Berne Criteria) are not met, and further that consideration of this proposal would divert efforts from higher priority needs. The East Coast Tuna Association believes that their analysis represents the best and most recent scientific information available on the status of the bluefin tuna. That Association contended that the 1990 bluefin assessment cited by the proponent was seriously flawed due to the inclusion and reliance on a severely biased rod and reel abundance index.

Five members of the House of Representative's Committee on Merchant Marine and Fisheries commented that they believe the proper arena for conservation and management of bluefin tunas is the ICCAT and that a CITES listing is inappropriate and will undermine current international efforts to manage this highly migratory species. The Fisheries Agency of Japan contended that recent data suggest that recovery has taken place in the resource and that the bluefin tuna is already being managed as a resource, and that this species has been properly managed by the ICCAT for more than 20 years. The Governments of Portugal and Spain, both members of the ICCAT, feel that the bluefin tuna should not be listed and that the Atlantic bluefin tuna is being properly managed by the ICCAT.

The National Marine Fisheries Service (NMFS) collected and reviewed comments by the general public, commercial and recreational fishermen, other agencies, and international orgainzations regarding the proposal to list bluefin tuna. Based upon these comments and a review by NMFS scientists, they recommended that the U.S. government defer forwarding this proposal for consideration at the next meeting of the Parties to the Convention. The Fish and Wildlife Service also reviewed the data and believes (1) that the information on small and medium-sized fish indicates that these populations are beginning to recover, (2) the 1991 population assessment indicates that current management by ICCAT may have arrested the past decline in numbers of immature western Atlantic bluefin tuna, and (3) that harvest limits proposed by NMFS, if implemented, may lead to more rapid recovery of the giant tunas. Therefore, while further quota reductions by ICCAT would speed the recovery of the bluefin tuna, the Service does not believe an appendix I listing of the

bluefin tuna is warranted. For an appendix II listing in addition to the limitation in reporting requirements involved under Article XIV, harvest and consumption within a country's territorial waters would not be documented through the CITES reporting system. Furthermore, Japan (the principal importer of giant tunas) could reportedly document imports from non-CITES Parties. Because the Service considered that improved reporting requirements, if imposed by ICCAT, could be more complete than allowed under CITES, and for the other reasons mentioned above, the service did not propose listing the bluefin tuna on either appendix.

7. Freshwater or Pearly Mussels (Family Unionidae). At the Sixth Meeting of the Conference of the Parties in 1987, the Ten-Year Review Committee Chairman withdrew a proposal to remove several species of Unionidae from the CITES appendices, with the understanding that the United States would review the need for the listings. The Service contracted with the World Conservation Union (IUCN) Trade Specialist Group through the Center for Maring Conservation to assist in defining the geographical distribution and extent of harvest of listed species (both under CITES and the Endangered Species Act) and in assessing trade in native freshwater mussels.

The bivalve family Unionidae (pearly mussels or naiads) is one of the most diverse mollusc families in North America. Their geographic distribution is widespread; naiads are found in most of the major river drainages in the Southeast and Midwest, including the Upper Mississippi drainage system, and as far west as Oklahoma and Texas.

The IUCN Trade Specialist Group recommended that the Service propose listing the family Unionidae in appendix II, coupled with the transfer from appendix I to appendix II of the 26 taxa presently in appendix I. Of the 297 North American Unionid taxa currently recognized, 13 are believed to be extinct; 35 are listed as endangered under the Act, an additional 68 are candidates for listing, and 32 are presently included in the CITES appendices.

A total of 21 comments were received in response to the proposed listing of the family Unionidae (freshwater pearly mussels) in appendix II of CITES: 14 from the freshwater mussel and cultured pearl industries; 5 form State Widllife Resource agencies; 1 from the Government of Japan (Fisheries Agency); and 1 from a conservation organization (TRAFFIC USA).

Four State agencies (Kansas, Minnesota, Tennessee, and Wisconsin) supported the proposal to list all Unionids in appendix II, while the fifth State agency (Virginia) did not make a recommendation, but furnished information on the status of freshwater mussels within the State.

The Tennessee Wildlife Resources Agency supports the monitoring of international trade in freshwater mussels. The Wisconsin Department of Natural Resources feels that the listing of Unionids is long overdue. Virginia lists at least 10 taxa of freshwater mussels as threatened or endangered and it is illegal to harvest freshwater mussels within the State.

The freshwater mussel and cultured pearl industry (14 comments) opposed the listing since they contend that there is insufficient information available to justify listing all freshwater mussels in appendix II and because the listing would put an unnecessary burden on the exporters of mussel shells and importers of cultured pearls. The Japan Fisheries Agency considers the proposal unreasonable since lonly a few species are desired and harvested as material for nuclei of the cultured pearls. The species of commercial significance are characterized by larger size, thick shells, and a white inner color.

TRAFFIC USA indicated that listing the entire family (some 297 taxa) in appendix II would not at this time resolve any of the problems associated with the potential trade in federally-protected species. TRAFFIC suggested that the Service defer any decision on this issue until field data are available, and that the Service should hire a malacologist possessing expertise in freshwater mussel identification to monitor export shipments in order to quantify incidental take of listed species.

At this time, the Service feels that additional studies are needed which will focus on the impact of trade on commercially harvested species of Unionids. Therefore, the Service decided not to submit a proposal to list the family Unionidae in appendix II of CITES in order to better understand the impact that trade has on freshwater mussels and whether there is incidental take of species listed under the Endangered Species Act of 1973.

8. Queen conch (*Strombus gigas*). Certain species are being considered for listing on CITES appendix II in order that obligations of the United States under the Protocol for Specially Protected Areas and Wildlife (SPAW) of the Cartagena Convention can be met. The Cartagena Convention was created through the impetus of the Regional Seas Programme of the United Nations Environment Programme. The Convention is a regional agreement for the protection and development of the marine environment. Obligations to protect or manage species on the Annexes include the ability to regulate trade. The Parties at the SPAW Meeting of Plenipotentiaries in June 1991 agreed to regulate international trade through implementation of CITES. There are certain species included in the SPAW annexes for which there exist adequate protection and management provisions in the United States, but for which trade involving the United States may exist but is not regulated.

In the **Federal Register** of March 21, 1991 (56 FR 12026), the Service issued a notice identifying plant and animal species proposed for protection or management under the SPAW Protocol. These species were included in the initial Annexes by the Parties at the SPAW Meeting of Plenipotentiaries. For these, international cooperation in regulating trade is expected.

In the July 24, 1991, **Federal Register** notice, the Service announced that it was considering preparing a proposal in conjunction with the National Marine Fisheries Service to list the Queen conch (listed on Annex III of SPAW) in appendix II of CITES. Currently, this species is listed in the IUCN's Invertebrate Red Data Book as a commercially threatened species. Although it is not threatened with extinction, most or all of its populations are threatened as a sustainable commercial resource, or may become so, unless their harvest is regulated.

The Service did not receive any comments in response to this proposal. In all Caribbean countries, heavy fishing pressure for local use and the export market has severely depleted stocks. In 1990, the United States imported approximately 472 metric tons of conch from the wider Caribbean region. If efforts to recover stocks to former levels are to succeed, a formal mechanism for monitoring and controlling international trade, as provided by a CITES Appendix II listing, will be necessary. Therefore, the Service submitted a proposal to include the Queen conch in appendix II.

9. Ten-Year Review Species of Animals. At past CITES Animals Committee meetings, the chairman requested information from the Service on certain CITES species occurring both in Mexico and the United States. The species of particular interest are as follows: (1) Harlequin or Montezuma quail (*Cyrtonyx montezumae montezumae* and *C. m. mearnsi*); (2) the San Diego horned lizard (*Phrynosoma coronatum blainvillii*); (3) pronghorn antelope (*Antilocapra americana*); and

(4) the Mexican bobcat (*Felis rufa escuinapae*). The Service was asked to determine whether these species should continue to merit inclusion in the appendices, based on the extent that these species enter trade as well as the taxonomic validity of these species. The National Marine Fisheries Service also requested that the Service propose removing the northern elephant seal (*Mirounga angustirostis*) from appendix II.

The Service consulted with the Government of Mexico on several of the above issues. The Service, in making its decisions, was also to determine whether a nomenclatural or geographical listing would provide the most appropriate listing for these species of concern. The European countries were especially concerned that their port inspectors cannot correctly identify the various subspecies that are entering trade.

Harlequin quail (*Cyrtonyx montezumae*) are widespread, occurring throughout east and central Arizona, central New Mexico, west Texas and across the south-central uplands of Mexico from Guerrero to Veracruz. The ranges of the subspecies (*C.m. mearnsi*) are somewhat demarcated on a north-south axis, with *mearnsi* north of the Sierra Madre Occidental and *montezumae* occupying the southern slopes in Jalisco, but extending to Atlantic drainages in Pueblo and Veracruz. There is a question as to whether they are valid subspecies, and also it appears that there is little documented trade in the species.

There are five recognized subspecies of coastal horned lizards (*Phrynosoma coronatum*) occurring in California and Mexico, and only the San Diego horned lizard (*P. c. blainvillii*) is presently listed in appendix II of CITES. While there has been no recorded trade in this subspecies, specimens of this species are often sought by collectors. The taking of specimens of this species is prohibited under California law, and the Government of Mexico expressed concern about horned lizards and requested that the entire species be included in appendix II.

At the Animals Committee meeting held in Australia (November 1990), it was recommended that the United States consider listing all pronghorns (*Antilocapra americana*) in the appendices since it is difficult to distinguish between the subspecies (*A. a. mexicana*, listed on appendix II; *A. a. peninsularis* and *A. a. sonoriensis*, both in appendix I; and the unlisted subspecies (*A. a. americana* and *A. a. oregona*). Both *A. a. peninsularis* and *A. a. sonoriensis* are protected under the U.S. Endangered Species Act, but the principal range of these endangered species is in Mexico. Although there is some possibility that the listed subspecies might enter trade, there is no evidence that they have been traded in the past.

Presently, all subspecies of bobcats (*Felis* (=*Lynx*) *rufus*) are listed in appendix II of CITES as look-alikes, except for the Mexican bobcat (*Felis rufus escuinapae*) which is listed in appendix I. The number of subspecies of bobcats described to date comprise few realistically distinguishable taxa. Several subspecies of bobcats are recognized as existing in Mexico and their characters and ranges overlap with *escuinapae*.

The National Marine Fisheries Service has requested that the Service propose removing the northern elephant seal (*Mirounga angustirostis*) from appendix II. The northern elephant seal has reoccupied almost all of its historic breeding range. Utilization is restricted to a very few specimens taken under scientific or display permits issued pursuant to the Marine Mammal Protection Act, and a few are incidentally taken in fisheries activities. The species is also protected under recently adopted Mexican law.

TRAFFIC USA firmly believes that the CITES ten-year review process is essential to the credibility and effective implementation of CITES. Species no longer eligible for listing under CITES criteria should be deleted from the CITES appendices. TRAFFIC urges the Service to be more actively involved in this process, and, in particular, to take decisive action on native species that qualify for removal from the CITES appendices. Therefore, since there is virtually no documented trade and little apparent trade threat to the Harlequin quail (*Cyrtonyx montezumae*) TRAFFIC USA supports its removal from the CITES appendices. TRAFFIC USA also supports deletion of the subspecies *P. c. blainvillii* and the Northern elephant seal from appendix II.

Safari Club International supports the removal of the Harlequin quail, the U.S. populations of the pronghorn, and the Mexican bobcat from the appendices. The Herpetologists' League (in a resolution—Joseph C. Mitchell, *in litt.*) realize the difficulty in identifying subspecies of *Phrynosoma coronatum* and in their view, it seems most appropriate to protect all the subspecies, rather than removing *P. c. blainvillii* from the CITES lists.

In accordance with the Ten-Year Review process, the Service is submitting proposals for the (1) removal of two harlequin quail subspecies (*Cyrtonyx m. montezumae* and *C. m. mearnsi*) from appendix II, (2) the transfer of the Mexican bobcat (*Felis rufa escuinapae*) from appendix I to appendix II, (3) the change of the coastal horned lizard subspecies (*Phrynosoma coronatum blainvillii*) to include the full species (*P. coronatum*) in appendix II, and (4) the change of the various subspecies listings of pronghorns (*Antilocapra americana* spp.) to geographical listings with those populations of *Antilocapra americana* in Mexico all being included in appendix I, and those populations in the United States being removed from the appendices. In each of the aforementioned situations, the taxa affected occur partially or totally in Mexico, and the Government of Mexico has indicated its support for these proposed changes.

Plants

10. American mahogany (*Swietenia* spp.). At the April 1991, fourth meeting of the CITES Plants Committee, the Natural Resources Defense Council (NRDC) provided information on *Swietenia* species and the participants inquired whether the United States would consider proposing for appendix II those species of the genus that are not already in appendix II; TRAFFIC USA subsequently requested that the Service consider submitting such a proposal. The three known species in the genus are all native to the Neotropics. *Swietenia humilis* (Pacific Coast mahogany) occurs in Mexico and Central America and is listed in appendix II, and no exclusion of parts and derivatives has been proposed. The unlisted species are *S. macrophylla* (bigleaf mahogany), which occurs from South America to Mexico; and *S. mahagoni* (Caribbean mahogany), which occurs in the Caribbean, extending to southern Florida. The following are considered as natural hybrids: in the Caribbean, *S. aubrevilleana* (seemingly *S. mahagoni* crossed with *S. macrophylla*) and in Costa Rica, *S.* macrophylla crossed with *S. humilis*. *Swietenia* species and hybrids also are in cultivation (and may be locally naturalized); some are grown ornamentally and/or for silviculture. *Swietenia macrophylla* and *S. mahagoni* are cultivated with limited success in plantations throughout the tropics both in the New and Old World.

In response to the July 24, 1991, notice 15 responses were received within the comment period; 14 favored the proposed listing and one was opposed. The NRDC furnished extensive information on trade and the

conservation status of *Swietenia*, their rationale for listing, and the benefits of such a listing to the species involved; they addressed the issue of which parts and derivatives should be covered by the listing. The International Hardwood Products Association (IHPA) opposed listing the entire taxa based upon the opinion that the two species are not threatened by the continuance of trade and that the proposed action would only result in unnecessarily severe damage to an entire industry. Recently, IHPA stated that listing *S. mahagoni*, the Caribbean species is probably warranted. They urge the Service to seek out and to heed the advice of experts in the field before making a final decision as to whether *S. macrophylla* should be recommended for inclusion in appendix II of CITES.

Six conservation organizations (Rainforest Action Network, Rettet den Reganwald (Save the Rainforest), North Carolina Chapter of the Sierra Club, TRAFFIC USA, the Nature Conservancy, and the Rainforest Connection) believe the proposal to list *Swietenia* spp. in appendix II of CITES is warranted due to the significant genetic erosion of various species due to overexploitation for the timber trade. Lawrence S. Hamilton, Research Associated, East-West Center has worked the past 11 years in the area of tropical forest land use in the Asia Pacific region. He is concerned about the conservation of mahoganies world-wide and feels that an appendix II listing is appropriate. The Service submitted to the CITES Secretariat a proposal to include the genus *Swietenia* in appendix II with several exemptions for specified parts and products.

The Service recognizes that Costa Rica has also submitted a proposal to list *Swietenia* spp. in appendix II, but without the exemptions for certain parts and products identified in the U.S. proposal and without including the natural hybirds. Comments on this Costa Rican proposal were requested by the Service in the January 3, 1992, **Federal Register** (57 FR 262).

The Service has and will continue to make a sincere effort to obtain information as to the appropriate listing to ensure the conservation of the species. The Service specifically believes that *S. mahagoni* should be included in appendix II, and the Service will seek information and opinions from the range States of *S. macrophylla*, recognizing that the Central American populations could be listed differently from the South American populations.

11. Venus fly-trap (*Dionaea muscipula*). At the recent meeting of the Plants Committee, participants from the United Kingdom in particular requested that the United States consider listing *Dionaea muscipula* in appendix II. The species occurs chiefly in North Carolina, and also in South Carolina, and is extensively available through the nursery trade. Throughout the past decade, it is believed that the species has declined significantly. The State of North Carolina is presently conducting a thorough field survey of the Venus fly-trap, and TRAFFIC USA had recently completed a study to determine the extent of the trade in specimens of wild origin compared with those that are artificially propagated. The full results of these two studies are not available as yet. Only TRAFFIC USA commented on this proposal during the comment period. They stated that they were assessing the volume of trade in wild and propagated speciments of *Dionaea muscipula*, and would submit a report by the end of September. Material from that report is included in the U.S. proposal.

Since the proposal to include the Venus fly-trap in appendix II was submitted to the CITES Secretariat, the Service has received a comment from the Plant Industry Division of the North Carolina Department of Agriculture. This letter expressed concerns about the proposal and noted that a 2-year survey was underway to determine the status of the remaining wild populations of the Venus fly-trap while acknowledging that their preliminary, incomplete results indicate a substantial decline. Furthermore, the Division stated that additional harvest restrictions and stronger enforcement measures and penalties were established last year. The Service recognizes the importance of precise population estimates, but considering the extensive trade in wild specimens, believes that an appendix II listing will assist the State in its efforts to ensure that any collection of this remarkable species is sustainable.

12. *Turbinicarpus* spp. In 1983, the six recognized species of the Mexican cactus *Turbinicarpus* were transferred from appendix II to appendix I. Although the genus was mentioned in the proposal, the COP4 Annex listed only six species. Although it seems that the intent of the original proposal was to transfer the entire genus to appendix I, some might contend that newly described species are not included in that listing.

The Service submitted a proposal on *Turbinicarpus* spp. to the CITES Secretariat to clarify the present listing so that all species in the genus are included in appendix I. Doing so will ease identification problems and help to protect the rare species. This listing would include recently described taxa (which are rare) as well as new taxa that may be discovered and described in the future. No comments were received on this proposal during the comment period.

13. Commoner lignum vitae (*Guaiacum officinale*). *Guaiacum officinale* (commoner lignum vitae) also has been listed in Annex III of the SPAW Protocol. The Service has proposed this species for inclusion in appendix II of CITES, in part so that the United States can meet its obligations under the SPAW Protocol to regulate trade. The species is native in the Bahamas, Greater Antilles and Lesser Antilles (including Puerto Rico and the U.S. Virgin Islands), and in Venezuela and Colombia. The species is cultivated to a limited extent, and it is considered to be heavily depleted because of past exploitation. *Guaiacum sanctum* (holywood lignum vitae) is presently listed in appendix II of CITES. No comments were received in response to this proposed listing during the comment period.

Reservations

Article XV of CITES enables any party to exempt itself from implementing CITES for any particular species if it enters a reservation with respect to that species. In the case of a nation that is a Party at the time an amendment is adopted, a reservation may be entered only during the period of 90 days after the meeting at which the Parties voted to place the species in appendix I or II. After the meetings of the Parties the Service will solicit comments with regard to entering a reservation. If the United States enters any reservation, this action would be announced in the same **Federal Register** notice that incorporates the listing decisions of the parties into the Code of Federal Regulations (50 CFR part 23).

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Transportation, and Treaties.

This document is issued under authority of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.; 87 Stat. 884, as amended). It was prepared by Drs. Charles W. Dane, Richard M. Mitchell and Bruce MacBryde, Office of Scientific Authority.

Dated: February 25, 1992.

Richard N. Smith,

Acting Director.

[FR Doc. 92–5046 Filed 3–3–92; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 57, No. 43
Wednesday, March 4, 1992

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

Forms Under Review by Office of Management and Budget

February 28, 1991.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the informnation; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, room 404–W Admin. Bldg., Washington, DC 20250, (202) 690–2118.

Revision

- Agricultural Marking Service

Reporting and Recordkeeping Requiremennts for 7 CFR Part 29
Forms TB–87 & TB–92
Recordkeeping; On occasion
Businesses or other for-profit; 11,416 responses; 4,985 hours
Larry L. Crabtree (202) 205–0489

Extension

- 7 CFR part 7 and title 5 U.S.C. 1104, Application for County Employment and Supplemental Qualifications Statement

ASCS–650 and ASCS–675
On occasion
Individual or households; Federal agencies or employees; 15,000 responses; 16,000 hours
Don Samuels (202) 720–7517

- National Agricultural Statistics Service

Argicultural Prices
Monthly; Quarterly Semi-annually; Annually
Farms; Businesses or other for-profit; 109,796 responses; 18,623 hours
Larry Gambrell (202) 720–7737

New Collection

- Office of Information Resources Management

Easy Access—Pilot Project Evaluation
One time only
Farms; Small businesses or organizations; 3,200 responses; 352 hours
Charles W. Lowe (202) 720–8019

Reinstatement

- Food and Nutrition Service

Destination Data for Delivery of Donated Food
FNS–7
On Occasion
State or local governments; 1,260 responses; 630 hours
Robert DeLorenzo (702) 756–3660

Larry K. Roberson,
Deputy Departmental Clearance Officer.

[FR Doc. 92–5044 Filed 3–3–92; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held March 24 & 25, 1992, in the Herbert C. Hoover Building, room 1617M, 14th & Pennsylvania Avenue, NW., Washington, DC. On March 24, the Executive Session will convene at 9 a.m. and adjourn at 10 a.m. The General Session will convene at 10 a.m. and adjourn at 11 a.m. The Executive Session will then convene at 1 p.m. and adjourn at 4 p.m. On March 25, the Executive Session will convene at 9 a.m. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to computer systems/peripherals or technology.

Agenda

Executive Session March 24, 1992, 9 a.m.–10 a.m.

1. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

General Session March 24, 1992, 10 a.m.–11 a.m.

2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Updates on Composite Theoretical Performance and Supercomputers.

Executive Session March 24, 1992, 1 p.m.–4 p.m., March 25, 1992, 9 a.m. onward.

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, Technical Support Staff, OTPA/BXA, room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining

series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, D.C. 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: February 28, 1992.

Betty Ferrell,

Director, Technical Advisory Committee Unit.

[FR Doc. 92–5056 Filed 3–3–92; 8:45 am]

BILLING CODE 3150–DT–M

Licensing Procedures and Regulations Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Licensing Procedures and Regulations Subcommittee of the Computer Systems Technical Advisory Committee will be held March 24, 1992, 11 a.m., in the Herbert C. Hoover Building, 14th & Pennsylvania Avenue, NW., Washington, DC. From 11 a.m. to 12 p.m., the Subcommittee will meet in room 1617M. From 1 p.m. to 4 p.m., the Subcommittee will meet in room 1092. The Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

Agenda

1. Opening remarks by the Chairwoman.
2. Open forum for exporters on licensing and procedural questions/issues regarding the CCL.
3. Upates on SED, ELAIN III, EMS, and others.
4. Updates on pending and new regulations.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, TAC Staff-ODAS-BXA, room 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: February 28, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 92–5057 Filed 3–3–92; 8:45 a.m.]

BILLING CODE: 3510–DT–M

Sensors Technical Advisory Committee Partially Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held March 31, 1992, 9 a.m., in the Herbert C. Hoover Building, room 1617M, 14th & Pennsylvania Avenue, NW., Washington, DC. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

Agenda:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of COCOM Core List 6 (Sensors) export controls.
4. Discussion of nuclear nonproliferation and missile tech controls relating to Core List 6.

Executive Session

5. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Lee Ann Carpenter, TAC Staff/BXA/rm. 1621, U.S. Department of Commerce, 14th & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 5, 1992, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (2)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, room 6628, U.S. Department of Commerce, Washington, DC 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 377–2583.

Dated: February 28, 1992.

Betty Anne Ferrell,

Director, Technical Advisory Committee Staff.

[FR Doc. 92–5058 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–DT–M

International Trade Administration

[A–588–405]

Cellular Mobile Telephones and Subassemblies From Japan; Final Results of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative reviews.

SUMMARY: On December 3, 1991, the Department of Commerce published the preliminary results of two administrative reviews of the antidumping duty order on cellular mobile telephones and subassemblies from Japan (56 FR 61400). We have now completed those reviews and determine the margin to be 0.44 percent for Mitsubishi Electric Corporation (MELCO) during the period December 1, 1988 through November 30, 1989. We determine the margin to be 5.30 percent for Murata Manufacturing Company, Ltd. (MMC) during the period December 1, 1989 through November 30, 1990.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Cameron Cardozo or Michael Rollin, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On December 3, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 61400) the preliminary results of its administrative reviews of the antidumping duty order on cellular mobile telephones and subassemblies from Japan (50 FR 51724, December 19, 1985) covering the periods December 1, 1988 through November 30, 1989 and December 1, 1989 through November 30, 1990. The Department has now completed those administrative reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by these reviews are cellular mobile telephones (CMTs), CMT transceivers, CMT control units, and certain subassemblies thereof, which meet the tests set forth below. CMTs are radio-telephone equipment designed to operate in a cellular radio-telephone system, i.e., a system that permits mobile telephones to communicate with traditional land-line telephones via a base station, and that permits multiple simultaneous use of particular radio frequencies through the division of the system into independent cells, each of which has its own transceiving base station. Each CMT generally consists of (1) a transceiver, i.e., a box of electronic subassemblies which receives and transmits calls; and (2) a control unit, i.e., a handset and cradle resembling a modern telephone, which permits a motor-vehicle driver or passenger to dial, speak, and hear a call. They are designed to use motor vehicle power sources. Cellular transportable telephones, which are designed to use either motor vehicle power sources or, alternatively, portable power sources, are included in this antidumping duty order.

Subassemblies are any complete or partially completed circuit modules, the value of which is equal to or greater than five dollars and which are dedicated exclusively for use in CMT transceivers or control units. The term "dedicated exclusively for use" only encompasses those subassemblies that are specifically designed for use in CMTs, and could not be used, absent alteration, in a non-CMT device. The Department selected the five dollar value for defining the scope since this is a value that it has determined is equivalent to a "major" subassembly. The Department feels that a dollar cutoff point is a more workable standard than a subjective determination such as whether a circuit module is "substantially complete." Examples of subassemblies which may fall within this definition are circuit modules containing any of the following circuitry or combinations therof: audio processing, signal processing (logic), RF, IF, synthesizer, duplexer, power supply, power amplification, transmitter and exciter. The presumption is that CMT subassemblies are covered by the order unless an importer can prove otherwise. An importer will have to file a declaration with the Customs Service to the effect that a particular CMT subassembly is not dedicated exclusively for use in CMTs or that the dollar value is less than five dollars, if he wishes it to be excluded from the order.

The following merchandise has been excluded from this order: pocket-size self-contained portable cellular telephones, cellular base stations or base station apparatus, cellular switches, and mobile telephones designed for operation on other, non-cellular, mobile telephone systems.

Through 1988, cellular mobile telephones and subassemblies were classified under item numbers 685.28 and 685.33 of the *Tariff Schedules of the United States* (TSUS); they are currently classified under item numbers 8525.20.60, 8525.10.89, 8527.90,80, 8529.10.60, 8529.90.50, 8542.20.00 and 8542.80.00 of the *Harmonized Tariff Schedule* (HTS). The TSUS and HTS item numbers are provided for convenience and Customs purposes. The written product description remains dispositive.

The review for the period December 1, 1988 through November 30, 1989 covers one manufacturer/exporter, MELCO, of cellular mobile telephones and subassemblies to the United States. For the review of the December 1, 1989 through November 30, 1990 period, one manufacturer/exporter, MMC, is covered.

Analysis of Comments Received

We gave interested parties on opportunity to comment on the preliminary results. We received written comments from a respondent, MMC, and from the petitioner, Motorola, Inc. At the request of MMC, we held a hearing on January 22, 1992.

Comment 1: MMC asserts that in creating the computer program to calculate a monthly weighted-average foreign market value for each subassembly for each month in the period of review, the Department failed to take into account that sales of a part could occur in the same month of two different years. The Department should make a correction to the program to ensure that the weighted-average foreign market values are calculated by month and by year, so that sales occurring in two different years, but during the same month, will not be combined into a single monthly weighted average.

Department's Position: We agree with the respondent. The Department's methodology requires calculating one weighted-average foreign market value per month per year. As a result, the appropriate changes have been made in the computer program.

Comment 2: MMC states that a flaw in the computer program prevented the search for sales of similar models made is the home market during the 90/60-day window period from being properly executed.

Department's Position: We agree with the respondent. The computer program has been reset to begin each 90/60-day search for sales of similar home market models from the date of sale rather than from the month where the last search ended.

Comment 3: MMC maintains that the cost of U.S. packing was reported in yen. In attempting to adjust the foreign market value by adding the U.S. packing, the Department failed to convert the yen figure to dollars.

Department's Position: We agree and have changed our calculations to reflect a dollar amount for U.S. packing.

Comment 4: MMC claims that certain U.S. sales with both sale dates and entry dates prior to the period of review were inadvertently included in the data base. These sales should be excluded from the analysis in the final results.

Department's Position: We agree with the respondent. The U.S. sales with sale and entry dates prior to the period of review have been disregarded in the final results.

Comment 5: MMC argues that certain home market sales of paired filters were sales of samples and should not be used for comparison with paired filters sold in the United States. These sales may be identified as sample sales by virtue of the fact that the transactions involve substantially smaller quantities and significantly higher prices than commercial transactions made in the ordinary course of trade. In addition, these home market sales should not be used because in no instance where they were selected as the match for U.S. sales of paired filters was such match based upon "sales of comparable quantities of merchandise". The disparities between home market and export quantities involved render these comparisons inappropriate. The respondent suggests another home

market model that should be used for comparison.

The petitioner states that the alleged sample sales were made in the course of business and were paid for by the customer. MMC initially presented these sales as the basis for comparison, and the Department should not now allow MMC to change its position because it does not like the results. The Department considered the overall volume of sales in the home market to be an adequate basis for comparison previously, and that volume has not changed. The volmes of many reported sales in the U.S. market were also quite low. The Department should reject MMC's request to use home market sales of another product because of low-volume sales.

Department's Position: We disagree with the respondent. There is no evidence on the record prior to the issuance of our preliminary results that supports MMC's allegations of certain home market sales being samples. The Department cannot accept that sales are necessarily samples based solely on the presence of low quantities with high prices.

Also, the Department disagrees with MMC's position that the alleged home market sample sales should not be used because they did not produce matches based upon "sales of comparable quantities of merchandise." According to the Department's antidumping regulations at 19 CFR 353.55(a), "[t]he Secretary will make a reasonable allowance for any difference in quantities, to the extent that the Secretary is satisfied that the amount of any price differential is wholly or partly due to that difference in quantities." MMC has not demonstrated that the high prices of the alleged sample sales are a function of the small quantities sold. Therefore, we determine that the home market sales of paired filters, originally suggested by MMC, are apropriate for use in comparison with U.S. sales of paired filters.

Final Results of the Reviews

As a result of the comments received, we have revised our preliminarily results, and determine that the following margins exists for the review periods:

Manufacturer/ exporter	Review period	Margin (percent)
Mitsubishi Electric Corporation (MELCO)	12/1/88–11/30/89	0.44
Murata Manufacturing Company, Ltd. (MMC)	12/1/89–11/30/90	5.30

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company(ies) will be as outlined above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 5.30 percent. This rate represents the highest rate for any firm with shipments in these administrative reviews, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Tariff Act, as amended (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 26, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92–5048 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–DS–M

[A–580–008]

Color Television Receivers From Korea; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration/ Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners, a domestic interested party, and certain respondents, the Department of Commerce is conducting an administrative review of the antidumping duty order on color television receivers from Korea. The review covers seven manufacturers and/or exporters for the period April 1, 1990, through March 31, 1991. As a result of the review, the Department has preliminarily determined that dumping margins exist.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: David S. Levy or Melissa G. Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4851.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1991, the Department of Commerce (the Department) published a notice of "Opportunity to Request an Administrative Review" (56 FR 14927) of the antidumping duty order on color television receivers, complete or incomplete, from Korea (49 FR 18336, April 30, 1984). The United Electrical Workers of America, Independent, International Brotherhood of Electrical Workers, International Union of Electronic, Electrical, Salaried, Machine and Furniture workers, AFL–CIO, and Industrial Union Department, AFL–CIO (the Unions), petitioners in this proceeding, Zenith Electronics Corporation (Zenith), a domestic interested party, and two respondents, Samsung Electronics Co., Ltd. (Samsung), and Goldstar Co., Ltd. (Goldstar), requested an administrative review in accordance with 19 CFR 353.22(a)(1). On May 21, 1991, the Department published a notice of initiation of this review (56 FR 23271), which covers seven manufacturers/ exporters for the period April 1, 1990, through March 31, 1991. The Department is now conducting this review pursuant to section 751 of the Tariff Act of 1930,

as amended (the Tariff Act). The final results of the most recently completed administrative review of this order, covering four manufacturers/exporters for the period April 1, 1987, through March 31, 1988, were published in the Federal Register on March 27, 1991, and April 22, 1991 (56 FR 12701, and 16295).

Scope of Review

Imports covered by the review are shipments of color television receivers, complete or incomplete, from Korea. The order covers all color television receivers regardless of tariff classification. The merchandise is currently classifiable under Harmonized Tariff Schedule (HTS) items 8528.10.80, 8529.90.15, 8529.90.20, and 8540.11.00. The HTS item numbers are provided for convenience and Customs purposes only. The written descriptions remain dispostitive.

The review covers seven manufacturers/exporters for the period April 1, 1990, through March 31, 1991. We received questionnaire responses from Samsung, Goldstar, and Daewoo Electronics Co., Ltd. (Daewoo). One company, Quantronics Manufacturing Korea, Ltd., stated for the record that it had no sales or shipments of the subject merchandise during the period of review. Three other companies, Cosmos Electronics Co., Ltd., Tongkook General Electornics Co., Ltd., and Samwon Electronics, Inc., did not respond to our requests for information. When a company fails to provide the information requested in a timely manner, the Department considers the company uncooperative and generally assigns to that company the higher of (a) the highest rate assigned to any company in any previous review, including the less-than-fair-value investigation, or (b) the highest rate for a responding company with shipments during the review period. Therefore, we have used the highest rate from the less-than-fair-value investigation or any prior review as the best information available (BIA) in determining the margins for these three companies for this review, because this rate is higher than the highest rate in the current review.

United States Price

In calculating United States price, we used purchase price or exporter's sales price (ESP), both as defined in section 772 of the Tariff Act. Purchase price and ESP were based on the packed f.o.b., c.i.f., or delivered prices to the first unrelated purchaser in the United States.

For those sales made directly to unrelated parties prior to importation into the United States, we based the United States price on purchase price, in accordance with section 772(b) of the Tariff Act. In those cases where sales were made through a related sales agent in the United States to an unrelated purchaser prior to the date of importation, we also used purchase price as the basis for determining United States price. For these sales, we preliminarily determine that purchase price is the most appropriate determinant of United States price because:

1. The merchandise in question was shipped directly from the manufacturers to the unrelated buyers, without being introduced into the inventory of the related selling agent;
2. Direct shipment from the manufacturers to the unrelated buyers was the customary commercial channel for sales of this merchandise betwen the parties involved; and
3. The related selling agent in the United States acted only as a processor of sales-related documentation and a communication link with the unrelated U.S. buyers.

Where all of the above elements are met, we regard the routine selling functions of the exporter as merely having been relocated from the country of exportation to the United States, where the sales agent performs them. Whether these functions take place in the United States or abroad does not change the substance of the transactions or the functions themselves.

For those sales to the first unrelated purchaser that took place after importation into the United States, we based United States price on ESP, in accordance with section 772(c) of the Tariff Act.

We made deductions, where applicable, for foreign inland freight, Electronics Industry Association of Korea export license fees, Korean customs clearance fees, wharfage, ocean freight, marine insurance, U.S. and Korean brokerage and handling charges, U.S. import duties and customs fees, U.S. forwarding and handling charges, freight out to the first unrelated customer, discounts, rebates, royalties, commissions to unrelated parties, warranty, advertising and sales promotion, warehousing, expenses incurred in Korea on behalf of U.S. subsidiaries, and U.S. subsidiaries' selling expenses. Where applicable, we made an addition for import duties collected and rebated on imported raw materials used in merchandise exported to the United States.

We accounted for taxes imposed in Korea, but rebated or not collected by reason of exportation of the merchandise to the United States. We added to the U.S. price the amount of taxes that the Korean government would have assessed against the exported merchandise had such merchandise been subject to the taxes. In Korea, the taxes in question are assessed on the net dealer delivered price. Since the net dealer delivered price in Korea is the price to the first unrelated party, we used the price to the first unrelated party in the United States as the U.S. tax base. We determined that this tax base is most comparable to the tax base used by Korean tax authorities. We applied the tax rates in effect in Korea during the review period to the U.S. tax base to calculate the amount of hypothetical taxes added to the U.S. price. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value (FMV), we used home market prices to unrelated purchasers or constructed value as defined in section 773 of the Tariff Act.

Petitioners alleged that Samsung sold color televisions in the home market at prices below its costs of production. We considered the allegation sufficient to warrant an investigation of possible home market sales below cost. As a result of our investigation, we found below-cost sales. When more than 10 percent of the sales of a particular model were determined to be below cost, we excluded those sales from our calculation of FMV. When more than 90 percent of the sales of a particular model were determined to be below cost, we excluded all sales of that model from our analysis. If we were unable to find contemporaneous sales of the identical or most similar home market merchandise as a result of our exclusion of below-cost sales from our analysis, we used the constructed value of the merchandise as FMV.

Home market price was based on the packed delivered price to unrelated purchasers in the home market. Constructed value consists of the sum of the costs of materials, fabrication, general expenses, profit, and export packing. We used the actual amounts of general expenses, because these exceeded the statutory minimum of 10 percent of the cost of materials and fabrication, as specified in section 773(e) of the Tariff Act. Where the actual profit was less than the statutory minimum of eight percent of the sum of materials, fabrication, and general expenses, we

added the statutory minimum, as specified in section 773 of the Tariff Act.

Where applicable, we made adjustments for inland freight, forwarding charges, discounts, rebates, commissions, warranty, advertising and sales promotion, royalties, credit expenses, differences in the physical characteristics of the merchandise, and differences in packing costs. We disallowed certain portions of respondents' warranty expense claims as direct selling expenses, and have treated the disallowed portions as indirect selling expenses. In making the adjustment for differences in the physical characteristics of the merchandise, we used the original information submitted by respondents. However, we have requested certain additional information that we may use in making this adjustment in the final results of this review. We also made adjustments, where applicable, for direct selling expenses to offset U.S. commissions and U.S. selling expenses deducted in ESP calculations, but not exceeding the amount of those U.S. expenses. Finally, we made adjustments for differences between Korean and hypothetical U.S. taxes, where appropriate. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of United States price with foreign market value, we preliminarily determine the dumping margins to be:

Manufacturer/ exporter	Period	Margin (percent)
Cosmos Electronics Manufacturing Korea, Ltd.	04/01/90–03/31/91	16.57
Daewoo Electronics Co., Ltd.	04/01/90–03/31/91	4.25
Goldstar Co., Ltd.	04/01/90–03/31/91	0.85
Quantronics Manufacturing Korea, Ltd.	04/01/90–03/31/91	*3.63
Samsung Electronics Co., Ltd.	01/09/90–03/31/91	1.09
Samwon Electronics, Inc	04/01/90–03/31/91	16.57
Tongkook General Electronics, Inc.	04/01/90–03/31/91	16.57

No shipments; rate from previous review.

Interested parties may submit written comments on these preliminary results within 30 days of date of publication of this notice and may request disclosure and/or an administrative protective order within 5 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 as early as is convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs from interested parties may be sumitted not later than 14 days before the date of the hearing or the first workday thereafter. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 7 days after the submission of the case briefs. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a 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 percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those rates established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 26, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92–5049 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–DS–M

[A–201–601]

Certain Fresh Cut Flowers From Mexico; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration/ International Trade Administration/ Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the Floral Trade Council (the petitioner) and three respondents, the Department of Commerce is conducting an administrative review of the antidumping duty order on certain fresh cut flowers from Mexico. The review covers five producers and/or exporters for the period April 1, 1990, through March 31, 191. As a result of the review, the Department has preliminarily determined that dumping margins exist.

Interested parties are invited to comment on these preliminary results.

EFFECTED DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Martha Butwin, Zev Primor, or Melissa Skinner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–4851.

SUPPLEMENTARY INFORMATION:

Scope of Review

Certain fresh cut flowers are defined as standard carnations, standard chrysanthemums, and pompom chrysanthemums. During the period of the review, such merchandise was

classifiable under Harmonized Tariff Schedules (HTS) items 0603.10.7010 (pompom chrysanthemums), 0603.10.7020 (standard chrysanthemums), and 0603.10.7030 (standard corrections). The HTS item numbers are provided for convenience and Customs purposes only. The written descriptions remain dispositive.

Background

On April 12, 1991, the Department of Commerce (the Department) published a notice of "Opportunity to Request an Administrative Review" (56 FR 14927) of the antidumping duty order on certain fresh cut flowers from Mexico (52 FR 13491, April 23, 1987). In accordance with 19 CFR 353.22(a)(1), the petitioner requested an administrative review for Rancho del Pacifico, Rancho Daisy and Rancho Mision el Descanso (Rancho Mision). In addition, the following producers requested that the Department conduct an administrative review of this order: Rancho Quacatay, Rancho el Toro, Ranch el Aquaje, Tzitzic Tareta, S. de R.L., Florex S.P.R. and Visaflor S. de P.R. (Visaflor). On May 21, 1991, the Department published a notice of initiation of this review (56 FR 23271), which covers nine producers/exporters for the period April 1, 1990, through March 31, 1991. On July 1, 1991, Rancho el Aquaje, Rancho el Toro and Tzitzic Tareta, S. de R.L., withdrew from the administrative review. On August 19, 1991, Florex, S.A. withdrew from the administrative review. The Department is now conducting a review of five respondents pursuant to section 751 of theTariff Act of 1930 (the Tariff Act). The final results of the most recently completed administrative review of this order, covering six manufacturers/exporters for the period April 1, 1989, through March 31, 1990, were published in the Federal Register on June 28, 1991, (56 FR 29621).

The review covers five producers/exporters for the period April 1, 1990, through March 31, 1991. We received questionnaire responses from all five respondents. We accepted petitioner's allegations of sales below cost of production (COP) and, on November 14, 1991, we issued COP questionnaires to Rancho Mision and Rancho Daisy. We rejected petitioner's COP allegations against Visaflor as untimely.

From January 8, 1992, through January 14, 1992, the Department conducted verification of the questionnaire responses submitted by Visaflor and Rancho Mision.

United States Price

As in the original fair value investigation and in all prior administrative reviews, all United States prices were weight-averaged on a monthly basis to account for the perishability of the product. In accordance with the third administrative review's methodology, we also calculated United States price by flower type, without regard to specific grades. See Certain Fresh Cut Flowers from Mexico, 56 FR 29621 (June 28, 1991). In calculating United States price, we used purchase price (PP) or exporter's sales price (ESPO), both as defined in section 772 of the Tariff Act. PP and ESP were based, where applicable, on the packed f.o.b., or delivered prices to the first unrelated purchaser in the United States.

For sales made directly to unrelated parties prior to importation into the United States, we based the United States price on PP, in accordance with 772(b) of the Tariff Act. For sales to the first unrelated purchaser that took place after importation into the United States, we based United States price on ESP. Where sales were made through a related or unrelated consignment sales agent in the United States to an unrelated customer, after the date of importation, we also used ESPA as the basis for determining United States price, in accordance with section 772(c) of the Tariff Act. We made deductions, where applicable, for foreign and U.S. inland freight, Mexican Customs clearance fees, U.S. and Mexican brokerage and handling charges, discounts, rebates, commissions to unrelated and related parties (after determining that they involved arm's length transactions), credit and sales promotion expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value (FMV), we used home market prices to unrelated purchasers or constructed value (CV) as defined in section 773 of the Tariff Act.

Petitioners alleged that Rancho Mision and Rancho Daisy sold fresh cut flowers in the home market at prices below their COP. We considered the allegation sufficient to warrant an investigation of possible home market sales below the COP. As a result of our investigation, we found below-cost sales. Consistent with our past practice concerning perishable products, we included all below-cost sales in the home market if less than 50 percent of respondent's sales were below the COP because we determined that the below-cost sales were not made in substantial quantities over an extended period of time. If between 50 and 90 percent of respondent's sales were below the COP, we disregarded only the below-cost sales. In such cases, we determined that the respondent's below-cost sales were made in substantial quantities over an extended period of time. Therefore, we based FMV on CV, in accordance with section 773(e) of the Tariff Act.

Where applicable, home market price was based on the packed delivered price to unrelated purchasers in the home market. When CV was used, it consisted of the sum of the costs of materials, fabrication, general expenses, and profit. Where the actual cost for general expenses was below the statutory minimum of 10 percent of the cost of materials and fabrication, we added the statutory minimum amount in accordance with section 773(e) of th Tariff Act. Where the actual profit was less than the statutory minimum of eight percent of the sum of materials, fabrication, and general expenses, we added the statutory minimum. Where the actual amounts of general expenses and profit were above the statutory minimum amounts, we added the actual amounts.

Where applicable, we made adjustments for inland freight, discounts, rebates, commissions, credit expenses, and differences in packing costs. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our review, we preliminarily determine the dumping margins to be:

Manufacturer/exporter	Period	Margin (percent)
Rancho Daisy	04/01/90–03/31/91	0.00
Rahcno del Pacifico	04/01/90–03/31/91	0.00
Rancho Mision el Descanso	04/01/90–03/31/91	0.86
Rancho Quacatay	04/01/90–03/31/91	0.00
Visaflor	04/01/90–03/31/91	0.00

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or an administrative protective order within 5 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 as early as is convenient for the parties but not later than 44 days after the date of publication or the first workday thereafter. Case briefs from interested parties may be submitted not

later than 14 days before the date of the hearing or the first workday thereafter. Rebuttal briefs and rebuttal comments, limited to issues raised in the case briefs, may be filed not later than 7 days after the submission of these case briefs. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any written comments or at a 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 percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The case deposit rates for the reviewed companies will be those rates established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the case deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibilitiy under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 27, 1992.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-5050 Filed 3-3-92; 8:45 am]

BILLING CODE 3510-DS-M

[A-559-802]

Industrial Belts and Components and Parts Thereof From Singapore; Preliminary Results of Antidumping Duty Adminstrative 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 both the petitioner and respondent, the Department of Commerce is now conducting an administrative review of the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured (hereinafter referred to as "industrial belts"), from Singapore. The review covers one exporter during the period June 1, 1990 through May 31, 1991.

As a result of the review, the Department has preliminarily determined to assess antidumping duties based on the best information available.

Interested parties are invited to comment on the preliminary results on the administrative review.

EFFECTIVE DATE: March 4, 1992.

FOR FURTHER INFORMATION CONTACT: Millie Mack or Art Stern, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1989, the Department of Commerce (the Department) published in the Federal Register (54 FR 25315) the antidumping duty order on industrial belts from Singapore. On June 28, 1991, both the petitioner and respondent requested that we conduct an administrative review of the period June 1, 1990 through May 31, 1991. We published a notice of initiation of the antidumping administrative review on July 19, 1991 (56 FR 33251). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act), as amended.

Scope of Review

Imports covered by the review are shipments of industrial belts and components and parts thereof, whether cured or uncured, from Singapore. The merchandise covered by this review includes certain industrial V-belts used for power transmission. These include V-belts, in part or wholly of rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loops) belts, or in belting in lengths or links. This review excludes conveyor belts and automotive belts as well as front engine drive belts found on equipment powered by internal combustion engines, including trucks, tractors, buses, and lift trucks.

During the period of review, the merchandise was classifiable under Harmonized Tariff System (HTS) item numbers 3926.90.55, 4010.10.10, 4010.10.50, 5910.00.10, 5910.00.90, and 7326.20.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the shipments of one manufacturer and exporter of industrial belts from Singapore to the United States, Mitsuboshi Belting (Singapore) Pte., Ltd. (MBS), and the period June 1, 1990 through May 31, 1991.

Preliminary Results of the Review

Because MBS did not respond to the Department's questionnaire, the Department has preliminarily determined to use the best information available. The best information available is the rate from the investigation of sales at less-than-fair-value. This rate is 31.73 percent (June 14, 1989, 54 FR 25315).

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested parties 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. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs

and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. The Department will publish final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for MBS will be that rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Commerce Department's regulations (19 CFR 353.22).

Dated: February 27, 1992.

Alan M. Dunn,

Assistant Secretary for Import Administration.

[FR Doc. 92-5051 Filed 3-3-92; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's (Council) Coastal Pelagic Species Plan Development Team (Team) and Advisory Subpanel will hold a public meeting on March 17, 1992, beginning at 9 a.m. The meeting will be held in the California Department of Fish and Game office, 330 Golden Shore, suite 50, Long Beach, California.

The purpose of the meeting is to review the Team's preparation for presenting portions of the Coastal Pelagic species plan to the Council in April 1992, and to discuss the plan's goals and objectives and review options for limited entry.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, suite 420, 2000 S.W. First Avenue, Portland, Oregon 97201; telephone (503) 326-6352.

Dated: February 27, 1992.

David S. Crestin,

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

[FR Doc. 92-5028 Filed 3-3-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service.

ACTION: Issuance of a Scientific Research Permit (P70E).

On November 27, 1991, notice was published in the **Federal Register** (56 FR 60097) that an application had been filed by Dr. William A. Watkins, Senior Research Specialist, Woods Hole Oceanographic Institution, Woods Hole, MA 02543, for a Permit to harass up to 25 sperm whales (*Physeter macrocephalus*) annually of which five (5) will be tagged with HF, sonic and/or satellite tags during scientific research activities in the Carribean.

Notice is hereby given that on February 25, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that the Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220-222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit and associated documents are available for review in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, MD 20910 (301-713-2289);

Director, Northeast Region, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 (508-281-9200); and

Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702 (813-893-3141).

Dated: February 25, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92-4937 Filed 3-3-92; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Issuance of a scientific research permit (P263B).

On December 23, 1992, notice was published in the **Federal Register** (56 FR 66435) that an application had been filed by Ms. Janice M. Straley, P.O. Box 273, Sitka, Alaska 99835 for a Permit to inadvertently harass annually, over a five year period, up to 500 humpback whales (*Megaptera novaeangliae*), some of which may be inadvertently harrassed more than one time, during observational/photo-identification studies, and feeding behavior/prey distribution studies using a remotely-operated vehicle (ROV); and up to 200 killer whales (*Orcinus orca*) and 20 minke whales (*Balaenoptera acutorostrata*) during opportunistic observation/photo-identification

studies. Authorization was also requested to import and export, on an opportunistic basis, specimen material from dead, stranded or beached humpback, killer, and/or minke whales for biological, chemical, and/or genetic analysis. The purpose of the proposed research is to document individual humpback whales and associated feeding behaviors and prey distribution in Alaska waters, and to enhance the body of knowledge with respect to killer and minke whales.

Location of Activity: The proposed activities will be conducted year-round in southeastern Alaska waters.

Notice is hereby given that on February 25, 1992, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit to the above applicant to inadvertently harass the species/numbers described above subject to certain conditions set forth therein. To provide a standard, quantifiable measure of approach effort, approaches <100 yards and those animals showing signs of being disturbed no matter the distance are considered "taken" by harassment and counted against the number of animals authorized in the Permit. Authorization for import/export of specimen material has been deferred pending receipt of additional information on the number and specific parts, tissues, and/or bones which may be imported/exported and the party(s) from/to which they may be obtained/sent.

Issuance of this Permit, as required by the Endangered Species Act of 1973, is based on the finding that the Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of the Permit; and (3) is consistent with the purposes and policies set forth in Section 2 of the Act. This Permit was also issued in accordance with and is subject to parts 220–222 of title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit and associated documents are avilable for review in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, MD 20910 (301/713–2289);

Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, AK 99802 (907/586–7221); and

Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526–6150).

Dated: February 25, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–4938 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, Commerce.

ACTION: Modification of Scientific Research Permit No. 665 (P77 #32).

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Scientific Research Permit No. 665 (P77 #32) issued to NMFS, Southwest Fisheries Center, P.O. Box 271, La Jolla, CA 92038, on 3/21/89 is modified to allow the collection and importation of samples of marine mammals taken legally by foreign tuna purseseine fisheries, in addition to the previously authorized collection and importation of samples taken by the domestic fleet.

This modification becomes effective March 4, 1992.

Documents pertaining to this Modification and Permit are available for review in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, MD 20910 (301–713–2289); and

Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Boulevard, suite 4200, Long Beach, CA 90802 (310–980–4016).

Dated: February 26, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–4939 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service.

ACTION: Modification of Scientific Research Permit (711).

Notice is hereby given that pursuant to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the regulations governing endangered species permits (50 CFR parts 217–222), and the Conditions hereinafter set out, Scientific Research Permit No. 711, issued to The Southwest Fisheries Science Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, on October 5, 1990, is modified to extend the effective date through December 31, 1993.

This modification becomes effective upon publication in the Federal Register.

Documents pertaining to this Modification and Permit are available for review in the following offices:

By appointment: Office of Protected Resources, National Marine Fisheries Service, 1335 East-West Hwy., Silver Spring, MD 20910 (301/713–2289);

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802–4213 (310/980–4016); and

Marine Mammal Coodinator, Pacific Area Office, National Marine Fisheries Service, 2570 Dole Street, room 106, Honolulu, HI 96822 (808/955–8831).

Dated: February 25, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–4940 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–22–M

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Issuance of Import Permit (P6M).

On November 29, 1991, Notice was published in the **Federal Register** (56 FR 60973) that an application had been filed by the National Zoological Park, Smithsonian Institution, Washington, DC 20008–2598, for a permit to import blood and tissue samples and skin and bone specimens of Juan Fernandez fur seals (*Arctocephalus philippii*) and subantarctic fur seals (*Arctocephalus tropicalis*) taken on the Alejandro Selkirk Island and Desventurada Islands, Santiago, Chile. Samples will be used to conduct comparative genetic analysis of seals with abnormal pelage color with those of normal color to determine hybridization and to conduct "ancient DNA" analysis on the skin and bone samples which will yield measurements of genetic variability prior to the period of intense hunting of this species.

Notice is hereby given that on February 25, 1992, as authorized by the provisions of the Marine Mammal

Protection Act (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking to certain conditions set forth therein.

The Permit is available for review in the following offices:

By appointment: Permit Division, Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East-West Hwy., suite 7324, Silver Spring, MD 20910 (301/713–2289);

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Blvd., St. Petersburg, FL 33702 (813/893–3141); and

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930 (508/281–6150).

Dated: February 25, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–4941 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–22–M

[Modification No. 1 to Permit No. 574]

Marine Mammals; Modification of Permit; Sea World, Inc. (P2Q)

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Public Display Permit No. 574 issued to Sea World, Inc., 7007 Sea World Drive, Orlando, FL 32821–8097, on December 3, 1986 (51 FR 44326) is modified as follows:

Section B.8, first sentence is changed to read:

"8. The authority to acquire these marine mammals shall extend from the date of issuance through June 30, 1992."

All conditions currently contained in the Permit remain in effect.

Documents submitted in connection with the above modification are available for review by appointment in the following offices:

Office of Protected Resources, National Marine Fisheries Service, NOAA, 1335 East West Highway, Room 7324, Silver Spring, MD 20910 (301/713–2289);

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, FL 33702 (813/893–3141);

Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, MA 01930 (508/281–9200); and

Director, Southwest Region, National Marine Fisheries Service, 510 West Ocean Boulevard, Long Beach, CA 90802 (213/514–6196).

Dated: February 26, 1992.

Nancy Foster,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 92–4942 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Extension of Comment Period on a Proposal for a New Outward Processing Program

February 28, 1992.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Extension of comment period on a proposal for a new outward processing program.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

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 January 27, 1992, a notice was published in the Federal Register (57 FR 3042) requesting public comments on a proposal for a new outward processing program for U.S. textiles which would be made into apparel in certain foreign countries.

The purpose of this notice is to notify the public that the period for public comments is being extended for an additional 30-day period in order to give interested parties adequate time to review the proposal. Comments will be accepted for a period of 30 days from the publication date of this notice.

Anyone who wishes to comment or provide information regarding this issue is invited to submit such comments or information in 10 copies to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC, 20230; ATTN: Helen L. LeGrande. Determinations regarding specific aspects of the program will be made in the context of our trade relations with other nations.

Comments or information submitted in response to the notice published on January 27, 1992 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 comment 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 program 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."

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.92–5054 Filed 3–3–92; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Availability of DoD 5025.1–I, "DoD Directives System Annual Index"

AGENCY: Office of the Secretary, DoD.

ACTION: Notice.

SUMMARY: The document is to inform the public and Government Agencies of the availability of DoD 5025.1–I, "DoD Directives System Annual Index," dated January 1992. It is available, at cost, from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487–4650. The NTIS accession number for the Index is PB92–959509.

FOR FURTHER INFORMATION CONTACT: Ms. P. Toppings, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, Washington, DC 20301–1155, telephone (202) 697–4111.

Dated: February 27, 1992.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 92–4948 Filed 3–3–92; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

Availability of the Final Environmental Impact Statement for Development of the Armed Forces Recreation Center; Fort DeRussy, Waikiki, HI

AGENCY: Department of the Army, Department of Defense.

BACKGROUND: The Army proponent for the proposed action is the U.S. Army Community and Family Support Center, Alexandria, VA, which directs the

operation of the Hale Koa Hotel at Fort DeRussy. Full authority and responsibility for overall development of Fort DeRussy as an installation lies with U.S. Army Support Command, Hawaii.

At the direction of Congress, the Secretary of the Army prepared, in March 1988, a Master Plan for the Armed Forces Recreation Center at Fort DeRussy. The Plan recommended the relocation of non-headquarters type U.S. Army Reserve units to Fort Shafter and the construction of new hotel and recreation facilities at Fort DeRussy. Studies showed a large, unmet demand for hotel accommodations in addition to the existing Hale Koa Hotel. To enhance the morale and recreation needs of the active and retired military community and to maximize recreational open space for shared use by the military and civilian communities, the Plan recommended a Proposed Action.

The Army published a Notice of Intent to prepare a Draft Environmental Impact Statement (EIS) in the **Federal Register** on 23 January 1989. Scoping meetings were held for governmental agencies on 16 February 1989 and for the public on 22 February 1989. Notice of Availability of the Draft Environmental Impact Statement was published by the U.S. Environmental Protection Agency in the **Federal Register** on 19 January 1990. A public hearing was held on 5 February 1990. Comments at the public hearing and in letters commenting on the Draft EIS have been considered in preparing the Final EIS.

ACTION: The Department of the Army announces the Final (EIS) for Development of the Armed Forces Recreation Center—Fort DeRussy, Waikiki, Hawaii, is available for public review and comment.

The recommended action would demolish selected facilities; construct a hotel tower with up to 400 rooms to augment the existing Hale Koa Hotel; construct a hotel parking structure of 1300 stalls in two stories (3 levels); relocate utilities; and provide extensive landscaping and recreational facilities. Kalia Road, which crosses the Army post, would be realigned, but its intersection with Saratoga Road would be retained, and it would remain a two lane road. In contrast to the recommended plan in the Draft EIS, most of the present Saratoga parking lot would be retained. It would be landscaped and its parking stalls re-striped to accommodate about 540–570 vehicles. With other parking stalls to support specific buildings, the total parking capacity would be about 1900 vehicles.

To provide space for construction of the new hotel tower and other facilities, some buildings now used by U.S. Army Reserve units will be demolished. The impact of these buildings being demolished and the U.S. Army Reserve Units leaving Fort DeRussy are addressed in the Final EIS. Construction of new U.S. Army Reserve facilities at Fort Shafter has been addressed in a separate Environmental Assessment.

In addition to the recommended action, four primary alternatives are assessed: Alternative A, No Action; Alternative B, the recommended plan with three options for Kalia Road alignment consisting of Option B1—Kalia Road remaining two lanes, but meeting Saratoga Road at a new intersection; Option B2—Kalia Road being widened to four lanes, but retaining its existing Saratoga Road intersection; and Option B3—Kalia Road being eliminated between the Hale Koa Hotel and Saratoga Road; Alternative C, a series of low rise hotel buildings along a realigned Kalia Road; and Alternative D, the recommended plan with three separate options for parking structures, Option D1—two multistory 1200- and 1400-stall parking structures, Option D2—three, one-story bermed-over structures with a total capacity of a minimum of 1650 stalls, and Option D3—a multistory 1300 stall parking structure and a bermed over, 350 stall parking structure.

The selection of a recommended action in the final EIS does not constitute a final decision. The Final EIS does not constitute a final decision. The Final EIS will be used by the Army in reaching a final decision, as documented in a Record of Decision, and developing a final array of measures to avoid, reduce or mitigate adverse impacts. The Record of Decision will be approved at least 30 days after publication of the Final EIS to allow for public review of and comment on the final EIS.

Supplemental NEPA documents may be prepared after contract award to address any significant changes from the recommended action or significant changes in environmental impacts.

Comments on the Final EIS should be submitted to: Mr. David G. Sox, EIS Technical Manager (CEPOD–ED–ME), U.S. Army Engineer District, Honolulu, Building 230, Fort Shafter, HI 96858–5440.

Comments on the Final EIS can be received no more than 30 days after publication in the **Federal Register** to be considered in the Record of Decision. Copies of the document may be obtained by writing to the above address or by calling: (808) 438–5030/1776.

A Notice of Availability of the Final Environmental Impact Statement will also be published by the U.S. Environmental Protection Agency in the **Federal Register**, and by the local Army command in the publicly circulated Bulletin of the State of Hawaii Office of Environmental Quality Control.

Lewis D. Walker,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health), OASA (IL&E).

[FR Doc. 92–5029 Filed 3–3–92; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Reauthorization of Elementary and Secondary Education Programs

AGENCY: Department of Education.

ACTION: Notice of public hearings on the reauthorization of elementary and secondary education programs.

SUMMARY: The Secretary of Education announces public hearings on the reauthorization of programs under the Elementary and Secondary Education Act of 1965; Public Law 81–874 (Impact Aid Maintenance and Operations); Public Law 81–815 (Impact Aid Construction); section 372 of the Adult Education Act; the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (including the Indian Education Act of 1988); the Education and Training for a Competitive America Act (title VI of the Omnibus Trade and Competitiveness Act of 1988); the Education for Economic Security Act; Title VII of the Stewart B. McKinney Homeless Assistance Act (Pub.L. 100–77); and the Education Council Act of 1991 (Pub.L. 102–62).

The hearings will provide an opportunity for interested persons to present their views on key issues and programs for consideration in the development of the Department's reauthorization proposals.

DATES AND ADDRESSES: Public hearings are scheduled for two days from 8:30 a.m. to 4:30 p.m. at each of the locations on the dates listed. Written requests to make a presentation at the hearings should be filed not later than March 12, 1992. The request should contain the participant's name, address, telephone number, organizational affiliation (if appropriate), and the topic of presentation. To ensure timely handling of the request, the envelope should be clearly marked with the code in the brackets found next to the addresses for the hearings. The request should be

addressed to: Genevieve W. Cornelius (Code: _____), Office of the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 2189, FOB–6, Washington, DC 20202–6100. No advance notice is needed for attendance at a hearing. The dates and locations of the hearings follow:

March 19–20: Stouffer Concourse Hotel (Code: CA–1), 5400 West Century Boulevard, Los Angeles, California, (310) 216–5858
March 19–20: Red Lion Hotel Bellevue (Code: WA–2), 3000 112th Avenue Southeast, Bellevue, Washington, (206) 455–1300
March 26–27: The Adolphus Hotel (Code: TX–3), 1321 Commerce Street, Dallas, Texas, (214) 742–8200
March 30–31: Hilton at University Place (Code: NC–4), 8629 J.M. Keyes Drive, Charlotte, North Carolina, (704) 547–7444
March 30–31: Guest Quarters Suites Hotel (Code: IL–5), 198 East Delaware, Chicago Illinois, (312) 664–1100
April 2–3: U.S. Department of Health (Code: DC–6) and Human Services, The Cohen Building, 300 Independence Avenue, SW., Washington, DC

SUPPLEMENTARY INFORMATION: The Secretary will hold public hearings on the reauthorization of more than 50 elementary and secondary education programs funded at over $10 billion in fiscal year 1992. These programs include Chapters 1 and 2 of title I of the Elementary and Secondary Education Act of 1965, Eisenhower Mathematics and Science Education, Magnet Schools Assistance, the Fund for Innovation in Education, Drug-Free Schools and Communities, Dropout prevention Demonstrations, Bilingual Education, Impact Aid, the Fund for the Improvement and Reform of Schools and Teaching, Indian Education, and Education for Homeless Children and Youth.

The Secretary has also requested written comments from the public on the reauthorization of elementary and secondary education programs in a **Federal Register** notice published on February 4, 1992 (57 FR 4320).

The Secretary is holding these hearings to provide interested persons the opportunity to present their views on current elementary and secondary education programs, to suggest modifications and alternatives to these programs, and to recommend new and innovative program initiatives that support the President's AMERICA 2000 stratgegy for achieving the six National Education Goals.

The Secretary is especially interested in public views on the five general principles as well as on the specific program issues discussed in the February 4, 1992,. **Federal Register** notice. Persons interested in participating in the hearings are urged to review that **Federal Register** notice to become familiar with the issues and programs that should be addressed. The following is a proposed schedule, including some of the major topics for comments:

Day One

Session I (8:30 a.m.–11:30 a.m.)

General Principles

- Promoting world class standards for all students.
- Giving more authority and flexibility to States and communities.
- Promoting increased family responsibility and choice, including parental choice of schools.
- More accountability in each school and more accountability in Federal programs.
- Supporting "break the mold" innovation.

Issues that Cut Across Programs

- Discretionary grants.
- Funding formulas.
- State per-pupil expenditures.
- Technical assistance and staff development.
- Transfers to the Bureau of Indian Affairs.

Issues Relating to Specific Programs

- Indian Education.
- Impact Aid.

Session II (12:30 p.m.–4:30 p.m.)

Issues Relating to Specific Programs (continued)

- Chapter 1
  - LEA Grants
  - Even Start
  - Migrant Education
  - State Agency Program for Children with Disabilities
  - Neglected or Delinquent Children
- McKinney Homeless Education Assistance Programs
- Fund for the Improvement and Reform of Schools and Teaching

Day Two

Session III (8:30 a.m.–12:30 p.m.)

Issues Relating to Specific Programs (Continued)

- Chapter 2 State Grants.
- National Diffusion Network.
- Law-Related Education.
- Eisenhower Mathematics and Science Education.
- Magnet Schools Assistance.
- Javits Gifted and Talented Students Education.
- Dropout Prevention Demonstrations.

Session IV (1:30 p.m.–4:30 p.m.)

Issues Relating to Specific Programs (Continued)

- Drug-Free Schools and Communities.
- Bilingual Education.
- Adult Education Section 372.
- Other Programs.

Need for Reauthorization

The authorization for the above programs expires September 30, 1993. In order to contribute in a timely manner to congressional reauthorization discussions, the Secretary is beginning a review of these programs. To ensure public participation in the reauthorization, the Secretary has requested written comments and is holding these hearings. The Secretary intends to submit the Department's proposals to reauthorize these programs in January 1993, in conjunction with the President's fiscal year 1994 budget.

Hearing Procedures

The presiding officer for each hearing will be a senior Department official. The presiding officer will be accompanied by a panel of Department employees. Persons who wish to make a presentation are requested to file written notice with the Department's Office of Elementary and Secondary Education by March 12, 1992. The Secretary encourages Members of Congress, Governors, State legislators, educators (including public and private school teachers and administrators), members of associations, parents, and business and community leaders to participate in the hearings. Participants who are selected to testify will be notified of the time of their presentation. The Department will generally select people to testify on a first-come, first-served basis but will also attempt to ensure that testimony is received on all programs and from diverse constituencies. If time permits, persons not scheduled to make presentations will be allowed to do so at the conclusion of the hearing. Participants may comment on any issue or program relating to the reauthorization. However, time will be limited to five minutes for an oral presentation and five minutes for responding to questions from the panel.

More extensive discussion of the issues can be included in the written comments to be submitted on the day of the hearings.

Hotel accommodations are available at group rates at the hotels hosting the

hearings. Reservations should be made directly with the hotels. Any persons with disabilities needing special accommodations at the hearings should make those needs known in writing.

Presenters are requested to submit two copies of their written comments and recommendations for the record on the day they appear at the hearing.

FOR FURTHER INFORMATION CONTACT: Mrs. Genevieve W. Cornelius, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202–6100; Telephone: (202) 401–3104. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, D.C. 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Dated: February 24, 1992.

John T. MacDonald,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 92–5187 Filed 3–3–92; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Floodplain/Wetland Involvement; Characterization Activities at the Department of Energy's Mound Plant

AGENCY: Department of Energy (DOE).

ACTION: Notice of Floodplain/Wetland Involvement.

SUMMARY: Regulations at 10 CFR part 1022 require DOE to evaluate actions it may take in a floodplain/wetland in order to ensure consideration of protection of the floodplain/wetland in decision-making. As soon as practicable after a determination that a floodplain/wetland may be involved, the regulations require that public notice shall be published in the Federal Register, including a description of the proposed action and its location. DOE proposes projects at the Mound Facility in Miamisburg, Ohio, that may impact wetlands and/or 100-year floodplains. One proposed project would entail the installation of monitoring wells and piezometers in order to obtain sufficient groundwater data to scope and develop remedial actions to clean up a source of contamination. The other proposed project would involve limited soil and sediment sampling in a section of the Miami-Erie Canal in order to determine whether chemical contamination above background levels is present. The alternatives considered will, to the extent possible, avoid or minimize impacts to the floodplain/wetland. A map showing locations of proposed well installations and sample points is available upon request from DOE at the first address shown below.

DATES: Any comments on the proposed action must be received by March 19, 1992.

ADDRESSES: Send comments to: Wetlands/Flood Plains Comments, Arthur Kleinrath, Dayton Area Office, U.S. Department of Energy, Post Office Box 66, Miamisburg, Ohio 45343, (513) 847–3597. Fax comments to: (513) 847–4489.

For further information on DOE's floodplain/wetland environmental review process, contact: Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202)586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: The piezometer network would be designed to monitor water levels at multiple depths within the unconsolidated deposits of the Buried Valley Aquifer. Most of the Piezometer boreholes (located offsite between the Miami-Erie Canal and the railroad tracks) would serve as pilot holes for the subsequent installation of monitoring wells. The number of monitoring wells to be installed and the well depths and well completion intervals would be based on information derived from adjacent piezometer pilot holes. The monitoring well network would be designed to characterize the horizontal extent of contamination and potential vertically discrete zones of contamination in the saturated zone within the source area, the downgradient area, and the upgradient tributary valley area.

Identification of multiple "hot spots" within a piezometer borehole may facilitate the installation of monitoring well clusters in a single location. Estimated well completion depths would range from 25 to 105 feet below grade.

Because the Miami-Erie Canal has historically been a point of discharge for liquid effluent from the Mound Plant site drainage ditch, it is one of the most likely locations for the presence of both chemical and radiological contamination being investigated in Mound's Environmental Restoration Program. Results of previous studies indicate the presence of both tritium and plutonium-238 in canal soil/sediment. Because the presence of waste containing both hazardous chemicals and radionuclides (mixed waste) in the canal would greatly impact the remedial action alternatives and process options for the Miami-Erie Canal, reconnaissance sampling of the canal has been proposed. Samples would be taken from a maximum of 15 3-foot boreholes along the 1.5 mile length of this section of the canal, with each 1-foot interval being collected and composited. Sampling would be performed mainly in the center region of the canal, based on the premise that hazardous chemicals would be expected to deposit in similar locations to plutonium-238 and tritium deposits. The samples would be taken with a hammer-driven, stainless steel, split-spoon sampler. Large quantities of waste soil are not expected to be generated; however, any waste generated from either sampling or decontamination activities would be collected and managed by Mound personnel according to applicable, relevant, and appropriate laws, procedures, and policies of the DOE.

Other assessment activities may occur within the wetland/floodplain based upon results of the above work. These activities may include, but not be limited to, the following:

a. Additional sampling based on positive finding within the current sample plan.

b. Additional monitoring well installations.

c. Wetlands delineation activities, such as sampling and characterization.

d. Magnetic surveys.

e. Soil gas surveys.

Paul D. Grimm,

Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 92–5031 Filed 3–3–92; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Project No. 1403–004 California]

Pacific Gas and Electric Co.; Availability of Environmental Assessment

February 26, 1992.

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 new license for the existing Phoenix Project, located near the town of Sonora on the South Fork of the Stanislaus River, Tuolumne County, California, 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 relicensing the project

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 3104, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4966 Filed 3-3-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP92-330-000, et al.]

Southern Natural Gas Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Co.

[Docket No. CP92-330-000]

February 19, 1992.

Take notice that on February 4, 1992, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563 filed in Docket No. CP92-330-000, a request pursuant to section 7(b) of the Natural Gas Act and § 157.5 of the Commission's Regulations for permission and approval to abandon a certain segment of pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Southern requests authority to abandon a certain portion of its 2.1333 percent interest in the Project Central Texas Loop Line (PCTL Line) consisting of (1) approximately 30.15 miles of 30-inch diameter pipeline loop extending from a platform in Brazos Block A-76, offshore Texas, to a subsea tie-in located in Brazos Block 538, offshore Texas and appurtenant and related facilities and (2) approximately 79.04 miles of 36-inch diameter pipeline loop extending from a subsea tie-in located in Brazos Block 538 to the suction header at Transcontinental Gas Pipe Line Corporation's (Transco) Compressor Station No. 30 in Wharton County, Texas and appurtenant and related facilities. Southern owns a 2.1333 percent interest in the PCTL Line. The other interest owners in the line that was constructed in two phases beginning in 1982 are Transco, Tennessee Gas Pipe Line Company, Columbia Gulf Transmission Company, Michigan Wisconsin Pipeline Company, and Northern Natural Gas Company (Northern). Authorization for the PCTL Line was issued to these owners in Docket Nos. CP82-158-000 and CP82-158-004.

Southern requests authority to abandon a portion of its interest in the PCTL Line in order to implement the terms of a purchase and sale agreement between Southern and Northern dated December 31, 1991 (agreement). The agreement provides that, subject to regulatory approval, Southern will transfer and assign to Northern such percentage of Southern's 2.1333 percent interest in the PCTL Line as equivalent to 100 percent of the book value as shown on Northern's books thirty days after receipt of the requested abandonment authorization of Northern's 24.02596 percent ownership interest in the Cognac Line. The Cognac Line consists of approximately 39.7 miles of 16-inch diameter pipeline and 18-inch diameter pipeline and all appurtenant and related facilities extending from Shell Offshore Inc.'s platform in Mississippi Canyon Block 194, offshore Louisiana to a point of interconnection onshore with Southern's Romere Pass Pipeline located in Plaquemines Parish, Louisiana, and one 8-inch diameter and two 10-inch diameter orifice meter runs and appurtenant facilities located on the Shell Platform.

In exchange for the transfer and assignment of the interest in the PCTL Line, the agreement provides that Northern will transfer and assign 100 percent of its interest in the Cognac Line to Southern. Southern plans to acquire Northern's interest in the Cognac Line under Southern's blanket certificate issued under subpart F of part 157 of the Commission's Regulations. Southern understands that Northern likewise plans to acquire its interest in the PCTL Line under Northern's blanket certificate and to also abandon its interest in the Cognac Line pursuant to blanket authority.

Southern and Northern desire to exchange the above-described portions of the Cognac Line and the PCTL Line and related separation and dehydration facilities in order to remedy and alleviate capacity constraints the companies are each experiencing on the respective portions of the lines that they will be acquiring following receipt of the requested abandonment authorization. Southern has more requests for transportation on the Cognac Line than it has capacity at present. However, Southern has excess capacity on the PCTL Line. Northern has a reciprocal situation and desires to acquire additional capacity in the PCTL in exchange for its unused capacity in the Cognac Line. Southern and Northern have agreed upon the subject exchange to eliminate these constraints without economic burden to themselves or to their sales and transportation service customers. Southern's present capacity in the PCTL Line is approximately 16 MMcf per day of natural gas. Depending on the actual amount assigned to Northern, Southern should retain capacity in the PCTL Line of approximately 11 MMcf per day of natural gas, which is more than sufficient to accommodate the quantity of gas being tendered to Southern from Brazos Block A-47. The contemplated exchange will increase Southern's present capacity of 30 MMcf per day on the Cognac Line to 60 MMcf per day. No change in existing sales service will occur as Southern will retain sufficient capacity in the PCTL to continue to purchase and take delivery of gas under its one gas purchase contract that provides for Southern to take gas on the PCTL Line.

Comment date: March 11, 1992, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Co.

[Docket No. CP92-344-00]

February 19, 1992.

Take notice that on February 12, 1992, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP92-344-000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon three interruptible transportation services for Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee states that by orders issued in Dockets Nos. CP84-28-000, CP84-416-000 and CP84-622-000, certificates of public convenience and necessity were granted to Tennessee authorizing Tennessee to transport natural gas for Transco from points of receipt which are located offshore and onshore Louisiana to various onshore and offshore Louisiana points of delivery.

Tennessee indicates that it filed the gas transportation agreements dated April 8, 1982, March 22, 1982, and March 14, 1983, providing for such transportation services by Tennessee. Tennessee further indicates that the agreements have been designated as Rate Schedules T-138, T-141 and T-158 of Tennessee's FERC Gas Tariff, Original Volume No. 2. Tennessee states that by letter dated November 27, 1991, Transco indicated that the transportation services proposed to be abandoned are no longer needed and may be abandoned. Tennessee further

states that no facilities would be abandoned.

Comment date: March 11, 1992, in accordance with Standard Paragraph F at the end of this notice.

3. Transok Gas Co. (Successor-in-interest to TEX/CON Gas Marketing Co.)

[Docket No. CI87–826–003]

February 20, 1992.

Take notice that on February 14, 1992, Transok Gas Company (Transok) of P.O. Box 3008, Tulsa, Oklahoma 74101–3008, filed an application pursuant to sections 4 and 7 of the Natural Gas Act and the Federal Energy Regualtory Commission's (Commission) regulations thereunder to amend the blanket certificate previously issued to TEX-CON Gas Marketing Company in Docket No. CI–187–826–002 to reflect Transok Gas Company as the certificate holder, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: March 10, 1992, in accordance with Standard Paragraph J at the end of this notice.

4. Transcontinental Gas Pipe Line Corp.

[Docket No. CP89–7–020]

February 20, 1992.

Take notice that on February 6, 1992, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston Texas 77251, filed to futher amend the certificate authority granted by the Commission in an Order issued September 13, 1990 in Docket No. CP88–171–000 *et al.* By this amendment, Transco is seeking to modify its earlier petitions to amend made in this proceeding in order to reflect a small increase in the level of service to one customer and the addition of one new customer to the service list, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Transco proposes to: (1) Provide a firm transportation service of up to 15,495 Mcf per day on behalf of the Elizabethtown Gas Company (Elizabethtown); and (2) provide a firm transportation service of up to 24,505 Mcf per day on behalf of Piedmont Natural Gas Company (Piedmont). The firm service now proposed for Elizabethtown represents an increase of 495 Mcf per day from the level of service authorized in the above-mentioned September 13, 1990 Order and is 5,495 Mcf per day more than the 10,000 Mcf per day level of service for Elizabethtown proposed by Transco in its December 11, 1990 amendment as well as in its subsequent amendment filed September 6, 1991.

Transco states that firm capacity in the necessary amount to provide the increased service to Elizabethtown as well as the new service to Piedment is available because of the withdrawal of Long Isalnd Cogeneration Limited Partnership from the authorized service and because of the existence of uncommitted capacity on the system originally reserved for the UGI Corporation.

Comment date: March 12, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

5. Texas Gas Transmission Corp.

[Docket No. CP92–349–000]

February 21, 1992.

Take notice that on February 13, 1992, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP92–349–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) to add a delivery point to serve Indiana Gas Company, Inc. (Indiana Gas), an existing customer, and to abandon certain pipeline, measurement and related facilities, under Texas Gas' blanket certificate issued in Docket No. CP82–407–000 pursuant to section 7 of the Natural Gas Act, all as more fully detailed in the request which is on file with the Commission and open to public inspection.

Specifically, Texas Gas proposes to add a delivery point for service to Indiana Gas on its Slaughters—Montezuma 12-inch pipeline near Terre Haute, Indiana. Texas Gas proposes to abandon by sale to Indiana Gas its "Martinsville System," consisting of 8 segments of pipeline and 6 measurement stations, all located in Central Indiana. It is explained that the pipeline segments add up to 88.47 miles in length and are of various diameters. It is asserted that the new delivery point would act as a "Master Meter" and would replace the 6 meters proposed for abandonment. It is asserted that the new delivery point would be used for the delivery of 20,000 MMBtu equivalent of gas on a peak day and 2,100,000 MMBtu equivalent on an annual basis. It is further asserted that the deliveries would be within Indiana Gas' currently effective entitlement from Texas Gas and that the proposal would have no material effect on Texas Gas' peak day and annual requirements. It is stated that the gas delivered at the new delivery point would be utilized by Indiana Gas to serve the same end-use customers previously served by the facilities proposed for abandonment.

Comment date: April 6, 1992, in accordance with Standard Paragraph G at the end of this notice.

6. United Gas Pipe Line Co.

[Docket No. CP92–350–000]

February 21, 1992.

Take notice that on February 14, 1992, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP92–350–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to modify an existing sales tap and related facilities to serve B & A Pipeline Company (B &A) in Rusk County, Texas, under its blanket certificate issued in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests authorization to modify an existing delivery tap and related facilities in order to transport 2,400 Mcf of natural gas per day for B & A for futher delivery to the Hydrocarbon Transfer Company in Rusk County, Texas. It is stated that United proposes to do so by increasing the size of the existing metering facilities from 4-inch to 6-inch on United's Old Mill Creek Compressor Station also in Rusk County, Texas. It is stated that the cost of the proposed project will be $2,600 and that B & A will reimburse United for all costs relating to the modification of these facilities.

Comment date: April 6, 1992, in accordance with Standard Paragraph G at the end of this notice.

7. Northwest Pipeline Corp.

[Docket No. ER92–352–000]

February 21, 1992.

Take notice that on February 14, 1992, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP92–352–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a new delivery meter to provide deliveries to Willamette Industries, Inc. (Santiam), under Northwest's blanket certificate issued in Docket No. CP82–433–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the

Commission and open to public inspection.

Northwest states that Santiam has requested Northwest to construct and operate a new delivery meter, in Linn County, Oregon, capable of delivering up to 28,000 MMBtus per day to a new 10-inch pipeline to be constructed and owned by Santiam, which will deliver the gas to its facilities. Northwest further states that the transportation to the new delivery meter would be provided initially pursuant to Northwest's existing interruptible transportation agreements with Grand Valley Gas Company and Willamette Industries, Inc.

It is stated that Santiam has agreed to reimburse Northwest for all actual costs incurred by Northwest in constructing the proposed delivery meter plus the grossed up income tax liability which Northwest would incur.

It is said that Northwest estimates the cost of the meter to be approximately $313.577 with an additional income tax liability of $92,202, for a total of $405,799.

Northwest avers that the requested Santiam Meter Station and proposed new pipeline would provide Santiam an economic alternative to the transportation service currently provided by Northwest to its facilities.

Comment date: April 6, 1992, in accordance with Standard Paragraph G at the end of this notice.

8. Williams Natural Gas Co.

[Docket No. CP92-351-000]

February 21, 1992.

Take notice that on February 14, 1992, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP92-351-000 an application pursuant to section 7(b) of the Natural Gas Act for an order permitting and approving (1) the abandonment by sale of the Rodman gathering system, the MacKellar gathering system and approximately 18 miles of the Rodman-Enid 8-inch lateral pipeline to Trident NGL, Inc. (Trident) and Oryx Energy Company, for Sun Operating Limited Partnership (Oryx), its managing general partner; (2) the assignment and abandonment of the sales obligation of producers under contract to WNG to Trident/Oryx; and (3) the assignment and abandonment of all of WNG's pipeline rights to Trident/Oryx, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WNG states that in order to compete for the purchase of new gas supplies, WNG (formerly Cities Service Gas Company) contracted with the Rodman Corporation, the gas seller, in 1967 to install and own gathering facilities from the wellhead to the Rodman Processing Plant (Rodman Plant). It is stated that the seller reserved processing rights and the title to gas was transferred at the plant tailgate. In addition, WNG states that the seller was to construct, own and operate all compressors, cooling, processing and dehydration equipment and to operate and maintain all of the gathering facilities.

It is stated that the Rodman Corporation was also granted the right to attach any gathering line delivering gas for processing in its plant with the gathering pipelines and appurtenant facilities owned by WNG's predecessor. Subsequently, WNG states that the 1967 contract was amended to cover residue gas attributable to production from new wells on leases under new contracts with various producers.

According to WNG, the Rodman Plant and producing properties under the major contracts have passed through several owners, and the plant is now owned by Trident and Oryx. Over the years, WNG states that its predecessor entered into additional gas purchase agreements with other producers who also entered into processing agreements with the Rodman Plant. It is further stated that the Rodman system was developed to connect these additional supplies as well as other supplies purchased by the owner of the plant.

As long as it purchased all of the gas moving through the facilities, WNG states that the split ownership did not create unmanageable problems. However, WNG submits that it owns no field compression and therefore a shipper's gas cannot move through WNG's gathering facilities unless the shipper makes arrangements for compression. Also, WNG avers that it owns no facilities connecting its gathering facilities to its main transmission system. Instead, it stated that as the system is presently configured, gas flows through WNG's gathering system into Trident/Oryx's Rodman Plant and then into WNG's main transmission system. In addition, WNG states that most of the gas attached to its gathering system must be processed to meet the quality standards in WNG's tariff before entering WNG's mainline.

WNG states that, currently, its gathering system consists of approximately 750 miles of pipe located in Kingfisher, Garfield, Major and Blaine Counties, Oklahoma, and feeds the Rodman Plant located in Garfield County. It is stated that the plant is connected to WNG's transmission system by a 16-inch line running northwest to the Transwestern Pipeline Company line and two parallel 8-inch lines running northeast to the Enid compressor station. Presently, WNG states that it owns approximately 647 miles of pipeline and Trident/Oryx owns the remainder.

It is stated that Trident/Oryx operates the WNG gathering system, which supplies the field compression that boosts the typical well delivery pressure of 20-30 psig to approximately 300 psig. WNG states that the Rodman Plant receives gas at two inlet levels, approximately 40 and 300 psig. The plant then compresses, processes and then recompresses the residue gas for delivery into WNG's 8 or 16-inch transmission lines.

WNG states that the MacKellar gathering system is composed of approximately 18 miles of 4-inch plastic pipe which "overlays" by is not connected to WNG's Rodman gathering system. Approximately nineteen receipt points feed gas to the Phillips Kingfisher Plant where it is processed and then delivered to WNG at the plant tailgate.

WNG submits that the current configuration of the Rodman gathering system presents a very complex and confusing arrangement. Currently, WNG and Trident/Oryx both own a portion of the system, while Oryx provides all the compression, processing, operation and maintenance of the system. It is stated that producers must contract with the plant for processing and shippers must contract with WNG for gathering and transportation services.

According to WNG, it is more practical that the owners of the Rodman Plant should also own, operate and maintain the gathering facilities connected to the plant. Therefore, WNG states that it has entered into various agreements for the sale of the Rodman facilities to Trident/Oryx.

WNG states that it has agreed to sell the Rodman gathering system, the MacKellar gathering system and the Rodman-Enid 8-inch line to Trident/Oryx for a purchase price of $4,815,000. Upon Commission approval of the sale, WNG states that it and Trident will enter into a new gas purchase agreement at the plant tailgate. WNG states that it will assign gas purchase contracts upstream of the Rodman plant to Trident/Oryx in order to support the new tailgate purchase contract. Further, it is stated that the new tailgate agreement will maintain the current deliverability committed to WNG on the Rodman system for system supply requirements.

WNG submits that it will fulfill all existing and future obligations under any agreements that are not terminated or transferred to and fully assumed by Trident/Oryx at closing due to circumstances beyond the reasonable control of WNG and Trident/Oryx. WNG states that it will enter into agreement with Trident/Oryx for the use of the facilities as necessary for WNG's performance. It is averred that Trident/Oryx will charge WNG no greater price than the lowest price charged by Trident/Oryx for similar services to similarly situated third partries. WNG states that Trident/Oryx intends to operate the acquired facilities as non-jurisdictional gathering facilities on the inlet side of the Rodman Plant, and will file for non-jurisdictional status.

Comment date: March 13, 1992, in accordance with Standard Paragraph F at the end of this notice.

9. Transco Energy Marketing Co., et al.

[Docket No. CI86-27-011,[1] *et al.*]

February 20, 1992.

Take notice that each Applicant listed on the Appendix hereto 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 extension of its blanket limited-term certificate with pregranted abandonment authorizing sales for resale in interstate commerce previously issued by the Commission for a term expiring March 31, 1992, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Comment date: March 10, 1992, in accordance with Standard Paragraph J at the end of the notice.

APPENDIX

Docket No.	Date Filed	Applicant
CI86-27-011	2/13/92	Transco Energy Marketing Company, P.O. Box 1047, Houston, Texas 77251-1047.
CI886-377-077 & CI86-378-006 [1]	2/14/92	Arkla Energy Marketing Company, 525 Milam Street, P.O. Box 21734, Shreveport, Louisiana 71151.
CI86-419-006 [2]	2/13/92	ANR Supply Company, 9 Greenway Plaza, Houston, Texas 77046.
CI87-786-007	2/14/92	Val Gas, L.P., c/o Val Gas Company, 530 McCullough Avenue, San Antonio, Texas 78215.
CI87-825-009 [3]	2/14/92	Valero Gas Marketing, L.P. (formerly V.H.C. Gas Systems, L.P.), c/o V.H.C. Gas Systems Company, 530 McCullough Avenue, San Antonio, Texas 78215.
CI88-274-004 [2] [4]	2/13/92	Coastal States Gas Transmission Company, 9 Greenway Plaza, Houston, Texas 77046
CI89-194-006 [5]	2/13/92	Coastal Gas Marketing Company, 9 Greenway Plaza, Houston, Texas 77046.
CI89-312-003	2/14/92	LIDO-Atlantic Trading Company, 1625 Broadway, Suite 2200, Denver, Colorado 80202.
CI89-361-005 [6]	2/13/92	Equitable Resources Marketing Company, 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219.
CI81-15-003	2/12/92	CanStates Petroleum Marketing, c/o CanStates Gas Marketing, 1220 SunLife Plaza, 144 Fourth Avenue, SW., Calgary, Alberta, Canada T2P 3N4.

[1] Applicant also requests amendment of its certificate to include sales for resale of all gas purchased from first sellers and non-first sellers to the full extent of the sales authorization granted to other marketers.

[2] Applicant also requests (1) amendment of its certificate to include sales for resale in interstate commerce of interruptible system suppy (ISS) gas, imported natural gas including liquified natural gas and gas purchased from non-first sellers including but not limited to intrastate pipelines and local distribution companies; (2) removal of the pricing restrictions on sales for resale of ISS gas purchased from affiliated pipelines; and (3) removal of the condition that the certificate is subject to the outcome of the proceedings in Docket No. RM87-5.

[3] Applicant also requests amendment of its certificate to reflect the name change from V.H.C. Gas Systems, L.P. to Valero Gas Marketing, L.P.

[4] Applicant is an intrastate pipeline company.

[5] Applicant also requests (1) amendment of its certificate to include sales for resale in interstate commerce of gas purchased from non-first sellers including but not limited to intrastate pipelines and local distribution companies; (2) removal of the pricing restrictions on sales for resale of ISS gas purchased from affiliated pipelines; and (3) removal of the condition that the certificate is subject to the outcome of the proceedings in Docket No. RM87-5.

[6] Applicant also requests removal of the pricing restrictions on sales for resale of ISS gas purchased from affiliated pipelines.

10. Boston Gas Co.

[Docket No. CP92-188-000]

February 24, 1992.

Take notice that on November 18, 1991, Boston Gas Company (Applicant), One Beacon Street, Boston, Massachusetts 02108, filed in Docket No. CP92-188-000 an application pursuant to § 284.224 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, or, in the alternative an application pursuant to section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing construction and operation of facilities and transportation of natural gas for Distrigas Corporation (Distrigas) and Distrigas of Massachusetts Corporation (DOMAC), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant requests a blanket certificate pursuant to § 284.224 of the Commission's Regulations authorizing Applicant to engage in transportation of natural gas or, in the alternative, a traditional section 7(c) certificate authorizing construction and operation of facilities and transportation of natural gas to Distrigas and DOMAC. Applicant also requests pregranted abandonment authority for the transportation service provided under either certificate requested herein. In addition, Applicant requests that whether the Commission issues a blanket certificate or a traditional certificate, the Commission limit its jurisdiction to the operation of the facilities and the activities and service described and not subject Applicant to regulation as a natural gas company with the meaning of the NGA except to the extent necessary to enforce the terms and conditions of the certificate.

Applicant states that this filing is being made in compliance with the Commission's October 16, 1991 Declaratory Order, Order to Show Cause, and Order Issuing Limited-Term Certificate in Docket No. CP91-2315-000. Applicant further states that Applicant has provided transportation service on its local gas distribution system of regasified liquefied natural gas (LNG) for DOMAC. Applicant submits that Applicant is currently providing firm transportation service to DOMAC pursuant to an agreement betweeen the parties executed June 24, 1988 for a primary term of 10 years, renewable from year-to-year thereafter. Applicant

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

indicates that Applicant provides firm transportation of 140,000 MMBtu equivalent per day (off-peak season) to 240,000 MMBtu equivalent per day (peak-season) of vaporized LNG for DOMAC on Applicant's distribution system from a receipt point at Everett, Massachusetts to delivery points at Applicant's city gate interconnections with the facilities of Algonquin Gas Transmission Company (Algonquin) and Tennessee Gas Pipeline Company.

Applicant indicates that Applicant is applying for a § 284.224 blanket certificate, or in the alternative, a traditional section 7(c) certificate under part 157, in order for Applicant to continue to provide transportation service to DOMAC under existing agreement order to allow DOMAC to have continued access to the interstate pipeline system and to the markets served by that system. Applicant further indicates that Applicant agrees to comply with the terms and conditions set forth in § 157.103 of the regulations for traditional certificates and in § 284.224(e) for blanket certificates.

Applicant states that the facility for which Applicant requests a certificate of public convenience and necessity is a 24-inch, 637 foot gas pipeline in Everett, Massachusetts that provides physical connection between DOMAC's Everett LNG terminal and Algonquin's Everett metering station and J-lateral pipeline system. Applicant further states the facility was constructed in October 1990 and completed on November 2, 1990, with service commencing on December 5, 1990. Applicant indicates that the facility is being used to provide transportation service for DOMAC.

Applicant states that the proposed service would be rendered pursuant to Applicant's city gate transportation rates set forth in tariffs filed with the Massachusetts Department of Public Utilities (MDPU) and subject to the approval of that state regulatory agency under Massachusetts General Laws Chapter 164. Applicant submits, that, although the transportation rate would be capped at the maximum indicated in that tariff, Applicant would seek authority to offer transportation service at a rate below the maximum rate where competitive market conditions warrant. Applicant proposes a minimum rate for transportation service equal to Applicant's variable cost of providing the service as is required by the order of the MDPU.

Comment date: March 16, 1992, in accordance with Standard Paragraph F at the end of this notice.

11. Northern Natural Gas Co.

[Docket No. CP92-342-000]

February 24, 1992.

Take notice that on February 10, 1992, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-100, filed in Docket No. CP92-342-000, a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act for authority to, operate and maintain existing delivery facilities, originally installed to serve single end-users through local distribution companies, to provide service to multiple end-users, under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it installed these facilities to provide service to single end-users through local distribution companies (LDCs). Northern advises that proper authorizations were obtained when these facilities were constructed, but subsequent events have resulted in the operation of these facilities in a manner different than originally intended.

Northern states that it was recently brought to Northern's attention that certain LDCs and landowners have installed additional distribution lines and meters downstream of Northern's farm tap facilities to provide natural gas service to customers, other than those Northern had installed the farm taps to serve. Northern advises that once informed of this situation, an investigation was conducted to identify locations on its system where facilities had been installed by others downstream of Northern's facilities to provide service to additional customers, as more fully described in its application.

Northern advises that it has since notified responsible officials of the distribution companies involved that the attachment of new customers to delivery facilities intended for service to single end-users requires a filing by Northern with the Commission for authorization to operate its facilities to serve multiple end-users.

Northern states that it does not believe it is in the public interest to interrupt service to these farms, farming communities or domestic residential customers because proper authorization was not obtained to operate Northern's facilities for service to multiple end-users prior to the installation of the downstream facilities by other parties. Therefore, in this application Northern requests authorization to operate and maintain these existing delivery facilities to provide service to multiple end-users.

Comment date: April 9, 1992, in accordance with Standard Paragraph G at the end of this notice.

12. TPC Transmission, Inc., TPC Services, Inc., and Tejas Power Corp

[Docket No. CP92-354-000]

February 24, 1992.

Take notice that on February 14, 1992, TPC Transmission, Inc. (TPC Transmission), TPC Services, Inc. (TPC Services), and Tejas Power Corporation (Tejas), collectively referred as Petitioners, filed a petition in Docket No. CP92-354-000 requesting that the Commission disclaim jurisdiction over certain natural gas gathering facilities under section 1(b) of the Natural Gas Act (NGA), and also requesting that, to the extent its facilities are determined to be non-jurisdictional, the Commission vacate or rescind, under section 1(b) of the NGA, the section 7(c) certificate and approval of rates and charges issued to it as a Hinshaw pipeline under section 1(c) of the NGA, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioners state that the facilities which are the subject of the petition (known as the Galveston Island Gathering System) were constructed to gather, separate and dehydrate production from leases covering lands within Galveston Island Area Blocks 364, 363, 362, 343, 332, and 333 offshore Texas. Petitioners state that the Galveston Island Gathering System is comprised of: (1) An offshore and onshore gathering system, owned by TPC Services, which connects with an onshore separation and dehydration facility near Surfside, Brazoria County, Texas; (2) the separation facility, owned by Tejas; and (3) an onshore pipeline known as the Stratton Ridge Pipeline, owned by TPC Transmission, which extends from the tailgate of the separation facility to points of interconnection with a Texas intrastate pipeline owned by Dow Pipeline Company and a Texas Hinshaw pipeline owned by Amoco Gas Corporation. Petitioners note that until the construction of the Galveston Island Gathering System was completed in 1990 and 1991, no other facility existed offshore Texas that could gather production from these leases.

Petitioners assert that the Commission and courts have reexamined, modified, and more clearly delineated the requirements for determining whether a

facility qualifies for a gathering exemption from Commission jurisdiction under section 1(b) of the NGA. It is indicated that the result of these recent actions was the development and implementation of the "modified primary function" test as set forth in Amerada Hess Corp. et al., 52 FERC ¶ 61,268 (1990) and more recently in Blue Dolphin Pipe Line Company, Docket Nos. CP92–232–000 and MG88–18–005, order issued February 5, 1992. Petitioners contend that the facilities comprising the Galveston Island Gathering System, including TPC Transmission's Stratton Ridge Pipeline, meet the "modified primary function" test that these facilities are not subject to Commission jurisdiction under section 1(b) of the NGA. Moreover, petitioners state that disclaiming jurisdiction over the Galveston Island Gathering System would further the Commission's regulatory and statutory objective under the NGA, the Natural Gas Policy Act of 1978, and the Wellhead Decontrol Act of 1989.

Petitioners request that the Commission issue an order disclaiming jurisdiction over the facilities comprising the Galveston Island Gathering System under section 1(b) of the NGA. In addition, TPC Transmission requests that, to the extent its facilities are determined to be non-jurisdictional, the Commission vacate or rescind, under section 1(b) of the NGA, the section 7(c) certificate and approval of rates and charges issued to it as a Hinshaw pipeline under section 1(c) of the NGA.

Comment date: March 16, 1992, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

13. Columbia Gas Transmission Corp.

[Docket No. CP92–353–000]

February 24, 1992.

Take notice that on February 14, 1992, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP92–353–000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to establish an additional point of delivery on existing receipt point for transportation service for Energy Marketing Services, Inc. (EMS) under the blanket certificate issued in Docket No. CP83–76–000 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.

Columbia states that it would transport up to 500 dth/d on an average day and 182,500 dth/d annually. Columbia also states that the estimated cost to establish this point of the delivery will be approximately $2,100 and will be reimbursed by EMS.

Comment date: April 9, 1992, in accordance with Standard Paragraph G at the end of this notice.

14. Tenngasco Corp., Tenngasco Exchange Corporation and Tenngasco Marketing Corp.

[Docket No. CI86–168–011]

February 24, 1992.

Take notice that on February 20, 1992, Tenngasco Corporation, Tenngasco Exchange Corporation and Tenngasco Marketing Corporation (Tenngasco) of P.O. Box 2511, Houston, Texas 77252, 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 extension of its blanket limited-term certificate with pregranted abandonment authorizing sales for resale in interstate commerce previously issued by the Commission for a term expiring in March 31, 1992, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Comment date: March 12, 1992, in accordance with Standard Paragraph J at the end of the notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the 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. 92–4967 Filed 3–3–92; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. OR92-6-000 (Formerly Docket No. OT92-92-000)]

Interstate Oil Pipeline Industry; Revised Notice of Technical Conference To Correct and Replace Notice Previously Issued on February 26, 1992

February 27, 1992.

In order to consider generic market-based rates for oil pipelines, and to examine the potential for streamlining its regulation of the interstate oil pipeline industry, the staff of the Commission will convene a technical conference. This conference will provide the opportunity for an open discussion of regulatory issues among the oil pipeline industry, the public, and the Commission staff.

The Commission's staff believes continued and significant improvements in oil pipeline rate regulation may be possible. In particular, the Commission staff's experience in recent oil pipeline rate proceedings indicates that "light-handed" regulation is, in many circumstances, a practical alternative to traditional cost-based ratemaking. This conclusion is buttressed by the 1986 Department of Justice report: "Oil Pipeline Deregulation." Parties are invited to provide comments on possible approaches to market-oriented regulation of oil pipelines.

The Commission's procedural regulations applicable to the oil pipeline industry have not been substantially modified in many years. The Commission's staff believes significant improvements may be possible in this area as well.

The Appendix to this notice sets forth questions that should be addressed by interested persons. Other matters may be discussed as well.

The conference will be held Thursday, March 26, 1992, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426, in a Hearing Room to be announced.

Any interested person can submit information prior to the meeting for consideration at the conference by addressing such information to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426. Any such information should reference Docket No. OR92-6-000 and be filed no later than March 13, 1992. Persons wishing to participate should notify the Commission of their intention no later than March 20, 1992.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

Appendix—Questions for Consideration at Technical Conference

A. Implementation of market-based rate regulation.

1. Should the Commission implement market-based rate regulation on a generic basis? Why or why not?

2. Does the 1986 Department of Justice report: "Oil Pipeline Deregulation," provide sufficient information to be implemented administratively?

3. What factors (such as market concentration) should the Commission consider in moving towards market-based rates?

4. In *Buckeye*,[1] the Commission adopted a light-handed regulatory approach.

a. Should this approach be applied to other oil pipelines?

b. What alternative methods could the Commission examine to evaluate competitive markets?

c. Should rate increases in noncompetitive markets be capped by rate increases in competitive markets similar to the approach taken in *Buckeye*? If not, what alternatives are available in noncompetitive markets?

5. Have any market centers developed where pipelines interconnect (or where storage facilities are located) in oil transportation markets? Should the Commission's ratemaking practices ensure that their development is not hindered by anticompetitive transportation tariffs that may make it costly to gain access to a market center?

6. What other areas of the Commission's oil pipeline regulation can be eliminated or revised to remove unwarranted and uneconomic regulations under current law?

B. Procedural modifications.

1. What filing requirements should the Commission establish for oil tariff rate change filings to streamline the regulatory process and provide certainty and flexibility to all segments of the industry?

2. Is public notice of the filing of an oil tariff necessary and, if so, how best can it be provided?

3. Would an electronic tariff filing system benefit the public and the oil pipeline industry? What would be the costs involved?

[FR Doc. 92-4963 Filed 3-3-92; 8:45 am]

BILLING CODE 6717-01-M

[1] *Buckeye Pipeline Company, L.P.*, 53 FERC ¶ 61,473 (1990); Rehearing Granted in Part and Denied in Part, 55 FERC ¶ 61,084 (1991).

[Docket No. CP91-1925-000]

Southwestern Glass Company, Inc. v. Arkla Energy Resources, a Divison of Arkla, Inc.; Technical Conference

February 26, 1992.

Take notice that on Wednesday, March 18, 1992, the Staff of the Federal Energy Regulatory Commisison will convene a technical conference in the captioned proceeding to examine certain issues as they relate to the pending complaint of Southwestern Glass Company.

Attendance at the technical conference will be limited to parties to the proceeding and the Commission staff. The conference will be held at 10 a.m. at 810 First Street, NE., Washington, DC. The room number where the conference will be held will be posted on the first floor of that building on the day of the conference. For further information, contact Robert Steinberg at (202) 207-1032.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4964 Filed 3-3-92; 8:45 am]

BILLING CODE 6717-01-M

Transwestern Pipeline Co.; Site Visit

[Docket No. CP90-2294-000 and CP90-2294-001]

February 26, 1992.

This is to inform all parties to the proceeding in the above docket that the staff of the Federal Energy Regulatory Commission will conduct a site vist of Transwestern's mainline expansion in Mohave and Yavapai Counties, Arizona, March 11 and 12, 1992. The purpose of the staff's inspection is to review compliance with the environmental mitigation measures specified in Transwestern's certificate, issued on August 1, 1991.

All parties to the proceeding are welcome to attend. Anyone interested must provide their own transportation. For more information contact Mr. Michael Boyle at (202) 208-1003.

Lois D. Cashell,

Secretary.

[FR Doc. 92-4965 Filed 3-3-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed During the Week of January 17 Through January 24, 1992

During the Week of January 17 through January 24, 1992, the appeals and applications for exception or other relief listed in the appendix to this

notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: February 27, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 17 through Jan. 24, 1992]

Date	Name and location of applicant	Case No.	Type of submission
Jan. 23, 1992	Pacific Gas & Electric Co., et al., Philadelphia, Pennsylvania.	LER-0007	Request for modification/rescission. If granted: The December 24, 1991 Decision and Order (Case Nos. HER-0050, HER-0106 & KEZ-0096) issued to The 341 Tract Unit of the Citronelle Field would be modified regarding the motion of Pacific Gas & Electric Co., et al. for rescission of the Decision and Order of December 24, 1991.
Jan. 23, 1992	Texaco/Grocers Baking Company, Washington, DC	RR321-105	Request for modification/rescission in the Texaco refund proceeding. If granted: The March 5, 1991 Decision and Order (Case No. RF321-4754) issued to Grocers Baking Company would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Jan. 24, 1992	ARCO/Abco Oil Corporation, Washington, DC	RR304-30	Request for modification/rescission in the ARCO refund proceeding. If granted: The May 9, 1989 Decision and Order (Case No. RF304-2584) issued to Oil Corporation would be modified regarding the firm's application for refund submitted in the ARCO refund proceeding.
Jan. 24, 1992	ARCO/Fred D. Wickoff Co., Inc., Washington, DC	RR304-27	Request for modification/rescission in the ARCO refund proceeding. If granted: The March 15, 1990 Decision and Order (Case No. RF304-8943) issued to Fred D. Wickoff Co., Inc. would be modified regarding the firm's application for refund submitted in the ARCO refund proceeding.
Jan. 24, 1992	Texaco/Alec Texaco, Daly City, California	RR321-107	Request for modification/rescission in the Texaco proceeding. If granted: The October 25, 1991 Decision and Order (Case No. RF321-8635) issued to Alec Texaco would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Jan. 24, 1992	Texaco/Pottawattamie County, Washington, DC	RR321-106	Request for modification/rescission in the Texaco refund proceeding. If granted: The October 12, 1990 Decision and Order (Case No. RF321-3245) issued to Pottawattamine County would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding.
Jan. 24, 1992	ARCO/Fuel Distributors, Inc., Washington, DC	RR304-29	Request for modification/rescission in the ARCO refund proceeding. If granted: The August 28, 1989 Decision and Order (Case No. RF304-7385) issued to Fuel Distributors, Inc. would be modified regarding the firm's application for refund submitted in the ARCO refund proceeding.
Jan. 24, 1992	ARCO/Heet Gas Company, Inc., Washington, DC	RR304-25	Request for modification/rescission in the ARCO refund proceeding. If granted: The April 19, 1989 Decision and Order (Case No. RF304-2151) issued to Heet Gas Company, Inc. would be modified regarding the firm's application for refund submitted in the ARCO refund proceeding.
Jan. 24, 1992	ARCO/Tompkins Oil Company, Washington, DC	RR304-24	Request for modification/rescission in the ARCO refund proceeding. If granted: The June 5, 1989 Decision and Order (Case No. RF304-3080) issued to Tompkins Oil Company would be modified regarding the firm's application for refund submitted in the ARCO refund proceeding.
Jan. 24, 1992	ARCO/Petroleum Products Corporation, Washington, DC.	RR304-28	Request for modification/rescission in the ARCO refund proceeding. If granted: The August 18, 1989 Decision and Order (Case No. RF304-7202) issued to Petroleum Products Corporation would be modified regarding the firm's application for refund submitted in the ARCO refund proceeding.
Jan. 24, 1992	ARCO/Western Petroleum, Inc., Washington, DC	RR304-26	Request for modification/rescission in the ARCO refund proceeding. If granted: The November 16, 1990 Decision and Order (Case No. RF304-9284) issued to Western Petroleum, Inc. would be modified regarding the firm's application for refund submitted in the ARCO refund proceeding.

REFUND APPLICATIONS RECEIVED

[Week of Jan. 17 to Jan. 24, 1992]

Date received	Name of refund proceeding/name of refund applicant	Case No. 8
1/21/92	Superiorgas	RF340-51.
1/21/92	Service Gas, Inc	RF340-52.
1/21/92	Stone's Propane & Appliance.	RF340-53.
1/21/92	Patrick Egan	RF342-124.
1/21/92	Tom's Clark Super 100.	RF342-125.
1/21/92	Harry Carsey	RF342-126.
1/21/92	Beisler-Weidmann Company.	RF341-18.
1/22/92	Frank's Clark	RF342-127.
1/22/92	Bill's Clark Super 100.	RF342-128.
1/22/92	Larry's Valley Clark.	RF342-129.
1/22/92	Chucks Owens Service.	RF342-130.
1/22/92	State Escrow	RF303-12.
1/22/92	Shenandoah Oil Company.	RF313-331.
1/22/92	Shenandoah Oil Company.	RF313-332.
1/22/92	Franko Oil Company.	RF304-12702.
1/22/92	Frank's Clark	RF342-127.
1/22/92	Bill's Clark Super 100.	RF342-128.
1/22/92	Larry's Valley Clark.	RF342-129.
1/22/92	Chucks Owens Service.	RF342-130.
1/23/92	Chas A. Walls Arco.	RF304-12703.
1/23/92	Ray's Mill Street Arco.	RF304-12704.
1/23/92	Ray's Arco	RF304-12705.
1/23/92	Edie & Al's	RF304-12706.
1/23/92	Al's Arco of Milford.	RF304-12707.
1/23/92	Mosby Gas Service.	RF304-12708.
1/23/92	Pointville Arco	RF304-12709.
1/23/92	D-D'S Clark Gas Station.	RF342-131.
1/23/92	Moran Oil Company.	RF324-54.
1/24/92	Alvin Simpson, Inc.	RF307-102212.
1/24/92	Boyd's Texaco	RF321-18413.
1/17/92 thru 1/24/92.	Taxaco Refund Applications Received.	RF321-18389 thru RE321-18413.
1/17/92 thru 1/24/92.	Crude Oil Applications Received.	RF272-91436 thru RF272-91479.
1/17/92 thru 1/24/92.	Gulf Oil Refund Applications Received.	RF300-19418 thru RF300-19447.

[FR Doc. 92-5030 Filed 3-3-92; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

Selection of Financial Sponsor

AGENCY: Department of Energy, Southeastern Power Administration.

ACTION: Notice of selection of a financial sponsor for the proposed Bluestone Hydropower Project, Hinton, WV.

SUMMARY: 1. On September 3, 1991, the Southeastern Power Administration and the U.S. Army Corps of Engineers announced in the **Federal Register** (56 FR 43591) their joint intent to select a non-federal sponsor to provide financing in the study and construction of generating facilities at the Bluestone Dam, located in the City of Hinton, Summers County, West Virginia. The announcement provided background information regarding the proposed addition of generation at the dam, the expression of interest by the Hinton-White Sulphur Springs-Philippi Power Authority of West Virginia in providing funds for preliminary studies and future construction and the criteria to be utilized by Southeastern and the Corps of Engineers in selecting such a sponsor. The announcement was also mailed to 59 potential interested parties located with approximately 150 miles of the Bluestone Project, generation and transmission organizations in the area, and representatives of other interested parties. Southeastern requested that potential sponsors make application or proposals for sponsorship prior to November 4, 1991, to be considered for final selection.

2. Although several inquiries seeking further information were received, the only application for selection as financial sponsor for the Bluestone Hydropower Project was from the Hinton-White Sulphur Springs-Philippi Power Authority.

3. The Southeastern Power Administration and the Corps of Engineers have reviewed the Authority's application for sponsorship in accordance with its sponsor selection process and announced criteria and determined that the Hinton-White Sulphur Springs-Philippi Authority meets or exceeds such criteria. Consequently, notice is hereby given that the Authority is selected as the financial sponsor for the Bluestone Hydropower Project, Hinton, West Virginia.

FOR FURTHER INFORMATION ABOUT THE PROPOSED PROJECT, CONTACT: Allan Elberfeld, Chief, Plan Formulation Branch, Huntington District Corps of Engineers, 502 Eighth Street, Huntington, WV 25701-2070.

FOR FURTHER INFORMATION ABOUT THE PROPOSED MARKETING OF THE POWER AND ENERGY FROM THE PROPOSED PROJECT, CONTACT: Leon Jourolmon, Jr., Director, Power Marketing, Southeastern Power Administration, Samuel Elbert Building, Elberton, GA 30635.

Issued at Elberton, Georgia, February 5, 1992.

John A. McAllister, Jr.,

Administrator, Southeastern Power Administration.

[FR Doc. 92-5032 Filed 2-28-92; 2:42 pm]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 4111-6]

Agency Information Collection 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

DATE: Comments must be submitted on or before April 3, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Reporting and Recordkeeping Requirements for the New Source Performance Standards (NSPS) for Storage Vessels for Petroleum Liquids, Subpart Ka (No. 1050.04, OMB No. 2060-0121).

Abstract: This ICR is for an extension of an existing information collection in support of the Clean Air Act, as described under the general NSPS at 40 CFR part 60.7-60.8 and the specific NSPS, regulating volatile emissions from petroleum liquid storage vessels, at 40 CFR part 60.110a-60.115a. The information will be used by the EPA to direct monitoring, inspection, and enforcement efforts, thereby ensuring compliance with the NSPS.

Owners and operators of all affected facilities must report to EPA: (1) Any physical or operational change to their facility which may result in an increase in the regulated pollutant emission rate. All facilities must also maintain records on the facility operation that document: (1) The occurrence and duration of any start-ups, shutdowns, and malfunctions; (2) measurements of maximum true

vapor pressure for each storage vessel; (3) period of storage for the petroleum liquid; (4) emissions data; (5) design specifications; and (6) an operation and maintenance plan for any vapor recovery and return or disposal system.

In addition, owners and operators of facilities that use a floating roof system must report any excessive gaps in tank seals, and notify the EPA when the seal gaps will be measured. These facilities must also maintain records of seal gap measurements.

All subject facilities must maintain records related to compliance for two years.

Burden Statement: Public reporting burden for facilities subject to this collection of information is estimated to average 5 hours per response including time for reviewing instructions, searching existing data sources, gathering and maintaining data, and completing and reviewing the collection of information. Public recordkeeping burden is estimated to average 113 hours annually.

Respondents: Owners or operators of petroleum storage vessels with a storage capacity exceeding 40,000 gallons and which commenced construction, reconstruction, or modification after May 18, 1978 and prior to July 23, 1984.

Estimated Number of Respondents: 183.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 21,502 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of this collection of information, 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

Troy Hillier, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th St., NW., Washington, DC, 20503.

Dated: February 27, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92–5010 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4111–7]

Agency Information Collection 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 April 3, 1992.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Section 12(b) Notification of Chemical Exports (EPA ICR No.: 0795.06; OMB No.: 2070–0030). This is an extension of the expiration date of a previously approved collection.

Abstract: Under section 12(b)(2) of the Toxic Substances Control Act (TSCA), those who export or intend to export federally regulated chemical substances (or mixtures) must notify the EPA Administrator annually of the export or intent to export. EPA will then notify the government of the importing country of the Agency's action concerning the regulated chemical. Respondents submit to EPA one annual notice per chemical, or list of chemicals, for each country to which they are intending to export. A notice consists of: The name and the address of the exporter, the name (or list) of the chemical(s) to be exported, the country of import, the date of export, and the citation of the TSCA section (4, 5, 6, or 7) requiring the chemicals to be reviewed for export.

Burden Statement: The estimated public reporting burden for this collection of information is 38 hours per respondent annually. On average a respondent will prepare 74 export notices each requiring 0.5 hour. This estimate includes the time to read the instructions, gather existing information, prepare the chemical lists and submit the annual notice.

Respondents: Exporters of TSCA 12(b) chemicals.

Estimated no. of Respondents: 162.

Estimated no. of Responses per Respondent: 74.

Estimated Total Annual Burden on Respondents: 6,162 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 20503.

Dated: February 27, 1992.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 92–5011 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4110–8]

Pollution Prevention Education Committee (PPEC) of the National Advisory Council for Environmental Policy and Technology (NACEPT); Open Meeting

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of a meeting of the Industry Working Group of the Pollution Prevention Education Committee (PPEC). PPEC is a standing committee of the National Advisory Council for Enviornmental Policy and Technology (NACEPT), and advisory committee to the Administrator of the EPA. The Industry Focus Group is meeting to discuss pollution prevention education and training needs.

The meeting will convene March 4, 1992, from 9 a.m. to 4 p.m., at the Ramada Renaissance at Tech World, 999 Ninth Street, NW., Washington, DC. The site was chosen for its proximity to participants and relevance to the subject matter to be discussed.

The meeting will be attended by a small group of corporate and non-profit executives with expertise in environmental issues. Under the general topic of education and training, the meeting will focus on how the EPA can help promote pollution prevention within industry. There will be three roundtable discussions dealing with voluntary partnerships, collaborative initiatives, and the regulatory process. The session will conclude with a presentation and discussion of conclusions.

The **Federal Register** Notice announcing this meeting was submitted late due to scheduling difficulties with both the volunteer industry representative and the hired facilitator. Rather than submit incorrect information, the notice was delayed.

Dated: February 21, 1992.

Gordon Schisler,

Acting, NACEPT Designated Federal Official.

[FR Doc. 92–4895 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4111–5]

Ecological Processes and Effects Committee; Dioxin Ecotox Subcommittee; Ecorisk Subcommittee; Open Meetings

Under Public Law 92–463, notice is hereby given that two meetings of Subcommittees of the Ecological Processes and Effects Committee (EPEC) of the Science Advisory Board (SAB) will be held in March, 1992. Both meetings are open to the public.

The Dioxin Ecotox Subcommittee will meet March 19–20, 1992 at the Raddison Plaza Hotel at Mark Center, 5000 Seminary Road, Alexandria, Virginia. The meeting will start at 8:30 a.m. on March 19 and will adjourn no later than 5 p.m. on March 20. The main purpose of this meeting is to review a Dioxin Research plan and the rationale for development of ambient aquatic life water quality criteria for 2,3,7,8-tetrachlorodibenzo-p-dioxin. Based on the tentative charge, the SAB has been asked to review the plan to determine: 1. Whether the test species and endpoints are appropriate; 2. whether the research will provide data needed to fill data gaps for this criterion; 3. to identify other tests which should be included; and 4. evaluate the consistency of the proposed tests with those required by the National Water Quality Criteria Guidelines. Copies of background documents for this review are available from Ms. Maria Gomez-Taylor, U.S. EPA, Office of Science and Technology (WH–586), 401 M Street SW., Washington, DC 20460. Phone: (202) 260–1639.

The Ecorisk Subcommittee will meet on March 26–27, 1992 at the Capitol Hill Hotel, 200 C Street SE., Washington, DC 20003. This meeting will begin at 9 a.m. on March 26, 1992 and will adjourn no later than 5 p.m. on March 27. The main purpose of this meeting is to review "A Plan for Developing Ecological Risk Assessment Guidelines". The plan builds on elements and terminology proposed in a recent report by the Risk Assessment Forum, "Framework for Ecological Risk Assessment" and proposes to organize future guidelines around the phases of the ecorisk assessment process described in the Framework Report. The Subcommittee will also receive briefings on plans for issue papers and peer reviews of case studies. Based on the tentative charge, the Subcommittee review will focus on the following issues: 1. Are the phases of ecorisk assessment suitable to structure the guideline?; 2. Are the proposed issue papers appropriate?; 3. Are the case studies (1991 and 1992) appropriate to evaluate the ecorisk assessment process? Copies of background documents for this review will be available in early March from Dr. William van der Schalie, EPA, Risk Assessment Forum (RD–689), Office of Research and Development, 401 M Street SW., Washington, DC 20460. Phone: (202) 260–6743.

For additional information concerning either meeting or to obtain an agenda, please contact Dr. Edward Bender, Designated Federal Official, or Mrs. Jolly, Staff Secretary, Ecological Processes and Effects Committee (EPEC), Science Advisory Board (A–101–F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Phone: (202) 260–6552; Fax: (202) 260–7118. Anyone wishing to make a presentation at the meeting should forward a written statement to Dr. Bender no later than March 10, 1992 for the Dioxin Ecotox review or no later than March 17, 1992 for the review of the Ecorisk framework and strategy. 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 seven minutes. Seating at the meeting will be on a first come basis.

Dated: February 21, 1992.

Donald Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 92–5012 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–M

[OPP–42029B; FRL–3944–1]

New Mexico; Intent to Approve Revised New Mexico Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to approve revised State Certification Plan.

SUMMARY: New Mexico has submitted to EPA a revised plan for the certification of pesticide applicators. This revised plan consolidates the existing New Mexico Plan and approved plan amendments. In addition the revised plan adopts a program for certification of Compound 1080 Livestock Protection Collar applicators. Notice is hereby given of the intention of the Regional Administrator, EPA Region VI, to approve this plan. A summary of the plan's new program for certification of Compound 1080 Livestock Protection Collar applicators appears below. Interested persons are invited to comment.

DATES: Written comments must be submitted on or before April 3, 1992.

ADDRESSES: Address comments identified by the docket control number OPP–42029B, to Jerry Oglesby, Pesticides and Toxic Substances Branch, Region VI, U. S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, TX 75202–2733.

FOR FURTHER INFORMATION CONTACT: Jerry Oglesby (214–655–7239).

SUPPLEMENTARY INFORMATION: In accordance with the provision of section 11(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and 40 CFR part 171, the New Mexico Department of Agriculture has submitted to EPA a revised New Mexico Certification Plan. This revised plan consolidates the existing plan with amendments and adopts a new program to permit certification of applicators of the Compound 1080 Livestock Protection Collar.

I. Summary of Plan

Prior to July 11, 1985, all predator control uses of Compound 1080 were canceled. On July 11, 1985, EPA granted the initial registration of Compound 1080 Livestock Protection Collars for predator control. The registration of Compound 1080 Livestock Protection Collars imposed additional reporting and recordkeeping requirements beyond that required of other restricted use pesticides. Further, the registration required that Compound 1080 Livestock Protection Collar applicators receive specific training and a distinct certification. This addition to the New Mexico Certification Plan that was published in the **Federal Register** of November 9, 1976 (41 FR 49514), meets the requirements of the Compound 1080 Livestock Protection Collar registration.

Compound 1080 Livestock Protection Collar Certification Plans were approved for Wyoming on July 2, 1986, Montana on June 17, 1987, and Texas on April 8, 1988. Under the proposed New Mexico program, the New Mexico Department of Agriculture will monitor the distribution and use of each collar. Certified applicators may request Compound 1080 Livestock Protection collars only on an approved State order form. New Mexico Department of Agriculture maintains the authority to

approve/disapprove the use of Compound 1080 Livestock Protection Collars in New Mexico. The New Mexico Department of Agriculture will also conduct use inspections and issue a notice of violation which outlines the appropriate enforcement action if violations are discovered.

New Mexico estimates that 87 private applicators and an additional 15 public applicators will seek certification under the plan. Public applicators under the New Mexico Pesticide Control Act cannot apply pesticides for hire or receive compensation for these pesticide applications. The New Mexico public applicator category is the category of certification available to employees of a Federal or State agency. It is anticipated that selected employees in the Animal Damage Control Program of the United States Department of Agriculture, Animal and Plant Health Inspection Services (USDA-APHIS) will seek New Mexico certification as Compound 1080 Livestock Protection Collar applicators. USDA-APHIS has an approved registration for Compound 1080 Livestock Protection Collars and will provide collars to these certified employees. New Mexico will provide the collars through designated distributors to all other certified public and private applicators. To coordinate their activities, New Mexico and USDA-APHIS have entered into a Memorandum of Understanding, which is included as part of the New Mexico certification plan. Both public and private applicators of Compound 1080 Livestock Protection Collars will be required to meet the standards of competency established for commercial applicators under 40 CFR 171.4(b). In addition, all Compound 1080 Livestock Protection Collar applicators must attend specialized training and pass a written examination prior to being certified as a Compound 1080 Livestock Protection Collar applicator. A separate license will be issued to designate certification as a Compound 1080 Livestock Protection Collar applicator.

Compound 1080 Livestock Protection Collar applicators will be issued licenses annually and must be recertified every 5 years. To be recertified an applicator must attend an approved training program and take and pass an examination approved by the New Mexico Department of Agriculture.

The regulations contained in the plan were passed on May 10, 1991 and became effective on July 1, 1991.

II. Public Comments

Copies of the amendment are available for review at the following locations during normal business hours:

1. New Mexico Department of Agriculture, Box 30005, Dept. 3189, Corner of Gregg and Espina, Las Cruces, NM 88003–0005, Telephone: (505) 646–3007.
2. Environmental Protection Agency, Region VI, 1445 Ross Avenue, 12th Floor, Suite 1200, Dallas, TX 75202, Telephone: 214–655–7239.

Interested persons are invited to submit written comments on the proposed State Plan.

Dated: February 12, 1992.

Joe D. Winkle,

Acting Regional Administrator, Region VI.

[FR Doc. 92–4787 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–66156; FRL 4000–5]

Notice of Receipt of Requests for Amendments to Delete uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions, and the deletions will become effective on June 2, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: room 216, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703) 305–5761

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 56 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product name, and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before June 2, 1992 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to Agency approval of the deletion approval.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration No.	Product Name	Delete Use On
000016–00019	Dragon 50% Malathion Insect Spray	Broccoli, Brussel Sprouts, Cabbage, Cauliflower, Kale, Beans, Peas, Potatoes, Apples, Pears, Dogs and Cats
000100–00501	Supracide 2E	Alfalfa, Pure Stands/Stands containing Clover or Grass
000100–00719	Supracide	Alfalfa, Pure Stands/Stands Containing Clover or Grass, Pure Stands of Timothy Grass
000264–00267	Ethrel Plant Regulator	Boysenberries
000264–00447	Asulox Herbicide	Ditchbanks
000264–00457	Mocap Brand 15% Granular Nematicide-Insecticide	Soybeans
000264–00458	Mocap Brand EC Nematicide-Insecticide	Soybeans
000264–00465	Mocap Brand 10% Granular Nematicide	Soybeans

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Registration No.	Product Name	Delete Use On
000279-01421	Methyl Parathion 5.0 Miscible Insecticide	Artichoke, Peppers, Tomatoes
000279-02149	Methyl Parathion 2 Thiodan 3 EC	Peppers, Tomatoes
000279-02609	Methyl Parathion 1.0 Thiodan 2.0 C.O.EC Insecticde	Artichoke, Peppers, Tomatoes
000279-02669	Methyl Parathion 25 WP	Artichoke, Peppers, Tomatoes
000352-00270	Du Pont Lorox Week Killer WP	Cotton
000352-00317	Du Pont Sinbar Herbicide	Citrus, Strawberries
000352-00342	Du Pont Lannate Insecticide	Watercress
000352-00361	Du Pont Methomyl Composition	Watercress
000352-00366	Du Pont Methomyl Technical	Watercress
000352-00370	Du Pont Lannate L Insecticide	Watercress
000352-00384	Du Pont Lannate LV Insecticide	Watercress
000352-00391	Du Pont Lorox L Herbicide	Cotton
000352-00394	Du Pont Lorox DF Herbicide	Cotton
000400-00049	Alanap-L	Soybeans, Peanuts
001270-00085	Zep 50% Malathion Emulsifiable Concentrate	Around agricultural premises
001339-00184	Cotton States 6 Lb. Methyl Parathion	Peaches, Plums, Prunes
004170-00043	Betco Indoor/Outdoor Insect Killer	Ornamental plants
005204-00086	TPTH Technical	Carrots
005481-00175	Methyl Parathion 5	Gooseberries, Apples, Pears, Apricots, Cherries, Peaches, Plums, Prunes, Peppers, Tomatoes
005905-00055	4 Lb. Methyl Parathion	Gooseberries, Grapes, Strawberries, Almonds, Apples, Pears, Apricots, Cherries, Peaches, Plums, Prunes, Hops, Cucumbers, Peppers, Tomatoes, Artichoke, Tobacco, Safflower
007401-00155	Hi-Yield 4 Lb. Methyl Parathion	Tobacco
007467-00059	Methyl Parathion 4-EC	Cucumbers, Peppers, Tomatoes
007467-00061	Methyl Parathion 7.5-EC	Cucumbers, Peppers, Tomatoes
008340-00015	Brestan H47, 5-WP	Carrots
008340-00017	TPTH Technical	Carrots
009779-00034	Methyl Parathion 4	Peppers, Tobacco, Tomatoes
010163-00002	Prokil Methyl Parathion 4	Peppers, Tomatoes
010163-00021	Prokil Malathion 8E	Rhubarb
010182-00173	Imidan 50-WP	Citrus, Grapes, Alfalfa, Corn, Cotton, Peas (fresh & dry), Potatoes
010182-00205	Devrinol 50-WP Selective Herbicide	Curbits
010182-00224	Imidan 70-WP	Alfalfa, Grapes
010182-00258	Devrinol 50-DF Selective Herbicide	Cucurbits
019713-00037	Drexel Methyl Parathion 4E	Gooseberries, Grapes, Strawberries, Apples, Pears, Apricots, Plums, Cherries, Peaches, Prunes, Cucumbers, Peppers, Tomatoes, Artichoke, Safflower, Hops
019713-00234	Drexel Methyl Parathion 6E	Grapes, Strawberries, Apples, Peaches, Plums, Prunes, Hops, Peppers, Cucumbers, Tomatoes, Artichoke, Safflower
019713-00256	Drexel 7-1/2 Lb. Methyl Parathion	Peaches, Plums, Prunes
019713-00281	Drexel Methyl Parathion 4	Gooseberries, Grapes, Strawberry, Apples, Pears, Apricots, Cherries, Peaches, Plums, Prunes, Hops, Peppers, Tomatoes, Artichoke, Safflower
033660-00003	Trifluralin Technical	Spearmint, Peppermint
034704-00072	Clean Crop Methyl Parathion 7.5	Gooseberries, Grapes, Strawberries, Apples, Pears, Apricots, Plums, Cherries, Prunes, Hops, Cucumbers, Peppers, Tomatoes, Safflower
034704-00094	Metaspray 5E	Pears, Plums, Prunes, Peppers, Tomatoes, Artichoke, Safflower
034704-00183	Grower Service Methyl Parathion 1.5 Thiodan 3EC	Tobacco
034704-00497	Methyl Parathion 25 WP	Peppers, Tomatoes
051036-00042	Methyl Parathion 4EC	Tobacco, Apples, Grapes, Peaches, Strawberries, Safflower, Peppers, Artichoke, Tomatoes, Cucumbers
051036-00087	Methyl Parathion 7.5-EC	Grapes, Strawberries, Apples, Pears, Apricots, Cherries, Peaches, Plums, Prunes, Hops, Cucumbers, Peppers, Tomatoes, Artichoke, Tobacco, Safflower, Peanuts
051036-00088	Methyl Parathion 6EC	Grapes, Strawberries, Apples, Peaches, Plums, Prunes, Hops, Artichoke, Tobacco, Safflower
055947-00097	Pentac Aquaflow Miticide	Shadehouses, Outdoors, Nursery Stock, Exterior Landscapes

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Registration No.	Product Name	Delete Use On
062719-00093	Treflan E.C.	Peppermint, Spearmint
062719-00116	Treflan M.T.F.	Peppermint, Spearmint
062719-00118	Treflan 5	Peppermint, Spearmint

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company No.	Company Name and Address
000016	Dragon Corp., Box 7311, Roanoke, VA 24019.
000100	Ciba-Geigy Corp., Box 18300, Greensboro, NC 27419.
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000279	Fmc Corp., Agricultural Chemical Group, 1735 Market Street, Philadelphia, PA 19103.
000352	E.I. Du Pont Denemours & Co., Inc., Agricultural Products Department, Box 80038, Wilmington, DE 19880.
000400	Uniroyal Chemical Co. Inc., 74 Amity Rd, Bethany, CT 06524.
001270	Zep Mfg. Co., Box 2015, Atlanta, GA 30301.
001339	Cotton States Chem Co Inc., P O Drawer 157, W Monroe, LA 71291.
004170	Betco Corp., Box 3127, Toledo, OH 43607.
005204	Atochem North America, Inc., 3 Benjamin Franklin Parkway, Philadelphia, PA 19102.
005481	Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles, CA 90023.
005905	Helena Chemical Co., 6075 Popular Ave - Suite 500, Memphis, TN 38119.
007401	Voluntary Purchasing Group, Inc., Box 460, Bonham, TX 75418.
007467	Valley Co-Op Oil Mill, Box 1310, Harlingen, TX 78550.
008340	Hoechst Celanese Corp., Rt 202-206, Box 2500, Somerville, NJ 08876.
009779	Riverside/terra Corp., Box 171376, Memphis, TN 38187.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010182	ICI Americas Inc., Agricultural Products, New Murphy Rd. & Concord Pike, Wilmington, DE 19897.
019713	Drexel Chemical Co., Box 9306, Memphis, TN 38109.
033660	Pazianos Assoc., Agent For: Industria Prodotti Chimici S., 1338 G St SE, Washington, DC 20003.
034704	Platte Chemical Co., 419 18th St. (80632) Box 667, Greeley, CO 80632.
051036	Micro-Flo Co., Box 5948, Lakeland, FL 33807.
055947	Sandoz Crop Protection Corp., 1300 E. Touhy Ave., Des Plaines, IL 60018.
062719	Dowelanco, Quad IV 9002 Purdue Rd., Indianapolis, IN 46268.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute all existing stocks with the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

Dated: January 27, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92-4783 Filed 3-3-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-34023; FRL 4010-8]

Notice of Receipt of Requests for Amendments to Delete uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions, and the deletions will become effective on June 2, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: room 216, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703) 305-5761

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pecticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register.** Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 10 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before June 2, 1992 to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1.—REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Registration no.	Product Name	Delete Use On
000352-00354	Du Pont Benlate Fungicide	Roses, Flowers, Ornamentals, Bulbs, Shade Trees, Greenhouse [Hydroponic/Chemigation Uses], Dip Treatment for Sugarcane, Drench Treatment for Strawberry Transplants
000352-00357	Du Pont Tersan 1991 Turf Fungicide	Roses, Flowers, Ornamentals, Shade Trees, Bulbs, Chemigation Greenhouses
000352-00447	Du Pont Benlate 50 DF Fungicide	Dip Treatment for Sugarcane, Drench Treatment for Strawberry Transplants, Chemigation Greenhouses
000352-00507	Du Pont Benlate 1991 DF Turf/Ornamental Fungicide	Roses, Flowers, Ornamentals, Shade Trees, Bulbs,Chemigation Greenhouses
000400-00423	Terrazole 4 Flowable	Avocado, Strawberries
007969-00060	Dazomet Technical	Once Through Cooling Systems
010182-00205	DEVRINOL 50WP Selective Herbicide	Mint
010182-00253	DEVRINOL 10G Selective Herbicide	Mint
055947-00095	Pentac WP Miticide	All Shadehouses, Outdoors, Nursery Stock, Exterior Landscapes
055947-00105	SPUR 22EW Insecticide	Tobacco

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Company no.	Company Name and Address
000352	E.I. Du Pont Denemours & Co., Inc., Agricultural Products Department, Box 80038, Wilmington, DE 19880.
000400	Uniroyal Chemical Co. Inc., 74 Amity Rd, Bethany, CT 06524.
007969	BASF Corp., Agricultural Chemicals Group, Box 13528, Research Triangle Park, NC 27709.
010182	ICI Americas Inc., Agricultural Products, New Murphy Rd. & Concord Pike, Wilmington, DE 19897.
055947	Sandoz Crop Protection Corp., 1300 E. Touhy Ave., Des Plaines, IL 60018.

II. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute all existing stocks with the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

Dated: January 29, 1992.

Susan H. Wayland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 92-4784 Filed 3-3-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-66155; FRL 3949-7]

Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn, all cancellations will be effective June 2, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (H7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm. 210, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305-5761

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the Federal Register before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 65 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration no.	Product Name	Chemical Name
000100 GA-90-0007	Larvadex 2 SL	*N*-Cyclopropyl-1,3,5-triazine-2,4,6-triamine
000100 IN-90-0002	Larvadex 2 SL	*N*-Cyclopropyl-1,3,5-triazine-2,4,6-triamine
000264 PR-91-0003	Temik 15 G Aldicarb Pesticide	2-Methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl)oxime
000829-00129	SA-50 Brand 2,4-D Amine Weed Killer	Alkanol* amine 2,4-dichlorophenoxyacetate *(salts of the ethanol and isopropanol series)
001021-00252	Pyrethrum Powder	Pyrethrins
001021-01216	Pyrethrum Powder	Pyrethrins
001021-01536	Evercide Concentrate 2383	4-Chloro-alpha-(1-methylethyl)benzeneacetic acid, cyano(3-phenoxyphenyl)methyl ester
003125 FL-88-0022	Nemacur 3	Ethyl 4-(methylthio)-*m*-tolyl isopropylphosphoramidate
003125 MI-90-0004	Bayleton 50% Wettable Powder Fungicide	1-(4-Chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone
004581 TX-78-0011	Accelerate A Harvest Aid for Cotton	7-Oxabicyclo(2.2.1)heptane-2,3-dicarboxylic acid, compd with *N,N*-dimethyl-1-Tridecanamine
004822-00164	Off! Insect Repellent IV	2-Ethyl-1,3-hexanediol
004822-00191	6100 Formula 2 Fly and Mosquito Repellent Gel	2-Ethyl-1,3-hexanediol *N,N*-Diethyl-meta-toluamide and other isomers
004822-00203	Johnson Wax 6017 Formula 10 Insect Repellent	2-Ethyl-1,3-hexanediol *N,N*-Diethyl-meta-toluamide and other isomers
005481-00056	Alco Stump Killer	Ammonium sulfamate
005887-00071	Black Leaf Lawn Weed Killer Spray Can	Dimethylamine 3,6-dichloro-o-anisate Alkanol* amine 2,4-dichlorophenoxyacetate *(salts of the ethanol and isopropanol series)
006718-00009	Pursue Disinfectant Spray	Isopropanol *o*-Phenylphenol
007276-00008	RMC Soluble Prolin Kills Rats and Mice	*N*-(2-Quinoxalinyl)sulfanilamide Warfarin sodium salt
008186-00001	Carboline Polyclad Tropical Anti-Fouling Red 1240-3	Copper (metallic) Cuprous oxide
008186-00004	Carboline Polyclad Tropical Anti-Fouling Red 1240-2	Copper (metallic) Cuprous oxide
008186-00015	Imperial C-Flex 121 Vinyl Copper Anti Fouling Black	Cuprous oxide
008580-00001	Endo Rat Improved Killer Kakes	3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin
008848-00054	707 Flea & Tick Powder for Dogs and Cats	1-Napthyl-*N*-methylcarbamate (Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins
009779-00026	Riverside Parathion 4	*O,O*-Diethyl *O*-*p*-nitrophenyl phosphorothioate
009779-00125	Riverside Dithon 63	*O,O*-Dimethyl *O*-*p*-nitrophenyl phosphorothioate *O,O*-Diethyl *O*-*p*-nitrophenyl phosphorothioate
009779 AL-84-0002	Riverside DSMA Liquid Herbicide	Disodium methanearsonate
035488-20204	Doc Edmonds' Roach Powder	Boric acid
037100-00017	Dimilin ODC	1-(4-Chlorophenyl)-3-(2,6-difluorobenzoyl)urea
045639-00106	Botran 8% Dust	2,6-Dichloro-4-nitroaniline
045639-00109	Botran 6% Dust	2,6-Dichloro-4-nitroaniline
045639-00110	Botran 75 W	2,6-Dichloro-4-nitroaniline
045639-00112	Botran 12% Dust Fungicide	2,6-Dichloro-4-nitroaniline
045639-00113	Botran 15% Dust Fungicide	2,6-Dichloro-4-nitroaniline
045639-00114	Botran 10% Dust	2,6-Dichloro-4-nitroaniline
045639-00115	Botran 4% Dust Fungicide	2,6-Dichloro-4-nitroaniline
045639-00121	Botec Peanut Seed Protectant	2,6-Dichloro-4-nitroaniline cis-*N*-Trichloromethylthio-4-cyclohexene-1,2-dicarboximide
045639-00128	Botran Technical	2,6-Dichloro-4-nitroaniline
048301-00002	NEPD 2-Nitro-2-Ethyl-1,3-Propanediol	2-Nitro-2-ethyl-1,3-propanediol
049592-00001	Spariffic	Calcium hypochlorite 2,3-Dichloro-1,4-napthoquinone
051036-00065	Thiram 65 WP	Tetramethyl thiuramdisulfide
056644-00049	Security Clip & Dip Rooting Compound	Indole-3-butyric acid
056644-00059	Security Brand Rose & Flower Dust	*O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate Sulfur Tetrachloroisophthalonitrile
056644-00061	Security Start-Rite	Indole-3-butyric acid

TABLE 1.—REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration no.	Product Name	Chemical Name
059623 CA-85-0070	Fumitoxin New Coated Tablets-R	Aluminum phosphide
059639-00016	Ortho Dibrom-Sulfur 4-20 Dust	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate Sulfur
059639-00049	Ortho Dibrom Sevin Sulfur 4-5-40 Dust	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate 1-Napthyl-*N*-methylcarbamate Sulfur
059639 LA-91-0004	Ortho Bolero 8EC	*S*-((4-Chlorophenyl)methyl) *N,N*-diethylthiocarbamate
062499-00014	Ortho Dibrom Technical	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate
062499-00023	Orthene Technical	*O,S*-Dimethyl acetylphosphoramidothioate
062499-00026	Orthene MFG	*O,S*-Dimethyl acetylphosphoramidothioate
062499-00027	Chevron Monitor 60% Concentrate	*O,S*-Dimethyl phosphoramidothioate
062499-00036	Chevron Ag Base Lite Neutral	Aliphatic petroleum hydrocarbons
062499-00037	Chevron Premium Ag 100	Aliphatic petroleum hydrocarbons
062499-00038	Chevron Naled Technical	1,2-Dibromo-2,2-dichloroethyl dimethyl phosphate
062499 AR-82-0008	Ortho Bolero 8EC	*S*-((4-Chlorophenyl)methyl) *N,N*-diethylthiocarbamate
062499 LA-82-0005	Ortho Bolero 8EC	*S*-((4-Chlorophenyl)methyl) *N,N*-diethylthiocarbamate
062499 MS-82-0004	Ortho Bolero 8EC	*S*-((4-Chlorophenyl)methyl) *N,N*-diethylthiocarbamate
062499 MS-83-0011	Ortho Bolero 8EC	*S*-((4-Chlorophenyl)methyl) *N,N*-diethylthiocarbamate
064069 PR-89-0001	Temik 10% Granular Aldicarb Pesticide for Agric. Use	2-Methyl-2-(methylthio)propionaldehyde *O*-(methylcarbamoyl)oxime

Unless a request is withdrawn by the registrant within 90 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90-day period.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company no.	Company Name and Address
000100	Ciba-Geigy Corp., Box 18300, Greensboro, NC 27419.
000264	Rhone-Poulenc Ag Co., Box 12014, Research Triangle Park, NC 27709.
000829	Southern Agricultural Insecticides, Inc., Box 218, Palmetto, FL 34220.
001021	McLaughlin Gormley King Co., 8810 Tenth Ave. North, Minneapolis, MN 55427.
003125	Mobay Corp., Agricultural Chemicals Division, Box 4913, Kansas City, MO 64120.
004581	Agchem Division-Pennwalt Corp., Three Parkway, Room 619, Philadelphia, PA 19102.
004822	S.C. Johnson & Son Inc., 1525 Howe Street, Racine, WI 53403.
005481	Amvac Chemical Corp., 4100 E. Washington Blvd., Los Angeles, CA 90023.
005887	Wilbur-Ellis Co., Box 9518, Fresno, CA 93792.
006718	Amway Corp., Technical Services, R & D, 7575 E Fulton Rd., Ada, MI 49335.
007276	RMC Prod Co., Box 848, Ft Dodge, IA 50501.
008186	Carboline Co., 350 Hanley Industrial Ct., St. Louis, MO 63144.
008580	Hilliard Products Inc., 1453 Division Hwy, New Holland, PA 17557.
008848	Safeguard Chemical Corp., 806 E. 144 St., Bronx, NY 10454.
009779	Riverside/terra Corp., Box 171376, Memphis, TN 38187.
035488	J.M.W. App & Co., Inc., 330 Club Drive, Gastonia, NC 28054.
037100	John W. Kennedy Consultants Inc., Agent For: Duphar B. V., 9101 Cherry Ln Suite 113, Laurel, MD 20708.
045639	Nor-Am Chemical Co., 3509 Silverside Rd., Wilmington, DE 19803.
048301	John W. Kennedy, Agent For: Angus Chemical Co, 9101 Cherry Ln Suite 113, Laurel, MD 20708.
049592	Applied Methods Enterprises Inc., 100 Siwanoy Blvd., Eastchester, NY 10707.
051036	Micro-Flo Co., Box 5948, Lakeland, FL 33807.
056644	Security Products Co. of Delaware, Inc., D.B.A. Security Products Co., 485 Oak Place Suite 370, Atlanta, GA 30349.
059623	Calif. Dept. of Food & Agri., 1220 N St, Sacramento, CA 95814.
059639	Valent U.S.A. Corp., 1333 North California Blvd. Box 8025, Walnut Creek, CA 94596.
062499	Chevron Chemical Co., Agricultural Chemicals Division, 15049 San Pablo Ave. Box 4010, Richmond, CA 94804.

TABLE 2.—REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company no.	Company Name and Address
064069	Ochoa Fertilizer Co., Inc., GPO 3128, San Juan, PR 00936.

III. Procedures for Withdrawal of Request

Registrants who chose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before June 2, 1992. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit registrants to continue to sell and distribute existing stocks of the cancelled products for 1 year after the date of this notice. Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

Dated: January 27, 1992.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 92–4923 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–30325; FRL 3944–7]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by April 3, 1992.

ADDRESSES: By mail submit comments identified by the document control number [OPP–30325] and the registration/file number, attention Product Manager (PM) named in each application at the following address: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product Manager	Office location/ telephone number	Address
PM10 Richard Mountfort	Rm. 261, CM #2 (703–557–0502).	Environmental Protection Agency 1921 Jefferson Davis Hwy Arlington, VA 22202
PM 21 Susan Lewis	Rm. 227, CM #2 (703–557–1900).	-Do-

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 45639–RLU. Applicant: NOR-AM Chemical Company, PO Box 7495, 3509 Silverside Road, Wilmington, DE 19803. Product name: Flutolanil Technical. Fungicide. Active ingredient: Flutolanil *N*-[3-(1-methylethoxy)phenyl]-2-trifluoromethyl)benzamide 98.3 percent. Proposed classification/Use: General. For formulating use only. (PM 21)

2. File Symbol: 45639–RLG. Applicant: NOR-AM Chemical Company, PO Box 7495, 3509 Silverside Road, Wilmington, DE 19803. Product name: ProStar 50 WP. Fungicide. Active ingredient: Flutolanil *N*-[3-(1-methylethoxy)phenyl]-2-trifluoromethyl]benzamide 50.3 percent. Proposed classification/Use: General. To control disease on turf. (PM 21)

3. File Symbol: 352–LLR. Applicant: E. I. Du Pont de Nemours and Co, Inc., Agricultural Products Department, PO Box 80038, Wilmington, DE 19880-0038. Product name: Technical A0159. Insecticide. Active ingredient: [2*H*-1,3-Thiazine, tetrahydro-2-(nitromethylene) 97 percent. Proposed classification/Use: General. For formulating use only. (PM 10)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Fields Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703–557–2805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: February 8, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–4785 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–F

[OPP–180862; FRL 4048–1]

Receipt of Application for Emergency Exemption to use Methyl Anthranilate Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received specific exemption requests from the Washington Department of Agriculture (hereafter referred to as the "Applicant") to use the pesticide methyl anthranilate (CAS 134–20–3) on up to 1,500 acres of cherries and up to 500 acres of highbush blueberries as a bird repellant. The Applicant proposes the use of a new chemical; therefore, in accordance with 40 CFR 166.24, EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before March 19, 1992.

ADDRESSES: Three copies of written comments, bearing the identification notation "OPP–180862," should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain Confidential Business Information must be provided by the submitter for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed pursuant to this notice will be available for public inspection in rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Andrea Beard, Registration Division (H7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Office location and telephone number: rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–305–7890).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration provision of FIFRA if he determines that emergency conditions exist which require such exemption. The Applicant has requested the Administrator to issue specific exemptions for the use of methyl anthranilate on cherries and highbush blueberries as a bird repellant. Information in accordance with 40 CFR part 166 was submitted as part of this request.

The Applicant claims that birds such as robins (*Turdus migratorius*), starlings (*Sturnus vulgaris*), finches (*Carpodacus spp.*), sparrows (*Spizella spp.*), crows and ravens (*Corvus spp.*), and waxwings (*Bombycilla spp.*) are primary pests of cherries and highbush blueberries in Washington. Birds attack the crop just as the fruit begins to mature and continue their feeding throughout the harvest period (generally 4–6 weeks). The Applicant claims that a good degree of control was previously achieved using the chemical methiocarb. However, the product was withdrawn from the market in 1989, and various forms of scare tactics used since then have proven ineffective. The Applicant states that tactics such as propane cannons, "avalarms", balloons, scarecrows, reflecting tape, and pyrotechnics lose their effectiveness within a few hours or days. Additionally, the Applicant claims that while no data exists in Washington documenting the increase or decrease in pest bird species, mild winters and warm springs during the last 2 years have contributed to their increased abundance. Capture rates of starlings by USDA Animal and Plant Health Inspection Services', Animal Damage Control agents in Washington have increased more than four-fold during the last year.

Methyl anthranilate is the chief chemical constituent of concord grapes, and gives the variety its distinctive odor and flavor. It is also found in several other cultivars of grapes, and all of these cultivars suffer little bird damage. Concentrated methyl anthranilate has been used for years as a flavor additive for drugs, candies, bubble gum, and soft drinks. At low concentrations, it imparts a rather pleasant flavor when tasted by humans. At elevated concentrations, it begins to taste bitter. Birds, however, have been found to reject methyl anthranilate at almost every concentration level. In tests, the birds will begin to feed upon treated fruit only when alternative food sources are not available and the birds have not eaten for several hours. Methyl anthranilate is also characterized by its distinctive odor. Tests have shown that when the odor is associated with the taste, the odor alone will be sufficient to discourage the birds' feeding.

The Applicant states that, depending upon the number of birds using the field as a primary feeding area, 20 – 50 percent of the cherry crop can be lost. The applicant claims that a conservative estimate of 18 percent yield loss in cherries due to bird damage translates to total annual losses of about $1,680 per acre. Various estimates are given for estimated loss in blueberries. The applicant states that economic conditions in the blueberry industry have been extremely difficult in recent years as growers struggle with low prices, increased labor costs, and heavy bird damage. Estimates of yield loss in blueberries due to bird damage range from about 20 – 80 percent if the crop is left unprotected. The applicant claims that an estimate of 20 percent yield loss in blueberries due to bird damage translates to total annual losses of about $1,849 per acre.

The Applicant requests to treat up to 1,500 acres of cherries, using up to 52,500

gallons of product (120,225 lb. a.i.). The use period would be May 1 through July 31, 1992, and a maximum of 7 applications would be made with a minimum of 6 days between applications. The product would be mixed at a rate of 1 gallon product per 100 gallons of water, and applications would be made with ground equipment only, at a rate of 300 – 500 gallons of finished spray solution (3 – 5 gallons product) per acre. A 6-day pre-harvest interval would be observed. The Applicant requests to treat up to 500 acres of highbush blueberries, using up to 2,800 gallons of product (6,412 lbs. a.i.). The use period would be June 15 through August 30, 1992, and a maximum of 7 applications would be made with a minimum of 6 days between applications. The product would be mixed at a rate of 1 gallon product per 100 gallons of water, and applications would be made with ground equipment only, at a rate of 50 – 100 gallons of finished spray solution (0.5 – 1 gallon product) per acre. A 6-day pre-harvest interval would be observed.

This notice does not constitute a decision by EPA on the applications themselves. The regulations governing section 18 require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient not contained in any currently registered pesticide). Such notice provides for the opportunity for public comment on the application. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above. The Agency, accordingly, will review and consider all comments received during the comment period in determining whether to issue the emergency exemptions requested by the Washington Department of Agriculture.

Dated: February 10, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–4782 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–Fs

[PP OG3819/T617; FRL 4047–3]

Chloroethoxyphos; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the insecticide chloroethoxyphos in or on certain raw agricultural commodities.

DATES: These temporary tolerances expire January 16, 1993.

FOR FURTHER INFORMATION CONTACT By mail: Dennis Edwards, Product Manager (PM) 19, Registration Division (H7505C), Office of Pesticide Programs, 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, (703) 305–6386.

SUPPLEMENTARY INFORMATION: EPA issued a notice, which was published in the **Federal Register** of June 19, 1991 (56 FR 28153), announcing the extension of temporary tolerances for the combined residues of the insecticide chloroethoxyphos (phosphorothioic acid, *O,O*-diethyl *O*-(1,2,2,2,-tetrachloroethyl) ester) in or on the raw agricultural commodities field corn, grain, forage and fodder at 0.02 part per million (ppm). These tolerances were issued in response to pesticide petition (PP) OG3819, submitted by E. I. du Pont de Nemours and Co., Inc., Agricultural Products, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880–0038.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit 352–EUP–152, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Du Pont must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire January 16, 1993. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice 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).

Authority: 21 U.S.C. 346a(j).

Dated: February 8, 1992.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 92–4786 Filed 3–3–92; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MARITIME COMMISSION

Lykes Bros. Steamship Co., Inc., et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011367–001.

Title: Colombia Discussion Agreement.

Parties:

Lykes Bros. Steamship Co., Inc., Flota Mercante Grancolombiana S.A. (F.M.G.), Frontier Liner Services.

Synopsis: The proposed amendment would add Compania Sud Americana De Vapores as a party to the Agreement.

Dated: February 28, 1992.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 92-5016 Filed 3-3-92; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

February 28, 1992.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR § 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be submitted on or before March 19, 1992.

ADDRESS: Comments, which should refer to the OMB Docket number, should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.8(a) of the Board's Rules Regarding Availability of Information, 12 CFR § 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer whose name appears below. Federal Reserve Board Clearance Officer—Frederick J. Schroeder—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829).

Proposal to approve under OMB delegated authority the extension with revision of the following reports:

1. *Report title:* Report of Commercial Paper Outstanding Placed by Brokers and Dealers; Report of Commercial Paper Outstanding Placed Directly by Issuers; Daily Report of Offering Rates on Commercial Paper.

Agency form number: FR 2957a, FR 2957b, and FR 2957d.
OMB Docket number: 7100-0002.
Frequency: Monthly, Weekly, and Daily.
Reporters: Brokers, Dealers, and Direct Issuers of Commercial Paper.
Annual reporting hours: 1457.
Estimated average hours per response: .2 to .7.
Number of respondents: 67.
Small businesses are not affected.
General description of report: This information collection is voluntary and is authorized by law [12 U.S.C. 263, 353 et seq., and 461] and is given confidential treatment [5 U.S.C. 552(b)(4)].
Abstract: These reports provide information on the amounts outstanding and selected offering rates on commercial paper, which is used by the Federal Reserve to gauge the aggregate flow of funds and to determine the composition of short-term financing components in credit markets.

Proposal to approve under OMB delegated authority the implementation of the following reports:

1. *Report title:* Report on Total Foreign Exchange Turnover.

Agency form number: FR 3036a and FR 3036c.
OMB Docket number: 7100-0252.
Frequency: One-time survey.
Reporters: Principals and brokers that are active in the U.S. foreign exchange market.
Annual reporting hours: 13,120.
Estimated average hours per response: 64.
Number of respondents: Approximately 205.
Small businesses are not affected.
General description of report: This information collection is voluntary and is authorized by law [12 U.S.C. 248(a), 353-359, and 3105(b)] and is given confidential treatment [5 U.S.C. 552(b)].
Abstract: This survey will gather information as of April 1992 on turnover volume in the U.S. foreign exchange market from approximately 190 bank and nonbank financial institutions and approximately 15 brokers. The information will assist the Federal Reserve in assessing market structure and in implementing monetary policy. Aggregated survey data will be compiled with information from similar surveys conducted simultaneously in about 25 foreign countries and made available to the public. This information will enhance public awareness of the size and structure of the global foreign exchange market.

2. *Report title:* 1992 Survey of Consumer Finances.

Agency form number: FR 3059.
OMB Docket number: 7100-0254.
Frequency: One-time survey.
Reporters: U.S. families.
Annual reporting hours: 6,000 hours.
Estimated average hours per response: 1.3 hours.
Number of respondents: Approximately 4,500 families.
Small businesses are not affected.
General description of report: This information collection is voluntary and is authorized by law [12 U.S.C. 225a., 1828(c), 1842 and 1843, Pub. L. No. 102-242.] The names and other characteristics that would permit personal identification of respondents will be retained by the Board's contractor and not made available to the Board or other Federal Reserve Staff. Accordingly, the Board believes that such data are not records subject to the Freedom of Information Act. If these data be deemed records, however, the Board believes that they are exempt from disclosure pursuant to exemption 6 in the FOIA, 5 U.S.C. 552(b)(6).
Abstract: The survey, to be conducted between April and October 1992, will collect data on the assets, debts, income, work history, pension rights, use of financial services, and attitudes of a sample of U.S. families. The survey is the only source of

representative information on the structure of finances of U.S. families.

Board of Governors of the Federal Reserve System, February 28, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-5036 Filed 3-3-92; 8:45 am]

BILLING CODE 6210-01-M

Banc One Corporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 30, 1992.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Banc One Corporation, Columbus, Ohio, and Banc One Ohio Corporation, Columbus, Ohio; to merge with First Security Corporation of Kentucky, Lexington, Kentucky, and thereby indirectly acquire First Security Bank and Trust Company of Lexington, Lexington, Kentucky; and First Security Affiliates, Inc., Lexington, Kentucky, and thereby indirectly acquire First Security Bank and Trust Company of Clark County, Winchester, Kentucky; First Security Bank and Trust Company of Danville, N.A., Danville, Kentucky; and First Security Bank and Trust Company of Madison County, Richmond, Kentucky.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Community Bancorp of Louisiana, Inc., Raceland, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Lafourche, Raceland, Louisiana.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. The Peoples Bancshares, Inc., Sardis, Tennessee; to beocme a bank holding company by acquiring 100 percent of the voting shares of The Peoples Bank, Sardis, Tennessee.

Board of Governors of the Federal Reserve System, February 27, 1992.

Jennifer J. Johnson,

Associote Secretory of the Boord.

[FR Doc. 92-4989 Filed 3-3-92; 8:45 am]

BILLING CODE 6210-01-F

The First National Company; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 30, 1992.

A. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. The First National Company, Storm Lake, Iowa; to engage *de novo* through its subsidiary, The First Leasing Company, Storm Lake, Iowa, in making and servicing loans pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, February 27, 1992.

Jennifer J. Johnson,

Associate Secretory of the Board.

[FR Doc. 92-4990 Filed 3-3-92; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Current List of Laboratories Which Meet Minimum Standards to Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, ADAMHA, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

FOR FURTHER INFORMATION CONTACT: Denise L. Goss, Program Assistant, Drug Testing Section, Division of Applied Research, National Institute on Drug Abuse, Room 9-A-53, 5600 Fishers Lane, Rockville, Maryland 20857; tel.: (301)443-6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were

developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, onsite inspections.

Laboratories which claim to be in the applicant stage of NIDA certification are not to be considered as meeting the minimum requirements expressed in the NIDA Guidelines. A laboratory must have its letter of certification from HHS/NIDA which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

AccuTox Analytical Laboratories, 427 Fifth Avenue, NW., Attalla, AL 35954–0770, 205–538–0012

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Road, suite 21, Nashville, TN 37211, 615–331–5300

Alabama Reference Laboratories, Inc., 543 South Hull Street, Montgomery, AL 36103, 800–541–4931/205–263–5745

Alletess Medical Laboratory, Inc., 529 Beacon Parkway West #102, Birmingham, AL 35209, 800–221–0335

Allied Clinical Laboratories, 201 Plaza Boulevard, Hurst, TX 76053, 817–282–2257

American Medical Laboratories, Inc., 11091 Main Street, P.O. Box 188, Fairfax, VA 22030, 703–691–9100

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, suite 250, Las Vegas, NV 89119–5412, 702–733–7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787

Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414–355–4444/800–877–7016

Bellin Hospital-Toxicology Laboratory, 2789 Allied Street, Green Bay, WI 54304, 414–496–2487

Bioran Medical Laboratory, 415 Massachusetts Avenue, Cambridge, MA 02139, 617–547–8900

Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305–325–5810

Center for Human Toxicology, 417 Wakara Way-Room 290, University Research Park, Salt Lake City, UT 84108, 801–581–5117

Columbia Biomedical Laboratory, Inc., 4700 Forest Drive, Suite 200, Columbia, SC 29206, 800–848–4245/803–782–2700

Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412–488–7500

Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800–445–6917

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., P.O. Box 12652, Research Triangle Park, NC 27709, 919–549–8263/800–833–3984

Continental Bio-Clinical Laboratory Service, Inc., A MetPath Laboratory, 2740 28th Street, SW, Grand Rapids, MI 49509, 800–777–0706/616–538–6700

Cox Medical Centers, Department of Toxicology, 1423 North Jefferson Avenue, Springfield, MO 65802, 800–876–3652/417–836–3093

Damon Clinical Laboratories, 140 East Ryan Road, Oak Creek, WI 53154, 800–365–3840 (name changed: formerly Chem-Bio Corporation; CBC Clinilab)

Damon Clinical Laboratories, 8300 Esters Blvd., suite 900, Irving, TX 75063, 214–929–0535

Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904–787–9006

Drug Labs of Texas, 15201 I 10 East, suite 125, Channelview, TX 77530, 713–457–3784

DrugScan, Inc., P. O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310

Eagle Forensic Laboratory, Inc., 950 North Federal Highway, suite 308, Pompano Beach, FL 33062, 305–946–4324

Eastern Laboratories, Ltd., 95 Seaview Boulevard, Port Washington, NY 11050, 516–625–9800

ElSohly Laboratories, Inc., 1215–1/2 Jackson Ave., Oxford, MS 38655, 601–236–2609

Employee Health Assurance Group, 405 Alderson Street, Schofield, WI 54476, 800–627–8200 (name change: formerly Alpha Medical Laboratory, Inc.)

General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608–267–6267

Harris Medical Laboratory, 7606 Pebble Drive, Fort Worth, TX 76118, 817–595–0294

HealthCare/Preferred Laboratories, 24451 Telegraph Road, Southfield, MI 48034, 800–328–4142 (inside MI)/800–225–9414 (outside MI)

Laboratory of Pathology of Seattle, Inc., 1229 Madison St., suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672

Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504–392–7961

Mayo Medical Laboratories, 200 S.W. First Street, Rochester, MN 55905, 800–533–1710/507–284–3631

Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburgh, PA 15229, 412–931–7200

MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901–795–1515

MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 9176 Independence Avenue, Chatsworth, CA 91311, 818–718–0115/800–331–8670 (outside CA)/800–464–7081 (inside CA) (name changed: formerly Laboratory Specialists, Inc., Abused Drug, Laboratories)

MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 2356 North Lincoln Avenue, Chicago, IL 60614, 312–880–6900 (name changed: formerly Bio-Analytical Technologies)

MedTox Laboratories, Inc., 402 W. County Road D, St Paul, MN 55112, 612–636–7466/800–832–3244

Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 North Senate Boulevard, Indianapolis, IN 46202, 317–929–3587

Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Avenue, Peoria, IL 61636, 800–752–1835/309–671–5199

MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708–595–3888

MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201–393–5000

MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800–492–0800/818–343–8191,

National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 410–536–1485 (name changed: formerly Maryland Medical Laboratory, Inc.)

National Drug Assessment Corporation, 5419 South Western, Oklahoma City, OK 73109, 800–749–3784 (name changed: formerly Med Arts Lab)

National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703–742–3100/800–572–3734 (inside VA)/800–336–0391 (outside VA)

National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, Suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522

National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103–6710, 919–

760–4620/800–334–8627 (outside NC)/ 800–642–0894 (inside NC)
National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800–251–9492
National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805–322–4250
Nichols Institute Substance Abuse Testing (NISAT), 8985 Balboa Avenue, San Diego, CA 92123, 800–446–4728/ 619–694–5050 (name changed: formerly Nichols Institute)
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440–0972, 503–687–2134
Parke DeWatt Laboratories, Division of Comprehensive Medical Systems, Inc., 1810 Frontage Rd., Northbrook, IL 60062, 708–480–4680
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400
PDLA, Inc. (Precision), 5 Industrial Park Drive, Oxford, MS 38655, 601–236–5600/800–237–7352
PDLA, Inc. (Princeton), 100 Corporate Court, So. Plainfield, NJ 07080, 908–769–8500/800–237–7352
PharmChem Laboratories, Inc., 1505–A O'Brien Drive, Menlo Park, CA 94025, 415–328–6200/800–446–5177
Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619–279–2600
Precision Analytical Laboratories, Inc., 13300 Blanco Road, Suite #150, San Antonio, TX 78216, 512–493–3211
Puckett Laboratory, 4200 Mamie Street, Hattiesburgh, MS 39402, 601–264–3856/800–844–8378
Regional Toxicology Services, 15305 N.E. 40th Street, Redmond, WA 98052, 206–882–3400
Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205–581–4170
Roche Biomedical Laboratories, 1957 Lakeside Parkway, Suite 542, Tucker, GA 30084, 404–939–4811
Roche Biomedical Laboratories, Inc., 1912 Alexander Drive, P.O. Box 13973, Research Triangle Park, NC 27709, 919–361–7770
Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800–437–4986
Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601–342–1286
Scott & White Drug Testing Laboratory, 600 South 25th Street, Temple, TX 76504, 800–749–3788
S.E.D. Medical Laboratories, 500 Walter NE Suite 500, Albuquerque, NM 87102, 505–848–8800
Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800–648–5472
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818–376–2520
SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404–934–9205 (name changed: formerly SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburg, IL 60173, 708–885–2010 (name changed: formerly International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 11636 Administration Drive, St. Louis, MO 63146, 314–567–3905
SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800–523–5447 (name changed: formerly SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301 (name changed: formerly SmithKline Bio-Science Laboratories)
South Bend Medical Foundation, Inc., 530 North Lafayette Boulevard, South Bend, IN 46601, 219–234–4176
Southgate Medical Services, Inc., 21100 Southgate Park Boulevard, Cleveland, OH 44137–3054, 800–338–0166 (outside OH)/800–362–8913 (inside OH) (name changed: formerly Southgate Medical Laboratory)
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 North Lee Street, Oklahoma City, OK 73102, 405–272–7052
St. Louis University Forensic Toxicology Laboratory, 1205 Carr Lane, St. Louis, MO 63104, 314–577–8628
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Avenue, Miami, FL 33166, 305–593–2260

Richard A. Millstein,
Acting Director, National Institute on Drug Abuse.

[FR Doc. 92–5146 Filed 3–3–92; 8:45 am]
BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 92N–0102]

Drug Export: RETRO–TEK™ HIV–1 WESTERN BLOT Test Kit

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cellular Products, Inc., has filed an application requesting approval for the export of the RETRO–TEK™ HIV–1 WESTERN BLOT Test Kits to Italy.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of biological products that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Cellular Products, Inc., 872 Main St., Buffalo, NY 14202, has filed an application requesting approval for the export of RETRO–TEK™ HIV–1 WESTERN BLOT Test Kits to Italy. The RETO–TEK™ HIV–1 WESTERN BLOT Test Kit is an in vitro qualitative assay for the detection and identification of specific immunoreactivities to the human immunodeficiency virus type 1 (HIV–1). The test is intended to provide more specific analysis of immunoreactivities to HIV–1 in specimens scored as repeatably reactive for antibodies to HIV–1 using blood screening assays such as the enzyme linked immunosorbent assay (ELISA). The application was received and filed in the Center for Biologics Evaluation

and Research on February 14, 1992, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by March 16, 1992, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Biologics Evaluation and Research (21 CFR 5.44).

Dated: February 24, 1992.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 92-5055 Filed 3-3-92; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions and Delegations of Authority

Part F. of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), FR, Vol. 56, No. 57, pag. 12375, dated, Monday, March 25, 1991) is amended to reflect a change within the Office of the Associate Administrator for Operations. The specific change will establish a new Office of Planning and Support.

The specific amendments to Part F. are described below:

- Section FP. 10, The Office of the Associate Administrator for Operations is amended to include a new organizational component to read as follows:

F. Office of Planning and Support (FP-2)

- Develops and manages systems for integrating and focusing Operations' efforts, resources and capabilities toward achieving initiatives of the HCFA Administrator and the Associate Administrator for Operations (AAO).
- Establishes and implements the integrated and coordinated AAO-wide management planning, workplanning, and performance monitoring processes.
- Formulates policies and positions on management programs having AAO-wide impact, including financial management; budget preparation and execution; resource utilization; and management and organizational analysis. Coordinates the preparation and execution of the AAO-wide budget. Furnishes financial management advice to AAO and provides liaison on AAO fiscal matters with HCFA's Office of Budget and Administration.
- Coordinates and monitors the development of AAO-wide ADP plans and information strategies. Designs, develops, and manages AAO-wide management information systems.
- Develops and implements AAO program and administrative delegations of authority.
- Ensures regional office input to the development, review and clearance of program policies, procedures, and instructions.

Dated: February 25, 1992.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 92-4935 Filed 3-3-92; 8:45 am]

BILLING CODE 4120-03-M

Privacy Act of 1974; Report of New System

AGENCY: Department of Health and Human Services (HHS), Health Care Financing Administration (HCFA).

ACTION: Notice of new system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, we are proposing to establish a new system of records, "Evaluation of the United Mine Workers of America Health and Retirement Funds Medicare Part B Capitation Demonstration, HHS/HCFA/ORD No. 09-70-0054." We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine uses" portion of the system be published for comment, HCFA invites comments on all portions of this notice. See "Dates" section for comment period.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, on February 28, 1992. The new system of record will become effective April 28, 1992, unless HCFA receives comments which require alteration to the system.

ADDRESS: The public should address comment to Richard A. DeMeo, HCFA Privacy Act Officer, Office of Budget and Administration, Health Care Financing Administration, Room 2-H-4 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Ronald Lambert, Division of Health Systems and Special Studies, Office of Demonstrations and Evaluations, Office of Research and Demonstrations, Health Care Financing Administration, Room 2306 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone (301) 966-6624.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records collecting data under the authority of section 1875 of the Social Security Act. The purpose of this system of records is to provide data necessary to evaluate the United Mine Workers of America (UMWA) Health and Retirement Funds' Medicare Part B Capitation Demonstration. This demonstration will determine the cost effectiveness of the capitation arrangement with UMWA, and will assess the changes in access to care and beneficiary satisfaction resulting from the demonstration. The evaluation will analyze data over a 6-year period (July 1987 through June 1993) and will include all UMWA beneficiaries over that period. The UMWA Health and Retirement Funds' beneficiaries are distributed throughout the U.S. but are heavily concentrated in the coal fields of Appalachia. States with the heaviest concentration are West Virginia, Pennsylvania, Kentucky, Alabama, Ohio, and Tennessee. Other States include Indiana, Illinois, California, Oklahoma, Washington, Colorado, and Wyoming. The system of records is expected to include data collected from HCFA Medicare files, including Health Insurance Skeleton Eligibility Writeoff (HISKEW), Medicare Provider Analysis and Review (MEDPAR) data, Part B Medicare Analysis Data (BMAD), and National Claims History data, as well as Department of Labor (DOL) claims data, and UMWA claims data. It will also include data from a survey if one is conducted. Information will be collected on approximately 103,000 UMWA

beneficiaries. This information will be collected by Abt Associates, Inc., the contractor that will conduct an independent evaluation of the demonstration. In order to fulfill the objectives and complete the tasks of this contract, Abt must have individually identifiable records. Since we are proposing to establish this system of records in accordance with the requirements and principles of the Privacy Act (5 U.S.C. 552a), it will not have an unfavorable effect on the privacy or other personal rights of individuals

The Privacy Act permits us to disclose information, without the consent of the individual, for "routine use"—that is, disclosure for purposes that are compatible with the purposes for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for the purpose of adminstering the Medicare program for which we are responsible.

The disclosures under the routing uses provision will not result in any unwarranted adverse effects on personal privacy.

Dated: February 20, 1992.

Gail R. Wilensky,

Adminstrator, Health Care Financing Administration.

09-70-0054

SYSTEM NAME:

Evaluation of the United Mine Workers of America Health and Retirement Funds Medicare Part B Capitation Demonstration.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The evaluation contractor is Abt Associates, Inc., 55 Wheeler Street, Cambridge, Massachusetts 02138.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Retirees of the United Mine Workers of America (UMWA) who are Medicare eligible

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain information concerning a patient's name, Health Insurance Claim Number, demographic characteristics (for example, age and sex), medical diagnoses and conditions, receipt of services and amounts billed and allowed for services, the facilities and practitioners providing services, and responses to survey questions concerning access to health care and satisfaction with health care services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1875 of the Social Security Act.

PURPOSE(S):

To provide data necessary to evaluate the United Mine Workers of America Health and Retirement Funds Medicare Part B Capitation Demonstration, including the impact on beneficiary cost, utilization, access and satisfaction.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to:

1. A congressional office, from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

2. The Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

a. The Department of Health and Human Services (HHS), or any component therof;

b. Any HHS employee in his or her official capacity;

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof (when HHS determines that the litigation is likely to affect HHS or any of its components);

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that each disclosure is compatible with the purpose for which the records were collected.

3. To a contractor for the purpose of collating, analyzing, aggregating or otherwise refining or processing records in this system for development, modifying and/or manipulating ADP software. Data would also be disclosed to contractors incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

4. To an individual or organization for a research, demonstration, evaluation, or epidemiologic project related to the prevention of disease or disability or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the research purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form;

(2) Is of sufficient importance to warrant the effect or risk on the privacy of the individual that additional exposure of the record might bring; and

(3) There is reasonable probability that the objective for the use would be accomplished.

c. Requires the recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record;

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient presents an adequate justification of a research or health nature for retaining such information; and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual;

(b) For use in another research project, under these same conditions, and with the written authorization of HCFA;

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit; or

(d) When required by law.

d. Secures a written statement attesting to the recipient's understanding of and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and magnetic media.

RETRIEVABILITY:

Information will be retrieved by beneficiary's name and health insurance claim number.

SAFEGUARDS:

The contractor will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by HHS Information Resources Manual (for example, use of passwords) and the National Bureau of Standards Federal Information Processing Standards. Similar safeguards will be provided if any records are transferred to HCFA central office.

RETENTION AND DISPOSAL:

Hardcopy data collection forms and magnetic tapes (or equivalent media) with identifiers will be retained in secure storage areas. Records will be retained for 1 year after the termination of the evaluation contract. The disposal techniques of degaussing will be used to strip magnetic tape (or equivalent media) of identifying names and numbers. Hardcopy records will be destroyed at this time.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Research and Demonstrations, Health Care Financing Administration, 2230 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for system records should be addressed to the system manager at the address indicated above. The requestor must specify the name, address, and health insurance number.

RECORD ACCESS PROCEDURE:

Same as notification procedures. Requestors should reasonably specify the record contents being sought. These procedures are in accordance with Department Regulations 45 CFR 5b.5(a)(2).

CONTESTING RECORD PROCEDURE:

Contact the system manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting it (for example, why it is inaccurate, irrelevant, incomplete, or not current). These procedures are in accordance with Department Regulations, 45 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Sources of information contained in this records system are expected to include: Data collected from the HISKEW files; Data collected from the National Claims History; MEDPAR data; BMAD data; UMWA claims data; DOL claims data from DOL system of records DOL–ESA–9, entitled "Office of Workman's Compensation Programs. Black Lung Medical Treatment Records File"; and survey data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 92–4841 Filed 3–3–92; 8:45 am]

BILLING CODE 4120–03–M

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing Administration (HCFA), Department of Health and Human Services (HHS).

ACTION: Notice of New System of Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 we are proposing to establish a new system of records, "The Medicare/Medicaid Multi-State Case-Mix and Quality Data Base for Nursing Home Residents," HHS/HCFA/ORD, No. 09–70–0050.

We have provided background information about the proposed system in the "Supplementary Information" section below. Although the Privacy Act requires only that the "routine use" portion of the system be published for comment, HCFA invites comments on all portions of this notice. See "Dates" section for comment period.

DATES: HCFA filed a new system report with the Chairman of the Committee on Government Operations of the House of Representatives, the Chairman of the Committee on Governmental Affairs of the Senate, and the Acting Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on February 28, 1992. The new system of records will become effective April 28, 1992 unless HCFA receives comments which require alteration to the system.

ADDRESS: The public should address comments to Richard A. DeMeo, HCFA Privacy Act Officer, Office of Budget and Administration, HCFA, Room 2–H–4, East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Elizabeth S. Cornelius, Project Officer, Division of Long Term Care Experimentation, Office of Research and Demonstrations, HCFA, 2–F–4 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207. Telephone 410–966–6655.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records under its demonstration authority of section 402(a) of the Social Security Amendments of 1967, Public Law No. 90–248, as amended by section 222(b) of the Social Security Amendments of 1972, Public Law No. 92–603, to provide for retrieval of individually identifiable resident assessment information necessary to support evaluation of the "Medicare/Medicaid Nursing Home Case-Mix and Quality Demonstration."

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose which is compatible with the purposes for which the information was collected. Any such compatible use of data is known as a "routine use." The proposed routine uses in this system meet the compatibility requirement of the Privacy Act since they are consistent with the purpose of analyzing data on the physical, mental, functional, and psychosocial status of nursing facility residents living in the States covered by this HCFA demonstration. HCFA will use these analyses to evaluate the quality of nursing facility care and to improve the methods by which the Medicare and Medicaid programs pay for such care. Disclosure of information under these routine uses will not result in any unwarranted adverse effects on personal privacy.

Dated: February 20, 1992.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

09–70–0050

SYSTEM NAME:

The Medicare/Medicaid Multistate Case-Mix and Quality Data Base for Nursing Home Residents.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Health Care Financing Administration (HCFA), Office of Research and Demonstrations (ORD), 6325 Security Boulevard, Baltimore, Maryland 21207.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons living in nursing facilities participating in the Medicare and/or Medicaid programs in Kanasa, Maine, Mississippi, New York, South Dakota, and Texas. These States are participating voluntarily in the HCFA

sponsored demonstration and have agreed to transmit data to HCFA to support the routine uses described herein.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system shall contain the information found in the comprehensive assessments of persons residing in Medicare—participating skilled nursing facilities, and Medicaid—participating facilities in the above States. This information is found in the Minimum Data Set Plus (MDS+) which these six States use to meet the requirements of sections 1819(b)(3) and 1919(b)(3) of the Social Security Act. Sections 1819(b)(3) and 1919(b)(3) require that States specify a nursing facility resident assessment instrument that the Secretary of the Department of Health and Human Services reviews and then approves. These six States have elected to use the MDS+ to meet this requirement. It is the information contained in the MDS+ that forms the system's records. The MDS+ includes standard demographic data for identification such as resident name, social security number, gender, race/ethnicity, and date of birth. Additional information includes a resident's:

Customary routines prior to nursing facility admission
Cognitive status
Communication/hearing status
Vision status
Status in performing activities of daily living
Continence status
Psychosocial well-being status
Mood and behavior status
Activity pursuit patterns
Disease diagnoses, health conditions, and symptoms
Nutritional status
Oral health status
Skin condition
Medications use
Special treatments and assistive devices needed, and received

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 402(a) of the Social Security Amendments of 1967, Public Law No. 90–248, as amended by section 222(b) of the Social Security Amendments of 1972, Public Law No. 92–603.

PURPOSE(S):

To provide data necessary to monitor implementation, and to evaluate the results of the Medicare/Medicaid Multistate Case-Mix and Quality Demonstration, including assessing the impact of a nursing facility case-mix payment system on the quality of nursing facility care.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

Disclosure may be made:

1. To the prime contractors, and their subcontractors for the purpose of assisting State Medicaid and Survey and Certification agencies in Kansas, Maine, Mississippi, New York, South Dakota, and Texas, and HCFA in designing, implementing, and monitoring Medicare/Medicaid nursing facility prospective payment systems using the information contained in the system. These contractors and their employees shall be required to maintain Privacy Act safeguards with respect to such records.

2. To HCFA contractors and subcontractors to evaluate the Medicare/Medicaid Multistate Case-Mix and Quality Demonstration. These contractors and their employees shall be required to maintain Privacy Act safeguards with respect to such records.

3. To a congressional office of an individual from the record, in response to an inquiry from the congressional office made at the request of that individual.

4. To the Department of Justice, to a court or other tribunal, or to another party before such a tribunal, when:

a. The Department of Health and Human Service (HHS), or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity when the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

d. The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components; is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

5. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form.

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished:

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use of disclosure of the record except:

(a) In emergency circumstances affecting the health and safety of any individual, or

(b) For use in another research project, under these same conditions and with written authorization of HCFA, or

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape, and direct access storage device.

RETRIEVABILITY:

Records may be retrieved by the resident's name, social security number, health insurance claim number, or Medicaid identification number.

SAFEGUARDS:

a. Authorized Users: only HHS personnel or HHS contract personnel

whose duties require the use of the system may access the data. In addition, such HHS personnel or contractors are advised that the information is confidential and that criminal sanctions for unauthorized disclosure of private information may be applied.

b. Physical Safeguards: HCFA and its contractors maintain strict physical security of information through systems of password security. HCFA will maintain no paper copies of information. Once MDS+ information is edited, contractors will strip all paper copies of unique resident identifiers and will store these data in a secure location to protect against unauthorized use.

c. Procedural Safeguards: Employees who maintain records in the system are instructed to grant regular access only to authorized users. Data stored in computers are accessed through the use of passwords known only to authorized personnel. Contractors who maintain records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act.

d. Implementation Guidelines: Safeguards are implemented in accordance with all guidelines required by HHS. Safeguards for automated records have been established in accordance with the HHS' Automated Data Processing Manual, Part 6 "ADP System Security". This includes maintaining the records in a secure enclosure.

RETENTION AND DISPOSAL:

Records will be retained until January 1, 2000; 5 years after the end of the demonstration.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Long Term Care Experimentation, Office of Research and Demonstrations, Health Care Financing Administration, 2–F–5 Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the system manager at the address indicated above and specify the State, facility or State identification number of the facility, date of birth, and your social security number.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requestors must reasonably specify the information being sought. (These procedures are in accordance with HHS Regulations at 45 CFR 5b.5(a)(2)).

CONTESTING RECORD PROCEDURES:

Contact the system manager named above, reasonably identify the record (provide State or facility identifier number, date of birth, and social security number), and specify the information to be contested. State the reason for contesting the record; e.g., why the information is inaccurate, incomplete, or not current. (The procedures are in accordance with HHS Regulations at 45 CFR 5b.70).

RECORDS SOURCE CATEGORIES:

The source categories are the medical records of individuals residing in nursing facilities participating in the Medicare and Medicaid programs.

[FR Doc. 92–4842 Filed 3–3–92; 8:45 am]
BILLING CODE 4120–03–M

National Institutes of Health

Consolidation and Relocation of National Institutes of Health Management and Staff; Environmental Impact Statement

AGENCY: National Institutes of Health.

ACTION: Notice of intent.

SUMMARY: The National Institutes of Health (NIH) is issuing this notice to inform the public that an environmental impact statement (EIS), in accordance with the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 et seq., will be prepared for the proposed consolidation and relocation of NIH management and staff. The proposed action involves the construction of a suitable building on the NIH campus located in Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. William Fedyna, Office of Communications, National Institutes of Health, Building 1, room 350, 9000 Rockville Pike, Bethesda, Maryland 20892, telephone (301) 496–1776—This is not a toll-free number.

SUPPLEMENTARY INFORMATION: NIH has contracted with consultants to prepare an EIS to assess the environmental impacts of the proposed action that involves consolidation and relocation of NIH management and staff through the construction of a suitable building on the NIH Bethesda campus. A portion of the NIH staff now located on campus and in six leased buildings off campus would relocate to the new facility. The proposed facility would provide approximately 539,000 gross square feet of administrative offices, support, and special purpose space. Special purpose space may include, but may not be limited to, a cafeteria, mail room, health unit, and loading dock. The proposed building would provide parking for some of the occupants and be within walking distance of the metro station and bus stop.

Alternative actions to be considered in preparing the EIS include: (1) No action (maintain the status quo), (2) consolidation to a single existing facility off the NIH campus, (3) consolidation to a single new facility on the NIH campus.

A scoping meeting will be held at the Walter Johnson High School on March 16, 1992, at 7:30 p.m. Advertisements with details concerning the meeting will be posted in local newspapers. Individuals and representatives of business, community, and citizen groups are encouraged to present their views and concerns or information relating to pertinent environmental issues at the meeting.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, a list of contents is being prepared. Contacts on the list will participate in addressing and resolving issues throughout the EIS process. The list will include individuals from government agencies, business interests, and citizen and community action groups. Comments or questions concerning this proposed action and the EIS are welcome and should be directed to the address and/or telephone number provided above.

Dated: February 27, 1992.

Bernadine Healy,

Director, NIH.

[FR Doc. 92–5022 Filed 3–3–92; 8:45 am]
BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Meeting; Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Basic Sciences II Subcommittee of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, on March 20, 1992 at the Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Bethesda, Maryland 20815.

The meeting will be open to the public from 8:30 a.m. to 9 a.m. on March 20 to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92–

463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9 a.m. until adjournment on March 20. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning indivduals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Rsponses, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institute of Health, Bethesda, Maryland 20892, telephone 301–496–5717, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Allen Stoolmiller, Scientific Review Officer, Acquired Immunodeficiency Syndrome Research Review Committee, NIAID, NIH, Solar Building, room 4C21, Rockville, Maryland 20892, telephone 301–496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: February 24, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92–5021 Filed 3–3–92; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N–92–3403]

Submission of Proposed Information Collection to OMB

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

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management ad Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to:

Jennifer Main, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Joan Campion, Rules Docket Clerk, Department of HUD, 451 7th Street, SW., Room 10276, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 708–0055. This is not a toll–free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development has submitted to OMB, for expedited processing, an information collection package with respect to a Notice of Fund Availability (NOFA) for the Public Housing Resident Management Program. HUD is requesting a 10-day OMB review of this information collection.

The funds for this technical assistance were appropriated by the Housing and Community Development Act of 1987 (Pub. L. 100–42, approved February 5, 1988).

HUD intends to provide $4,425,201 million under this NOFA to resident councils/resident management corporations, and Indian resident organizations, for the development of resident management entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of public housing projects, and the securing of such support.

The NOFA describes: (1) The nature and scope of eligible and technical assistance activities; (2) the application process and the factors that HUD will use in evaluating all applications; and (3) the selection and approval procedures.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35):

(1) The title of the information collection proposal;

(2) The office of the agency to collect the information;

(3) The description of the need for the informaiton and its proposed use;

(4) The agency form number, if applicable;

(5) What members of the public will be affected by the proposal;

(6) How frequently information submission will be required;

(7) An estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response;

(8) Whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and

(9) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: February 26, 1992.

Michael B. Janis,

General Deputy, Assistant Secretary for Public and Indian Housing.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Notice of Funding Availability for 1992—Public Housing Resident Management Program (FR–3151)

Office: Office of Resident Initiatives.

Description of the Need for the Information and its Proposed Use: This information collection is required in connection with the issuance of a Notice of Fund Availability, which announces the availability of $5 million for the Public Housing Resident Management Program for Fiscal Year 1992. The Program will provide technical assistance funding to promote "formation and development of resident management entities."

Form Number: None.

Respondents: Non-Profit Organizations.

Frequency of Submission: One Time Only.

Reporting Burden:

	Number of respondents	×	Frequency of response	=	Hours per response	=	Burden hours
Application Development	150		1		16		2,400

Total Estimated Burden Hours: 2,400.

Status: Extension.

Contact: Sharron Lipscomb, HUD (202) 708–3611, Jennifer Main, OMB (202) 395–6880.

Supporting Statement for Information Collection

A. Justification

1. This information collection is required in connection with the issuance of a Notice of Fund Availability (NOFA) which announces the availability of $5 million for the Public Housing Resident Management Program for Fiscal Year 1992. The Program will provide technical assistance funding to promote "formation and development of resident management entities." The items in the NOFA that impose information collection requirements are as follows:

—Section II.B., Application Development and Submission, requires Resident Councils/Resident Management Corporations (RMCs)/ Resident Organizations (ROs) to submit an application if they are interested in being considered for funding opportunities.

RCs/RMCs/ROs that are interested in participating in the program will use an application kit.

A copy of the proposed NOFA is attached.

2. The information provided by the applicants will be reviewed and evaluated against the selection criteria contained in the NOFA for possible funding. The applicants will be notified of their selection/rejection. The information is necessary so that the applicants can apply and compete for funding opportunities.

3. We have not considered the use of improved technology since there is no other way to obtain the information except directly from the resident groups.

4. There will be no duplication of information.

5. There is no similar information already available which could be used or modified for this purpose.

6. We've attempted to minimize the burden on the resident groups by using an application kit which includes all of the necessary documents for application purposes and contains detailed instructions for completing the information.

7. The information will be collected on a one-time basis.

8. There are no special circumstances that require the collection to be conducted in a manner which is inconsistent with the guidelines in 5 CFR 1320.6.

9. There has been no outside consulation on this information collection.

10. No assurances of confidentiality is provided.

11. No sensitive questions are asked.

12. We do not estimate that there will be any additional cost to the Federal Government. The applications will be reviewed in accordance with HUD's existing review and monitoring requirements. Annual cost to the respondent is estimated to be minimal since the application submission may be prepared by the resident groups.

13. We estimate that the information requirements of the proposed NOFA will have the following reporting burdens.

	Number of respondents	×	Frequency of response	=	Hours per response	=	Burden hours
Application development	150		1		16		2,400

Total Reporting Burden: 2,400.

14. N/A

15. The collection of this information will not be published for statistical use.

Exhibit

Note: The following is an excerpt from an unpublished NOFA, illustrating the nature of the information collection requirements to which this notice pertains:

PHA/IHA Notification

HUD will send a notification to PHAs/IHAs associated with the applications selected for funding.

II. Application Process

Actions Preceding Application Submission

Consistent with this NOFA, HUD may direct a PHA/IHA to notify its existing RC(s)/RMC(s)/RO(s) of this funding opportunity. It is important for residents to be advised that even in the absence of a RC/RMC/RO, the opportunity exists to establish a RC/RMC/RO. If no RC/RMC/RO exists for any of the projects, HUD encourages a PHA/IHA to post this NOFA in a prominent location within the PHA's/IHA's main office, as well as in each project office.

Application Development and Submission

(1) An application kit is required as the formal submission to apply for funding. The kit includes information on the preparation of a Work Plan and Budget for activities proposed by the applicant. An application may be obtained by writing the Resident Initiatives Clearinghouse, Post Office Box 6091, Rockville, MD 20805, or by calling the toll free number 1–800–955–2232. Applications are available from *(DATE) to (DATE).*

An RC/RMC/RO shall prepare and submit the application to the local HUD field office or, in the case of IHAs, to the appropriate HUD Office of Indian Programs (together with its request for a waiver), listed in the Appendix to this NOFA.

(2) *Preparation.* The application must contain the following information:

(a) Name and address of the RC/ RMC/RO. Name and title of the board members of the RC/RMC/RO and date of the last election. A copy of the RC's/ RMC's/RO's organizational documents, i.e., charter, articles of incorporation (if incorporated), and by-laws. Name and phone number of contact person (in the event further information or clarification is needed during the application review process);

(b) Name, address and phone number of the Public Housing Agency (PHA)/ Indian Housing Authority (IHA) responsible for the project(s) to which inquiries may be addressed concerning the application;

(c) A narrative statement of the proposed activities, addressing the following issues:

(i) A discussion of the need for the project(s) and overall group objectives

for resident management, and how the proposed activities will meet the needs of the RC/RMC/RO;

(ii) Amount of funds requested and an explanation of how the funds will be used, if approved, to determine feasibility of resident management and promote the information and development, or implementation and operation, of resident management entities. Time frames for completion of proposed activities must be included;

(iii) A discussion of the experience of the RC/RMC/RO and individual board members in community activities, and actions taken in meeting the needs of the project residents;

(iv) A description of the project financial accounting procedures that are available, or plans to develop these procedures, to ensure that funds are properly spent;

(v) An explanation of how the proposed activities will enhance the management effectiveness or the scope of functions managed by a RC/RMC/RO, if applicable, along with a description of staffing plans;

(vi) An explanation of the RC's/RMC's/RO's progress in carrying out any Work Plan previously approved by HUD (applicable to RCs/RMCs/ROs funded in FYs 1988, 1989, 1990, and 1991);

(vii) A description of other funding the RC/RMC/RO has received for activities related to resident management, and, if appropriate, how the requested funding will complement ongoing activities;

(viii) A discussion of the extent to which the State/local government, PHA/IHA, community organizations, and private sector support the activities outlined in the proposal, including through provision of financial resources, technical assistance, or other support;

(ix) A description of the extent to which the residents of a project support the proposed activities; and

(x) A discussion of how the proposal specifically meets the Ranking Factors listed in this NOFA;

(d) The name of the project(s) for which the funds are proposed to be used, the number of units, a brief description of the project occupancy type (family or elderly), the number of buildings, housing type (high-rise, low-rise, walk-up, etc.), and the physical condition of the project (interior/exterior);

(e) A budget, with supporting justification and documentation; Work Plan; and Implementation Schedule. The schedule for completion of all activities shall not exceed two years;

(f) The application must be signed by an authorized member of the board of the RC/RMC/RO and must include a resolution from the RC/RMC/RO stating that it agrees to comply with the terms and conditions established under this program and under 24 CFR part 964 (for Public Housing) and 24 CFR 905.355 (for Indian Housing);

(g) Assurances that the RC/RMC/RO will comply with all applicable Federal laws, Executive Orders, regulations, and policies governing this program, including all applicable civil rights laws, regulations, and program requirements.

(3) *Supplementing Applications.* (a) HUD is in full support of a cooperative relationship between a resident organization and its PHA/IHA. A resident organization is urged to involve its PHA/IHA in the application planning and submission process. This can be achieved through meetings to discuss resident concerns and objectives, and how best to transfer these objectives into activities in the application. The RC/RMC/RO is also encouraged to obtain a letter of support from the PHA/IHA indicating to what extent it supports the proposed activities and would provide technical assistance. An applicant may receive the maximum point value, as appropriate under Ranking Factor 2(d) in subheading I.M of this NOFA, where there is evidence of a strong partnership between the RC/RMC/RO and PHA/IHA and a commitment by the PHA/IHA to provide technical assistance, on-the-job training, or in-kind services to the resident organization. (b) A RC/RMC/RO is encouraged to include an indication of support by project residents (e.g., RC/RMC/RO Board resolution, copies of minutes, letters, petition, etc.); the neighboring community; and local public or private organizations, including State and local government entities responsible for activities relating to resident management or economic development initiatives. A RC/RMC/RO should also include evidence of the extent of support committed to the program. HUD will give the maximum point value, as appropriate under Ranking Factor 2(c) in subheading I.M of this NOFA, to an applicant that obtains commitments of support from these organizations, including financial assistance, technical assistance, or other tangible support. Copies of letters of support or other evidence of support should be included with the application.

(4) *Submission.* The original and 2 copies of the Application must be submitted to HUD.

[FR Doc. 92-5057 Filed 3-3-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-02-4212-11; AZA-25624]

Realty Action Recreation and Public Purposes (R&PP) Act Classification Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Recreation and Public Purpose Lease Conveyance.

SUMMARY: The following public lands in Mohave County, Arizona have been examined and found suitable for classification for lease or conveyance to the Golden Valley Fire Department under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The Golden Valley Fire Department proposes to use the lands for a fire station.

Gila and Salt River Base and Meridian, Mohave County, Arizona

Township 21 North, Range 19 West
Sec. 16, SE¼SE¼SE¼NE¼.
Comprising 2½ acres, more or less.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest.

The lease/patent, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purpose Act and to all applicable regulations of the Secretary of the Interior.
2. A right-of-way for ditches and canals constructed by the authority of the United States.
3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.
4. Those rights for road purposes granted to the Mohave County Board of Supervisors by Permit No. AZA-24305.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Kingman Resource Area, 2475 Beverly Avenue, Kingman, Arizona.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purpose Act

and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Dated: February 24, 1992.

Henri R. Bisson,

District Manager.

[FR Doc. 92-4992 Filed 3-3-92; 8:45 am]

BILLING CODE 4212-11-M

[NV-930-02-4212-11; N-55116]

Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Nevada

The following public lands in Churchill County, Nevada have been examined and found suitable for classification for lease or conveyance to Churchill County under the provisions of the Recreation and Public Purposes Act as amended (43 U.S.C. 869 et seq.). Churchill County proposes to use the lands for a motor racing complex.

Mount Diablo Meridian

T. 16 N., R. 28 E.,
sec. 12, SE¼.
T. 16 N., R. 29 E.,
sec. 7, Lots 3 and 4, E½SW¼, W½SE¼.
(Containing 399.95 acres, more or less).

The subject lands were withdrawn for reclamation purposes in association with the Newlands Reclamation Project, and are under Bureau of Reclamation jurisdiction. The Bureau of Reclamation has approved of the determination that the lands are not needed for reclamation or other Federal purposes. Lease or conveyance would be in the public interest.

The lease/patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

A right-of-way for ditches and canals constructed by the authority of the United States.

All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

and, any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

And will be subject to:

Rights-of-way for highway purposes and a material site access road issued to the Nevada Department of Transportation by Right-of-Way Grants Nev-058985 and CC-018410.

Detailed information concerning this action, including an environmental assessment, is available for review at the office of the Bureau of Land Management, Carson City District.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Lahontan Resource Area Manager, Carson City District Office, 1535 Hot Springs Road, suite 300, Carson City, Nevada 89706. Any adverse comments will be reviewed by the District Manager. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Dated this 10th day of February, 1992.

James M. Phillips,

Area Manager, Lahontan Resource Area.

[FR Doc. 92-4946 Filed 3-3-92; 8:45 am]

BILLING CODE 4310-HC-M

[NV-930-4214-10; N-219]

Cancellation of Proposed Withdrawal; Nevada

February 12, 1992.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Mineral withdrawal application N-219 for the Desert National Wildlife Range has been canceled by the U.S. Fish and Wildlife Service (FWS). The land remains closed to surface entry and mining under FWS mineral withdrawal application, N-54955. The land has been and remains open to mineral leasing.

EFFECTIVE DATE: February 3, 1992.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 702-785-6526.

SUPPLEMENTARY INFORMATION: A notice terminating the segregative effect of a pre-Federal Land Policy and Management Act (FLPMA) withdrawal application, N-219, was published in the **Federal Register** as Document No. 91-23867 on page 50345 on October 4, 1991. That document provided a legal description of the lands and indicated that the application would be processed unless it was canceled or denied. FWS has canceled the application.

The land remains closed to surface entry and mining under post-FLPMA mineral withdrawal application, N-54955.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 92-4945 Filed 3-3-92; 8:45 am]

BILLING CODE 4310-HC-M

Fish and Wildlife Service

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 681220

Applicant: Harry O. Thomas, Sarasota, FL.

The applicant requests a permit to export and reimport one female white tiger (*Panthera tigris*) captive-bred at the facilities of Adriatic Animal Attractions, Inc., Deland, Florida, for the purposes of exhibition and conservation education. The applicant anticipates multiple shipments for these purposes.

PRT 680013

Applicant: Wayne C. Young, Nicholson, PA.

The applicant requests a permit to export and reimport one captive-bred female leopard (*Panthera pardus*) and two captive-bred male tigers (*Panthera tigris*) for exhibition and conservation education.

PRT 765763

Applicant: Jackson Wilkinson, Salinas, CA.

The applicant requests a permit to import the sport-hunted trophy of a male bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd maintained by Mr. J.L. Kock, Richmond, Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT 765599

Applicant: New York Zoological Society, Bronx, NY.

The applicant request a permit to import blood samples collected from captive-held (includes removed from the wild and hatched in captivity) St. Vincent Amazon parrots (*Amazona guildingii*) which are in the possession

of private individuals and institutions world-wide. The blood samples are to be used in DNA analysis for enhancement of propagation and survival of the species.

PRT 760403

Applicant: Hawthorn Corporation, Graylake, IL.

The applicant requests a permit to reexport and reimport one female Asian elephant (*Elephas maximus*) for enhancement of propagation through conservation education.

PRT 766108

Applicant: Franklin Gress, Davis, CA.

The applicant requests a permit to collect up to 15 brown pelican (*Pelecanus occidentalis*) eggs from nests on Anacapa Island, Channel Islands National Park, California, for scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45–4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281)

Dated: February 27, 1992.

Margaret Tieger,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 92–4968 Filed 3–3–92; 8:45 am]

BILLING CODE 4310–55–M

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Eighth Regular Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice sets forth summaries of the United States negotiating positions for the eighth regular meeting of the Conference of the Parties (COP8) to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

FOR FURTHER INFORMATION CONTACT: Marshall P. Jones, Chief, Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, VA 22203, Telephone 703/358–2093.

SUPPLEMENTARY INFORMATION:

Background

The convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to control international trade in certain animal and plant species which are or may become threatened with extinction, and are listed in Appendices to the treaty. Currently, 113 countries, including the United States, are CITES Parties. CITES calls for biennial meetings of the Conference of the Parties which review its implementation, make provisions enabling the CITES Secretariat (in Switzerland) to carry out its functions, consider amending the list of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of the Convention. The eighth regular meeting of the Conference of the Parties to CITES (COP8) will be held in Kyoto, Japan, March 2–13, 1992.

The Fish and Wildlife Service (Service) hereby publishes summaries of the United States' negotiating positions of COP8. This is part of a series of notices which, together with public meetings, allow the public to participate in the development of the U.S. positions for COP8. A **Federal Register** notice published on February 7, 1991 (56 FR 4965) requested information from the public on animal or plant species proposals that should be considered by the United States. A **Federal Register** notice published on June 11, 1991 (56 FR 26832) announced the time and place of the meeting of COP8 and the provisional agenda, requested information and comments on the provisional agenda, announced procedures for those applying for observer status at the COP, and announced a public meeting on June 25, 1991. A **Federal Register** notice published on July 24, 1991 (56 FR 33894) invited comments and information on those proposals for amending the Convention's appendices that the United States was considering. A **Federal Register** notice published on December 31, 1991 (56 FR 67627) summarized and invited public comments on the proposed U.S. negotiating positions on all agenda items for COP8 except for proposals to amend the CITES Appendices, and announced a public meeting that was held on January 8, 1992. A **Federal Register** notice published on January 3, 1992 (57 FR 262) summarized and invited public comments on the proposed U.S. negotiating positions on proposals to amend the CITES Appendices that were submitted by countries other than the United States. The Service's regulations governing this public process are found in title 50 of the Code of Federal Regulations §§ 23.31–23.39.

What follows is: a summary of U.S. negotiating positions on most of the items on the provisional agenda of COP8; a summary of written information and comments received in response to the **Federal Register** notice of December 31, 1991 and the record of the public meeting of January 8, 1992; a summary of decisions pertaining to COP8 made at the 24th CITES Standing Committee Meeting in Lausanne, Switzerland, January 20–21, 1992, which the United States attended as an observer; and summaries of the rationales for the negotiating positions which included responses to the information and comments received, when necessary. The words "change" used in parentheses at the beginning of the description of negotiating positions and rationales indicates there has been a substantial change from what was proposed in the **Federal Register** of December 31, 1991. Numbers and titles next to each item are the same as those used in the December 31, 1991 notice, and correspond to the provisional agenda for COP8 received from the CITES Secretariat; document numbers are those assigned by the CITES Secretariat. Those documents that have not yet been received from the CITES Secretariat will not be available until COP8 in Japan.

Comments were received from 41 organizations and 34 private individuals or companies, and covered virtually all of the agenda items. Comments were received from the following organizations on a number of issues: African Wildlife Foundation (AWF), American Humane Association (AHA), Animal Legal Defense Fund (ALDF), Animal Welfare Institute (AWI), Cactus and Succulent Society of America (CSSA), Center for International Environmental Law (CIEL), Defenders of Wildlife, Fur Information Council of America (FICA), Earth Island Institute, Earth Trust, Environmental Investigation Agency (EIA), Greenpeace International, Greenpeace USA, Humane Society of the United States (HSUS), International Council for Bird Preservation (ICBP), International Fund for Animal Welfare (IFAW), International Primate Protection League (IPPL), International Wildlife Coalition (IWC), National Rifle

Association (NRA), New York Zoological Society (NYZS), Performing Animal Welfare Society (PAWS), Pet Industry Joint Advisory Council (PIJAC), Rainforest Action Network (RAN), Safari Club International (SCI), Sierra Club, Society for Animal Protective Legislation (SAPL), and WWF/TRAFFIC. Comments were received from the following organizations on bird trade issues only: American Federation of Aviculture (AFA), National Audubon Society (Audubon), Pet Educational and Trade Society of Connecticut (PETS), Pionus Breeders Association, and World Parrot Trust. Comments were received from the following on plant trade issues only: American Association of Botanical Gardens and Arboreta (AABG), American Orchid Society (AOS), California Cactus Growers Association (CCGA), Commercial Orchid Growers Guild (COGG; signed by 136 individuals), Fauna and Flora Preservation Society (FFPS), International Organization for Succulent Plant Study (IOS), Natural Resources Defense Council (NRDC), Orchids Limited, Pleurothallid Alliance, Inc. (PA), University of California at Irvine Arboretum (UCI), and 7 private companies of individuals. In the following discussion, if a commenter supported the U.S. position but did not offer any comments or information, they are listed as such without further discussion.

Negotiating Positions: Summaries

I. Opening Ceremony by the Authorities of Japan (Doc. 8.1)

Negotiating position: No position necessary.

Information and comments: None received.

Rationale: Not an issue for negotiation.

II. Welcoming Address (Doc. 8.1)

Negotiating position: No position necessary.

Information and comments: None received.

Rationale: Not an issue for negotiation.

III. Adoption of the rules of procedure (Doc. 8.3)

Negotiating position (changed): Support the use of electronic voting in the future if it can be made available. Support the 21 January decision of the Standing Committee not to change the current rules of procedure to make it easier to obtain a secret vote unless a new proposal not previously considered is presented to COP8; in that case, the U.S. position about whether to oppose or support such a proposal will be based on whether it would facilitate a very limited use of secret votes without opening the door to abuse or unduly disrupting the conduct of the meeting. Oppose any attempt to define criteria by which Parties determine the eligibility for observer status of a national non-governmental organization (NGO). Support the decision of the Standing Committee to add the Budget Committee chair to be a member of the Bureau.

Information and comments: Comments were received on this issue from AAZPA, AHA, ALDF, Defenders (on behalf of AWF, AWI, IWC, RAN, and Sierra Club), Greenpeace (on behalf of CIEL, Earth Trust, EIA, IFAW, IPPL, PAWS, and SAPL), HSUS, NRA, and SCI. Defenders et al, FICA, HSUS, NRA, and SCI support the use of electronic voting. NRA, SCI and FICA advocate making secret votes easier to obtain, in order to allow countries to cast their votes without undue pressure from some NGOs, although FICA is concerned that it not be abused and result in excessive loss of time. AAZPA agrees with allowing secret votes for sensitive issues only. AHA, ALDF, Defenders et al., Greenpeace et al., and HUSU oppose the proposed U.S. position to support a procedure that makes it easier to obtain a secret vote. AHA, Defenders, et al., and HSUS maintain that open votes are necessary in international rulemaking bodies so that delegates can be accountable to their home governments and citizenry. Greenpeace et al. argue that voting at a COP is analogous to voting in Congress, where public accountability by voting representatives is used to ensure that responsibilities are not abused. Defenders et al., and Greenpeace et al. also suggest that the delegates to the COP should be accountable to the international community, both governmental and non-governmental, because CITES makes trade and wildlife protection a matter of international concern. ALDF and Defenders et al. prefer that secret ballots be allowed in unusual circumstances only, and never for amendments to the Appendices. Defenders et al. recommend that the rules be amended to forbid secret votes except for the election of officers and the selection of host countries; any threats of retaliation for votes should be investigated by UNEP. AAZPA, FICA, HSUS, NRA and SCI agree with the U.S. position opposing any criteria at the COP for observer status. AAZPA strongly endorses the addition of the Budget Committee to the Conference Bureau.

Rationale (changed): Electronic voting is a faster and more accurate method of voting; however, Japan will not be able to provide electronic voting at COP8. The United States proposed supporting a rules change making it easier to obtain a secret vote, as CITES rules allowed prior to the sixth Conference (Ottawa, 1987), because current procedures make a truly secret vote virtually impossible; the roll vote on whether to conduct a secret vote is perceived as a signal of how parties would cast their secret vote on the substantive issue. However, the Standing Committee at its 21 January meeting was unable to agree on any proposal to make secret votes easier which would not also disrupt the orderly conduct of the meeting and/or open the door to abuse of the voting process. If this issue is brought up again at COP8, the United States will oppose any change to the rules unless there is consensus among parties that the procedure would severely restrict the number of secret votes and allow the decision about whether to have a secret ballot to be made fairly and efficiently. Regardless of any secret ballots which may be taken, all U.S. positions and votes will be publicly disclosed. In terms of observer eligibility, the United States has always interpreted the phrase in the treaty "technically qualified in protection, conservation or management of wild fauna and flora" liberally, and will oppose any attempt to further define this language. The Standing Committee decided to approve the addition of the Budget Committee Chair to the Conference Bureau to increase the stature of the committee and enable the Conference to have a better geopolitical balance in leadership positions.

IV. Election of Chair and Vice-Chair of the Meeting and of Committees I and II (Doc. 8.1, 8.2)

Negotiating position (change): Support the Standing Committee's decisions to nominate a senior Japanese diplomat to chair the Conference; the Executive Director of the World Conservation Union (IUCN), to chair Committee I; a senior member of the U.S. delegation to chair Committee II; and a senior member of the New Zealand delegation to chair the Budget Committee. Support consideration of representatives of Latin America and Europe to serve as vice chairs.

Information and comments: AAZPA and NYZS support the proposed U.S. position.

Rationale (change): It is traditional for the parties to approve the host government's candidate to chair the meeting; the Japanese nominee, Ambassador Nobutoshi Akao, has extensive experience with international

environmental issues. The Standing Committee nominated Dr. Martin Holdgate of the IUCN to Chair Committee I because he has the experience and chairmanship skills necessary for the controversial species listing issues to be taken up by this Committee. The United States consented to the Standing Committee's request that Mr. Marshall P. Jones be made available as a candidate to chair Committee II, which will also have to deal with a number of important and controversial issues, and supports Mr. Murray Hoskings of New Zealand to chair the Budget Committee because of his extensive management and budget experience.

V. Adoption of the Agenda and Working Programme (Doc. 8.1, 8.2)

Negotiating position (change): Support the Standing Committee's decision to grant requests by Southern African countries to have the following resolutions considered at the beginning of the meeting: Recognition of the Benefits of Trade, Criteria for Amendments to the Appendices, Support of Range States for Amendments of Appendices I and II. This does not imply that the United States support the resolutions themselves; see discussions of individual resolutions under agenda item XIII. Support consideration of the Uruguay resolution on wild animal trade under agenda item 12.

Information and Comments: AAZPA, AHA, FICA, HSUS, NRA, NYZS, and SCI commented on this issue. AAZPA supports the proposed U.S. position to consider some of these resolutions early in the COP, while not supporting the resolutions themselves. AHA agrees, while contending that those resolutions are divisive and in contravention of the treaty. FICA, NRA and SCI also support early consideration of the resolutions, because they raise serious issues about the meaning of CITES. HSUS is the only commenter opposing early consideration of the Zimbabwe et al resolutions, claiming that early consideration would give them prominence and change the atmosphere of the meeting. AAZPA and HSUS hope that single issues will not dominate COP8, in order to give more time to implementation issues and all species proposals. AHA suggests that the resolution submitted by Uruguay on wildlife trade be discussed under agenda item 12 (trade in wild-caught animals) rather than under item 11 (wild bird trade).

Rationale (change): It is logical to consider some of the Zimbabwe resolutions early in the meeting as they have relevance to several other agenda items. Moving them to early consideration in no way gives them greater prominence, but rather will serve to deal with the serious issues they raise and allow the balance of the meeting to proceed smoothly. The Uruguay resolution relates more to agenda item 12 since it deals with all animals in trade, not just birds.

VI. Establishment of the Credentials Committee and Committees I and II (Doc. 8.1, 8.2)

Negotiating position: Support the establishment of the Credentials Committee and Committees I and II.

Information and comments: AAZPA, HSUS, and NYZS support the proposed U.S. position.

Rationale: Establishment of the Credentials Committee is a pro forma matter. The United States supports the establishment of Committees I and II, provided most participating Parties have been able to send at least two delegates, or that the rules governing debate of the Committees ensure that most delegations will have an opportunity to debate recommendations before a final decision is made.

VII. Report of the Credentials Committee (No document)

Negotiating position: Support adoption of the report of the Credentials Committee if it does not recommend the exclusion of legitimate representatives of party nations. Representatives whose credentials are not in order should be afforded observer status as provided for under Article XI. If credentials have been delayed, representatives should be allowed to vote on a provisional basis. A liberal interpretation of the rules of procedure on credentials should be adhered to in order to ensure maximum party participation.

Information and comments: AAZPA, HSUS, and NYZS support the proposed U.S. position.

Rationale: Adoption of the report is generally pro forma. Exclusion of Party representatives whose credentials are not in order could undermine essential cooperation among parties.

VIII. Admission of Observers (Doc. 8.4)

Negotiating position: Support admission to the meeting of all technically qualified NGOs and oppose unreasonable limitations on their full participation at COP8. Support Standing Committee's decision to endorse a leaflet, "Helpful Hints for Participants", being developed for COP8 by the United Kingdom's Management Authority.

Information and comments: AAZPA, AHA, ALDF, Defenders (on behalf of AWF, AWI, IWC, NRA, RAN, SAPL, and Sierra Club), FICA, HSUS, NRA, SCI and NYZS support the proposed U.S. position. AHA notes that the strength of CITES is the participation of a broad range of NGOs in debates, negotiations, discussions, and working groups. Defenders et al. add that open NGO participation has helped make CITES a model for future international cooperation. FICA, NRA and SCI note that actions of some NGOs at COP7 in Switzerland in 1989 were inappropriate, and that the behavior of some NGOs and not their views has been the problem in the past.

Rationale: NGOs play an important role in CITES activities and have much to offer to the debates and negotiations at a COP. Their participation is specifically provided by Article XI of CITES. The United States supports the opportunity for all technically qualified observers to fully participate at COPs. A leaflet describing Conference protocol and acceptable behavior will be helpful to NGOs and delegates alike.

IX. Matters related to the Standing Committee (Doc. 8.5 not yet received)

Negotiating position: Stress the leadership role of the Standing Committee in the oversight of the Secretariat's activities. Encourage selection of new members from regions whose current members are due to rotate off the Committee (Africa, Asia, and Latin America and the Caribbean) who will also take an active role in Standing Committee activities. Encourage a country with a commitment to active involvement in CITES affairs to seek election as the new Standing Committee chair.

Information and comments: AAZPA, AHA, HSUS and NYZS support the proposed U.S. position. AHA further supports continued involvement of the United States in the Standing Committee as an observer.

Rationale: The Standing Committee is the governing body of CITES between meetings of the COP. Members of the Standing Committee are: Malawi, the chair (Africa); Peru (Latin America and the Caribbean); Nepal (Asia); Canada, vice chair (North America); New Zealand (Oceania); Sweden (Europe); Switzerland (depositary government); and Japan (next Conference host). The terms of the first three of the regional representatives expire at COP8. In order for the Standing Committee to continue in the strengthened oversight role the United States advocated when it chaired the Committee (1987–1989), countries with a commitment to active participation are needed for Committee membership. The new Committee will

need a capable and experienced chair to guide its activities during the 1992–1993 biennium.

X. Report of the Secretariat (Doc. 8.6 not yet received)

Negotiating position: When received at COP8, the Service will carefully review issues pertaining to: the relationship of CITES to the United Nations Environment Programme (UNEP); success of the new procedures for Parties to set budgetary and work priorities; setting of new short term objectives for the Secretariat; evaluation of the performance of the Secretary General; and progress in assisting Parties to more forcefully implement the Convention.

Information and comments: AHA urges the United States to continue to support the vital work of the Secretariat.

Rationale: The biennial report provides the major way for the Secretariat, and the Secretary General, to report priorities, accomplishments, and problems to the Parties. These are critical management issues facing CITES which need to be addressed in the Secretariat's report.

XI. Financing and Budgeting of the Secretariat and of Meetings of the Conference of the Parties

1. Financial Report for 1989–1990–1991 (Doc. 8.7)

Negotiating position: This document will not be received until COP8; no position is possible at this time.

2. Anticipated Expenditure for 1992 (Doc. 8.8 not yet received)

Negotiating position: This document has not yet been received from the CITES Secretariat; no position is possible at this time.

3. Budget for 1993–1995 and Medium Term Plan for 1993–1998 (Doc. 8.9)

Negotiating position (changed): Given the current international economic situation, it is considered unrealistic to expect the parties to greatly increase their contributions to CITES. Carefully consider priorities and determine a realistic list of tasks and projects for the Secretariat for the next triennium. Support budget increases requested by the Secretariat in cases where the growing membership is placing increasing burdens on staff, without any commitment to an increased U.S. contribution. Support the permanent budgeting of enforcement and plants officers. Oppose the establishment of Regional officers as a lower priority. Support efforts to get parties to pay their annual assessments early in the year to eliminate chronic budget shortfalls.

Information and comments: NYZS supports the proposed U.S. position, AAZPA supports funding Enforcement, Plants, and Trade Analysis Officers out of the core budget of the Secretariat, noting in particular that enforcement is a key to the effectiveness of CITES. FICA, NRA and SCI understand but consider inadequate the U.S. opposition to substantial increases in the Secretariat's budget, urging that the Parties adopt measures of fiscal restraint and accountability. They recommend fiscal analyses for proposals and resolutions, and greater emphasis on building a solid and reliable network of Management and Scientific Authorities. Defenders et al. support permanent budgeting for an enforcement officer; they also suggest that budget information and proposed work be provided to Parties and NGOs sooner.

Rationele (changed): The budget increases requested by the Secretariat are justified and reasonable in cases where the growing membership is placing increasing burdens on the staff, although the United States cannot at present commit to a larger contribution to the CITES budget. The proposal for Regional CITES officers should be deferred to reduce budgetary needs. Parties need to pay their annual assessments as early as possible each year, or else the parties need to help the Secretariat develop a cash reserve which can serve as a buffer to prevent chronic cash shortfalls early each year.

4. External Funding (Doc. 8.10 not yet received)

Negotiating position: This document will not be received until CPO8; no position is possible at this time.

Information and comments: Defenders (on behalf of AWF, AWI, IWC, RAN, SAPL and Sierra Club) recommend continuation of the controls in the budget amendment of 1989 so that government funded projects are subject to Standing Committee review. The urge continued review and approval of the use of outside funds for specific projects. FICA notes that the trade is often willing to finance necessary projects, but that other NGOs with differing views discourage such funding; they urge financial support for CITES projects by "protectionist" NGOs.

XII. Committee Reports and Recommendations

1. Animals Committee (Doc. 8.12 not yet received)

Negotiating position: The United States supports the active role of the Animals Committee in scientific and management issues pertaining to animal species. Efforts should be made to secure a budget for the Animals Committee consistent with its increasing role.

Information and comments: AAZPA, AHA, HSUS and NYZS support the proposed U.S. position. AHA further urges the United States to support an increase in the Animals Committee budget, and to seek greater leadership on behalf of the Committee, due to the increase in Animals Committee tasks. They also urge the appointment of specific panels of experts to report back to Animals Committee, dealing with issues such as bird trade, significant trade, and marking. AAZPA further encourages full participation by the United States in the Animals Committee. FICA, NRA and SCI consider the U.S. support for an Animals Committee budget to be inconsistent with the U.S. position opposing substantial Secretariat budget increases; because the Secretariat's function is to support the activities of any committees of the COP, they prefer that any necessary budget should go to the Secretariat directly.

Rationel: The Animals Committee report may contain information or recommendations dealing with Appendix II species subject to significant trade, breeding facilities for Appendix I species, marking techniques, and other issues. The United States will continue to be an active participant in Animals Committee functions. The United States supports a realistic budget for the Animals Committee that will allow for meetings between the meetings of the COP that enable the Committee to fulfill its ever-increasing role.

2. Plants Committee (Doc. 8.13)

Negotiating position: The United States supports the continued activities of the Plants Committee to improve the effectiveness of CITES for plants, with a focus on the following: publication of identification guides and checklists; significant trade in orchids, succulents, and other species; review of the timber trade; trade in artifically propogated plants. Efforts should be made to secure a budget for the Plants Committee consistent with its diverse role.

Information and comments: HSUS and NYZS support the proposed U.S. position. CSSA supports continued United States involvement with and chairmanship of the Plants Committee.

Rationale: The United States has chaired the Plant Working Group and Plants Committee since 1983, and will

continue to actively support Plants Committee functions.

3. Identification Manual Committee (Doc. 8.14 not yet received)

Negotiation positian: Continue to support the Identification Manual Committee and development of animal and plant identification manuals for use by port and border enforcement officers, in providing a standard reference for the identification of CITES species. Endeavor to ensure that membership in the committee will be adequate to handle the enormous problems involved in fulfilling the needs of the Parties. Consider transferring Identification manual responsibilities to the Secretariat.

Information and comments: AAZPA, HSUS and NYZS support the proposed U.S. position. AAZPA notes that port and border personnel must be equipped with the necessary tools for identification in order to increase enforcement accuracy and frequency. CSSA recommends contracting with technical specialists to produce the Identification Manual. AHA agrees with the intent of the Identification Manual, but questions the need for an independent committee; they urge the production of a new Identification Manual that will be easier to update and make available around the world, and that will be more of a practical enforcement tool and less weighted towards scientific identification. They prefer the establishment of an Identification and Enforcement Working Group of the Standing Committee.

Ratianale: The enforcement officers of the Parties must be equipped with guides which are accurate, realistic, and helpful in the identification of the many CITES species and products found in trade throughout the world.

4. Nomenclature Committee (Doc. 8.15 not yet received)

Negatiating positian: Encourage and support the development and adoption of checklists for all taxa. Support the reprinting and necessary revisions of existing checklists for fauna prior to development of new ones. Because of the expense in developing checklists for taxa, the United States supports recognition of existing checklists for remaining taxa when suitable. Efforts should be made to secure a budget for the Nomenclature Committee consistent with its role, including possible consideration of partial funding for a checklist coordinator.

Information and comments: AAZPA, CCCA, and HSUS and NYZA support the proposed U.S. position. AHA does not support the funding of a checklist coordinator, due to current restrictions in the CITIES budget; they see this as the lowest priority for funding of all of the CITES committees. CSSA supports adoption of all checklists, provided they include synonyms, obsolete names, and invalid manuscript and nursery names.

Rationale: Implementation of the Convention is strengthened by the use of uniform names of listed species.

XIII. Interpretation and Implementation af the Conventian

1. Terms of Reference for the Administration of the Secretariat by UNEP (Doc. 8.16 not yet received

Negatiating positian: Support continuing efforts by a Standing Committee working group to develop a proposal to UNEP to clarify its role In CITES. as that of providing administrative support for the Secretariat, with the Secretariat answering to the Standing Committee and the Parties for general policy direction.

Information and comments: AAZPA, ALDF, HSUS and NYZS support the proposed U.S. position. ALDF and Defenders (on behalf of AWF, AWI, IWC, RAN, SAPL and Sierra Club) recommended that the Parties and the Standing Committee obtain control of the administration of their own treaty, noting that CITES is not a United Nations treaty. Defenders et al. suggests a memorandum of understanding between the Standing Committee or the COP and UNEP, and that the Parties regain control over funding and staff appointments. ALDF recommends a severance of ties with UNEP. AHA disagrees somewhat, noting the special relationship of CITES with the United Nations, through its administration by UNEP, and that CITES has greater clout in the Third World by virtue of this special relationship.

Rationale: Clarification of the relationship between the CITES Secretariat and UNEP will help the administration of the Secretariat, including financial, personnel, and policy matters. CITES is not a United Nations organization; UNEP provides for the administration of the Secretariat, but no policy direction, which is the function of the Parties. It is critical that the Standing committee reach an accord with UNEP on this issue. At the same time, CITES has been periodically dependent on advances of funds from the UNEP trust fund, due to chronic annual delays in parties paying their CITES assessments.

2. Report on national Reports Under article VIII, Paragraph 7, of the Convention (Doc. 8.17 not yet received

Negotiating position: Support efforts to encourage all Parties to submit annual reports, consistent with their domestic legislation.

Information and comments: AAZPA, AHA, HSUS and NYZS support the proposed U.S. position. AHA supports trade restrictions or other censure for countries that do not submit annual reports, unless submission would be inconsistent with domestic legislation. Defenders (on behalf of AWF, AWI, IWC, RAN, SAPL and Sierra Club) recommends that Parties refuse to recognize permits from countries that do not submit complete annual reports for more than two years, since by inference the tracking required by the treaty is not taking place; they also recommend that under the authority of the Endangered Species Act, the United States cut off wildlife trade with countries not complying with the CITES treaty.

Ratianale: Each Party is required by the Convention to submit an annual report containing a summary of the permits it has granted, and the types and numbers of specimens of species in the CITES Appendices that it has imported and exported. Accurate report data are essential to measure the impact of international trade on species, and can be a useful enforcement tool.

3. Review of Alleged Infractions (Doc. 8.19)

Negotiating position: Support the Secretariat's review of alleged infractions by the Parties, and necessary and appropriate recommendations to obtain wider compliance with the terms of the Convention. Support an open discussion at COP8 of major infractions, a greater emphasis by the Parties on the enforcement of the laws and regulations implementing the Convention, and reasonable recommendations to enhance implementation.

Infarmation and comments: AAZPA, AHA, HSUS and NYZS support the proposed U.S. position. Defenders et al. (on behalf of AWF, AWI, IWC, RAN, SAPL and Sierra Club) agree with the United States, but are disappointed that more has not been done. AHA supports trade restrictions for key countries mentioned in the Infractions Report and censure of countries that repeatedly undermine the effectiveness of CITES; Italy is cited specifically. They further suggest that any country either not having a Scientific Authority or not making the required non-detriment findings be considered in violation of

the treaty and subject to trade restrictions. FICA, NRA and SCI generally agree with the U.S. position, but are opposed to trade sanctions to force Parties into compliance with the Convention; they prefer a more consultative method to work out problems.

Rationale: Article XIII provides for COP review of alleged infractions. The Secretariat prepares an Infractions Report for each COP, which details instances that the Convention is not being effectively implemented, or where trade is adversely affecting a species. The Infractions Report sent to the parties on 2 December 1991 included 138 alleged infractions. The United States was mentioned in 17 of the alleged infractions. On 15 January 1992 the United States responded; with the exception of one or two minor cases of omission, all of the alleged U.S. infractions were completely explained. A review of the other alleged infractions indicates a great difference in the depth of the reporting on infractions over previous reports. A large number of infractions are caused by lack of training, lack of personnel, or lack of knowledge on the workings of CITES; however, the majority of the alleged infractions should be a major cause of concern to the Parties.

4. Implementation of the Convention in the European Economic Community

Negotiating position (changed): Support a tightening of controls on trade with those members of the EEC highlighted in the Secretariat's Infractions Report as posing particular problems for CITES enforcement and implementation. Support a report by the Secretariat on CITES implementation in those countries, but not a new major study on the implementation of CITES within the EEC. Support close monitoring of progress by Italy to correct deficiencies in its CITES implementation, as promised at the January Standing Committee Meeting. The United States does not support ratification of the Gaborone amendment at this time.

Information and comments: AAZPA, AHA, Defenders et al., HSUS and NYZS support the proposed U.S. position. AAZPA recommends asking the EEC to adopt a system of tracking for species which enter the EEC. AHA supports ratification of the Gaborone Amendment if it can be modified to refer to the EEC only. TRAFFIC notes passage of new CITES legislation by the Italian Parliament, and urges the United States to continue to monitor the situation.

Rationale (changed): Some EEC countries are mentioned several times in the Secretariat's Infractions Report for COP8. The United States supports recommendations requiring more effective implementation or even restricting trade with those countries that may be undermining the effectiveness of CITES, while encouraging EEC countries which are effectively implementing the Convention. A focus needs to be placed on those EEC countries with implementation problems, along with informing the Parties of anticipated changes in the EEC that will become effective in 1993. In 1983, the "Gaborone" amendment to Article XXI was adopted by the Conference of the Parties to permit the accession to the Convention of any Regional Economic Integration Organization (REIO) constituted by sovereign States, such as EEC (and other REIO's). Only 27 of the required 54 Parties have ratified the amendment; the United States has not. There are problems with the implementation and enforcement of CITES within some of the countries of the EEC and concerns that the changes in Europe in 1993 will undermine CITES and increase illegal trade; these need to be addressed before the EEC becomes a CITES party. At the January Standing Committee meeting, the new chief of the Italian Management Authority promised major changes in Italy's CITES legislation and implementation, and the United States has been closely monitoring progress through the U.S. Embassy in Rome. The United States is cautiously optimistic that the situation in Italy is improving; a further report is to be made by Italy at COP8.

5. Illegal Trade of Singapore (Doc. 8.19)

Negotiating position (change): Support urging all importing countries to reject export permits or re-export certificates issued by Singapore for trade in any crocodilian product, since it cannot be guaranteed that such products come from legally acquired skins from the producer countries. Evaluate the decisions taken by CITES parties at COP8, and then determine whether additional United States action is necessary.

Information and comments: AAZPA, AHA, ALDF, HSUS, NYZS and TRAFFIC support the proposed U.S. position. AHA recommends that the United States initiate Pelly Amendment certification against Singapore for undermining the effectiveness of CITES. Defenders (on behalf of AWF, AWI, IWC, RAN, SAPL and Sierra Club) recommends that, as with Thailand, the United States end wildlife trade with Singapore.

Rationale (change): The illegal trade in crocodilian parts and products is one of the serious wildlife problems for the United States and the rest of the world. Every effort should be made to close any loophole in achieving the adequate protection of these species, to prevent illegal exports from the range states to the consumer states. This illegal trade undermines the Convention and should not be allowed to continue. The IUCN Crocodile Specialist Group adopted a resolution in November 1991 recommending that all CITES Parties ban caiman trade with Singapore until it drops its reservation to *Caiman crocodilus* and conducts an inventory of all stockpiles of crocodilian skins.

6. Recognition of the Benefits of Trade in Wildlife (Doc. 8.48)

Negotiating position (change): Support the concept that commercial trade can provide conservation benefits to species and ecosystems, although economic values are of no greater weight than scientific, aesthetic, cultural and recreational values, as stated in the CITES preamble. Support enumerating conditions under which trade may provide conservation benefits to Appendix II species. Support the principle that ranching and breeding/propagation operations can be desirable if they are established and maintained in a manner which reduces detrimental pressure on wild populations, while still recognizing that they are not inherently superior to other types of management, provided these other management regimes are also conducted in a non-detrimental manner.

Information and Comments: PIJAC supports the U.S. position regarding the conservation benefits that can be derived by regulated trade, recommending that no preference be given to one management technique over another, such as wild harvest vs. ranching or captive breeding. Defenders (on behalf of AWF, AWI, IWC, RAN, SAPL and Sierra Club) and ALDF support the proposed U.S. position, but contend that the dominant goal of CITES is not trade in wildlife. NYZS supports the U.S. position with the caveat that the burden of proof regarding conservation benefits of trade must be with the proponent. AAZPA opposes the resolution submitted by Zimbabwe et al., although it supports the concept that commercial trade can provide conservation benefits; they concur that the burden of proof must be with the proponent, and that there are insufficient safeguards to implement this resolution. FICA, NRA and SCI agree with the majority of the proposed U.S.

position, but urge the United States to take a more open view regarding ranching and captive breeding; they consider this resolution to be a reaction to "protectionist" views within CITES. AHA considers the proposed U.S. position to be too weak, noting that the resolution as submitted is designed to allow trade in Appendix I species, and the U.S. position minimizes the effects of a dangerous resolution by amending it to apply to Appendix II species only. AHA opposes the U.S. objection to the encouragement of captive breeding and ranching, recommending that parties encourage responsibly managed ranching and captive breeding programs that reduce taking of animals from the wild. HSUS opposes the resolution, maintaining that CITES should be used as a tool to regulate and manage wildlife trade, not enhance it; they oppose encouraging ranching and captive breeding over other management regimes. Greenpeace et al. (on behalf of CIEL, Earth Trust, EIA, IFAW, IPPL, PAWS, and SAPL) opposes the U.S. support for aspects of the proposed resolution, arguing that the CITES treaty presumes that trade in Appendix I specimens is not beneficial, and that the United States claim that the conservation benefits of trade are recognized in the CITES preamble is false. They claim that CITES presumes that trade is detrimental to a species' survival, differentiating between net benefit to a species versus some benefit from a single import or export of a specimen; they contend that the resolution provides a mechanism whereby detrimental trade could occur because some trade was beneficial. They oppose the requirement that trade revenue be returned to developing countries, since a positive benefit is not thereby guaranteed. They also critique the difficulties with maintaining truly sustainable use of wildlife in developing nations.

Rationale (changed): A statement that commercial trade can provide conservation benefits to a species acknowledges one of the sources of the economic values of species recognized in the CITES preamble, while not contradicting the fact that there are other kinds of economic and other values. CITES does not require a finding of a conservation benefit to the species, but the concept of beneficial commercial trade may be useful to exporting countries in making non-detriment findings for Appendix II species, provided it is also balanced with consideration of the effects on the biological status of the species. Ranching or captive breeding/ propagation programs can contribute to the conservation of a species, but are not necessarily superior to other types of management; this is a decision which must be made by parties on a case-by-case basis, depending on the biology of the species and the management goals of the country.

7. Reconsideration of "Primarily Commercial Purposes" (Doc. 8.49)

Negotiating position: Oppose a resolution which effectively would amend Resolution Conf. 5.10 by calling for a finding of noncommercial use by the Management Authority of an importing country if an Appendix I species were to benefit from its commercial trade. Oppose efforts to effectively amend the treaty by allowing primarily commercial trade in Appendix I species.

Information and comments: AAZPA and AHA support the U.S. position, urging vigorous opposition to the resolution, as changing the entire foundation of CITES. ALDF and Defenders (on behalf of AWF, AWI, IWC, RAN, SAPL and Sierra Club) oppose the proposed resolution, as counter to the language of the treaty; they note that any commercial trade in Appendix I species creates a shadow illegal market that creates a risk to the species; they support an improvement upon Resolution Conf. 5.10, but consider this resolution to be a step backwards. AAZPA and NYZS urge the United States to vigorously oppose any changes which would promote or allow commercial trade in any endangered species. Greenpeace (on behalf of CIEL, Earth Trust, EIA, IFAW, IPPL, PAWS, and SAPL) and HSUS support the U.S. position to oppose this resolution, noting that the resolution contravenes the text of the treaty, and not only the text of Conf. 5.10 (as stated in the proposed U.S. position). They concur with the U.S. position that conservation benefit is independent of a finding of primarily commercial purposes to which a specimen will be put; they note that Article III creates two separate findings: "Commerce" and "No detriment", which cannot be linked. Greenpeace et al., AHA and HSUS note that this resolution contravenes the text of CITES, and its measures could only be incorporated through the formal amendment process (which they oppose).

SCI supports the U.S. position insofar as the treaty prohibits trade for primarily commercial purposes; they disagree with the U.S. opposition to the resolution as a whole. SCI supports controlled trade in even truly endangered species. SCI suggests that the solution is to review those species listings that cause a problem, or find some other way to allow a limited trade in products of certain species from certain populations, such as was done with the vicuna.

Rationale: Conservation benefit to the species is relevant to the Scientific Authority finding of "nondetriment" under Article III, paragraph 3(a). It is not however relevant to the Management Authority finding of whether an Appendix I specimen is to be used for primarily commercial purposes, as per Article III, paragraph 3(c). Since the "primarily commercial purposes" finding is made by the importing country, conservation benefits which normally occur in the exporting country are not relevant to that finding. This resolution is contrary to the Convention; if accepted, it would substantially increase the amount of commercial trade in endangered species.

8. Exports of Leopard Hunting Trophies and Skins (Doc. 8.20 not yet received

Negotiating position: No document will be received on this topic until COP8. However, the United States opposes any increases in quotas without adequate supporting data.

Information and Comments: FICA supports the proposed U.S. position not to increase the quotas without supporting data, but believes the information supplied by the range states, especially during COP6, provides the supporting data to either increase the quotas or downlist the species to Appendix II. SCI supports the current system of export quotas, and defers its position to that of the range states. AAZPA and NYZS concur with the United States that any proposed changes in the quota without supporting documentation should be opposed. Defenders et al. oppose any relaxation in controls and limits on leopards, in part because of the lack of time to review proposals.

Rationale: The Service has supported previous resolutions (e.g. Conf. 7.7) allowing for the importation of leopard skins, including hunting trophies, under a quota system approved by the COP. Trade in leopard skins for noncommercial purposes is allowed under CITES Resolution Conf. 7.7, which recognizes range state laws sanctioning killing of leopards in defense of life and property and to enhance the survival of the species.

9. Exports of Cheetah Hunting Trophies and Skins (Doc. 8.22)

Negotiating position: No document has been received on this topic. No position is possible at this time.

Information and comments: AAZPA and NYZS urge the United States to oppose this proposal unless there is strong supporting documentation. Defenders et al. oppose any relaxation in controls and limits on cheetahs, in part because of the lack of time to review proposals.

10. Trade in Specimens of Species Transferred to Appendix II Subject to Annual Export Quotas (Doc. 8.21 not yet received)

Negotiating position: No document has been received on this topic, and no position is possible at this time.

Information and comments: Defenders et al. oppose any relaxation in controls and limits on these species, in part because of the lack of time to review proposals.

11. Trade in Birds

a. Significant trade species (Doc. 8.23, 8.23.1, 8.23.2).

Negotiating position: Advocate adoption of the resolution submitted by the United States to: Suspend commercial trade in wild bird species listed in appendix II that are identified as "significant trade" species for which either there is insufficient information on which to base a nondetriment finding, or for which remedial measures have been recommended but not implemented; allow the Standing Committee to recommend the removal of a species from the list of those suspended from trade, based on consultations with the Animals Committee on the Secretariat. Support (as proposed by Honduras) urging countries not to export animal species that do not meet the criteria in Article IV. Oppose (as submitted by Uruguay) spending all commercial shipments of live animals until the Standing Committee can confirm that the requirements of Article IV have been satisfied.

Information and comments: The following commented in support of the U.S.—submitted bird trade resolution: AAZPA, AHA, ALDF, Audubon, ICBP, NYZS, Pionus Breeders Association, World Parrot Trust, and 18 private individuals. The following organizations commented in support of the U.S.-submitted resolution, yet prefer that the U.S. position be closer to that proposed by Honduras in its resolution: AWI, Defenders et al. (on behalf of AWF, AWI, IWC, RAN, and Sierra Club), EIA et al. (on behalf of AWI, CIEL, Earth Island, Greenpeace USA, IFAW, IPPL, and SAPL) and HSUS. The following organizations specifically support development of a joint U.S.-Honduras proposal: HSUS, ICBP, NYZS. The following oppose the proposed U.S. position, in that they oppose the bird trade resolutions submitted by the United States (and Honduras): AFA, PETS, PIJAC, SCI, TRAFFIC, and 9 private individuals. Comments received on this issue are very extensive (hundreds of pages, often with references and annexes), and are available from the Service on request; comments on bird trade in general are discussed under this agenda item, while comments specific to transport and mortalities are discussed under agenda item XIII.11.b.

Audubon believes that bird trade resolutions will stop irresponsible trade in bird species for which there is little or no population information. Pionus Breeders Association supports the U.S. resolution as representing positive steps that will result in beneficial regulation of the wild bird trade. AAZPA and AHA urge approval of the U.S. resolution as a start to stopping the large scale commercial trade which is decimating many species. AHA, ICBP, NYZS, and AAZPA support the U.S. resolution, with the full list of 46 species from the Significant Trade Study. NYZS recommends that the United States and Honduras resolutions add a clear definition of "commercial purposes". Defenders et al., note that the necessary projects for these species are not being undertaken and recommendations implemented at a rate that would allay serious concerns of irreparable harm to species.

Defenders et al. and EIA et al. provide extensive reviews of the international wild bird trade and CITES attempts to deal with the issue. Defenders et al., EIA et al., and HSUS discuss the lack of implementation of CITES Article IV by many CITES Parties for birds in particular, and the large number of heavily traded bird species either now on Appendix I or proposed for transfer to Appendix I at COP8. HSUS notes that more than 45 countries, including Honduras (once one of the major exporters of wild birds), have banned the export of birds. Defenders et al. note that none of the 5 countries now exporting the most birds internationally have a Scientific Authority which monitors trade levels; they list violations of export quotas or bans for particular species in seven countries.

Defenders et al. discuss scientific reports that estimate at least 50,000 parrots exported illegally from a particular country during one season, and the export of large numbers of parrot species from a country in which the species are not native. Defenders et al., and EIA et al. discuss in detail patterns in the international wild bird trade, and extensive smuggling and laundering through fraudulent documentation, and demonstrate that many species are traded in violation of the requirements of both domestic laws and the Convention.

EIA et al. detail specific cases of improper or lacking implementation of Article IV, use of forged documents, illegal exports, and unsustainable trade in wild birds. They note the lack of scientific justification for existing capture or export quotas, which are often set based on consumer demand and not Scientific Authority recommendations. EIA recommends specific Wild Bird Trade Control Procedures for exporting and importing Parties.

Noel Snyder suggests that if trade in captive-bred members of the listed appendix II species is allowed, laundering of wild-caught individuals as captive-bred will continue, along with the overexploitation of vulnerable species.

Defenders et al., EIA et al., and HSUS strongly support the implementation of Resolution Conf. 1.6, which called for restricting the collection of wild animals for the pet trade and eventually limiting the keeping of pets to those species which can be bred in captivity. Defenders et al., EIA et al., and HSUS prefer the Honduras resolution, which calls for suspension of shipments of any bird species in appendix II if trade is known to be, suspected to be, or probably threatening the survival of the taxon on a local or global level, or where there is insufficient information to make a non-detriment finding. They prefer a trade suspension in a larger list of species than that submitted by the United States, to include categories A–D* of the 1991 IUCN Significant Trade Study, the species in the U.S. resolution, and the ICBP World Checklist of Threatened species. PIJAC considers the Significant Trade Data from IUCN to be out of date and not subjected to peer review. EIA prefers a suspension of trade in all birds unless trade is known to be sustainable, as the trade will easily shift to other species. They recommend that since the United States supports sustainable utilization, it should support suspension of trade in all bird species until trade is shown to be sustainable.

HSUS supports the provisions in the United States and Honduras resolutions directing the Secretariat, Animals Committee, and Standing Committee to monitor the resolution's implementation and survey stricter domestic measures throughout the world. They support the provision in the Honduras resolution for

the development of a system to analyze the adequacy of countries' non-detriment findings. They urge the United States to support calling on the Parties to provide financial support for independent scientific studies on bird species subject to significant international trade.

AFA opposes a suspension of trade in significantly traded species until it has been scientifically proven that trade is detrimental to wild populations; they are particularly concerned that aviculturists may not be able to obtain birds. They oppose requiring exporting countries to collect basic biological data. AFA and PIJAC are concerned that smuggling will increase. PETS recommends scientific investigations to ascertain which species are being detrimentally affected by trade and implementation of relevant remedial measures before any limitations on trade are implemented. SCI agrees with the U.S. position opposing a suspension of all commercial shipments of live animals pending Standing Committee findings, as proposed by Uruguay. TRAFFIC considers the United States and Honduras resolutions to circumvent provisions of CITES, and is opposed to the establishment of trade moratoria for appendix II species. TRAFFIC is opposed to forcing compliance with CITES Article IV; they note that countries should not be subject to trade moratoria because they are incapable of complying with Article IV (noting that they may be interested in complying); they prefer that moratoria or quotas be implemented unilaterally by individual exporting and importing Parties. PIJAC, SCI and TRAFFIC are concerned that trade moratoria could become permanent bans or indirect Appendix I listings. PIJAC prefers that remedial measures be required for specific countries or species. PIJAC and TRAFFIC are concerned that countries will not have the funds nor the capability to undertake the studies and measures necessary to gather sufficient data on the species.

PIJAC and TRAFFIC consider the Animals Committee resolution (see agenda item XIII.12) to be an alternative to this resolution, rather than an adjunct; they are opposed to focusing specifically on the wild bird trade. Defenders et al., EIA et al., and HSUS strongly support consideration of the wild bird trade at COP8 separately from a discussion of appendix II animals trade in general, noting that the well-documented problems of the wild bird trade are of sufficient scope and uniqueness to warrant adoption of a separate resolution by the COP.

Rationale: The trade in live wild-caught birds is an issue of great concern to both the United States and the CITES Parties, in that the trade in many species of birds listed in appendix II may be detrimental to their survival. The COP will address issues relating to the trade in species identified by previous COPs as subject to significant trade and for which insufficient information exists to assess the effects of trade on their populations (see also agenda item XIII.16). The United States supports the sustainable utilization of wildlife, including wild-caught birds, but is opposed to utilization that is not known to be sustainable, particularly when these species have been identified as potential problems for over five years. It is time for the CITES Parties to take decisive action on significantly traded species.

b. Trade in species sensitive to high mortality rates (Doc. 8.24, 8.24.1).

Negotiating position: Advocate a suspension of commercial trade in species that experience high mortalities during transport, based on criteria adopted by the CITES Transport Working Group (TWG) (resolution submitted by the United States), for all forms of international transport. Support reducing shipment sizes for species that warrant further study of their sensitivity to transport, also based on criteria adopted by the TWG; provide for review and lifting of restrictions when shown to be justified by improved transport practices.

Information and comments: The following commented in support of the U.S. position and U.S. resolution: AAZPA, AHA, ALDF, Audubon, AWI, Defenders et al. (on behalf of AWF, AWI, IWC, RAN, and Sierra Club), EIA et al. (on behalf of AWI, CIEL, Earth Island, Greenpeace USA, IFAW, IPPL, and SAPL), HSUS, ICBP, NYZS, Pionus Breeders Association, and 9 private individuals. TRAFFIC supports the U.S. resolution, but suggests that the lists of species need revision before the resolution is adopted. The following oppose the proposed U.S. position and the resolution: PETS, PIJAC, SCI, and I private individual. Comments received on this issue are very extensive (hundreds of pages, often with references and annexes), and are available from the Service on request.

Audubon notes that birds suffer one of the highest transit-related mortality rates of all animals. AHA urges the United States to work with other CITES Parties to help ensure the implementation of the International Air Transport Association (IATA) Live Animals Regulations (LAR).

Defenders et al., EIA et al., and HSUS strongly oppose that aspect of the U.S. position, to exclude species from the annex that have more than 15 percent mortality in quarantine but less than 2 percent mortality on arrival, noting that the TWG agreed that high mortality during quarantine can be an indicator of improper treatment. EIA et al. and HSUS urge the United States to include hummingbirds in the list of species suspended from trade, rather than in the list with reduced shipment sizes, as they experience high mortality that is not necessarily in the data or that fit into the formula agreed upon by the TWG. Defenders et al. also prefer that the limit of 50 birds per shipment apply to all species in trade, to help minimize the number of deaths from overcrowding.

EIA et al. provide a review of the lack of implementation of the Article IV paragraph 2(c) humane transport requirements, the causes of mortality in transit, and CITES attempts to deal with this issue. They also cite specific cases of inhumane transport and preparation for shipment.

The following specifically suggest that Israel and the United States work to pursue a joint resolution: Defenders et al., HSUS, ICBP, NYZS. Defenders et al. and HSUS prefer the aspect of Israel's resolution that directs the TWG to submit information to the Standing Committee for future inclusion of species in the annex to the resolution. PETS recommends that any transport resolution not include bird species that are traded as captive-bred individuals. AHA notes that transport conditions are often deplorable even for birds that are bred in captivity.

SCI is concerned that trade moratoria could become permanent bans or indirect Appendix I listings; they support a reduction of shipment sizes if it is correct from a veterinary science point of view. They note that the two bird trade resolutions incorrectly establish CITES as a regulatory body. PETS notes that unacceptably high mortality rates are morally reprehensible and anti-business, but recommends a new investigation that considers shipping and transit times, seasonal differences, airline differences, and country differences when analyzing transport and quarantine mortality prior to any further action.

PIJAC is opposed to both the Israel and U.S. resolutions. They recommend a statistical analysis to identify anomalies and remove extremes prior to any trade restrictions; they also recommend an analysis of causes of mortality to determine remedial measures to be employed. They question whether the

proposed trade suspensions would apply to non-air transport. PIJAC is opposed to limiting shipments to 50 birds, and recommends involving the Animals Committee in testing new transport procedures and determining remedial measures for certain species. They submitted a 119 page analysis of avian import data for the species in the U.S. resolution, which the Service is in the process of fully evaluating. PIJAC recommends that the TWG, in cooperation with the Animals Committee, analyze the data on mortalities and then list species warranting specific remedial measures.

AHA recommends the establishment of an International Bird Panel of Experts or Bird Working Group made up of individual scientists and experts.

Rationale: Article IV, paragraph 2(c) requires that prior to the issuance of an Appendix II export permit, a Management Authority must be "satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health, or cruel treatment". Many Management Authorities in exporting countries are unable to make such a finding, but continue to export the shipments. The transport of live specimens has been an issue at every COP. The Parties have charged the TWG (and not the Animals Committee), as a permanent working group of the Standing Committee, with addressing these issues. The TWG found that for many bird species, mortality in transport remains unacceptably high and compliance with Article IV paragraph 2(c) is inadequate.

For those species that experience high mortalities during transport, implementation of Article IV is particularly difficult or impossible, and those species should not be traded for commercial purposes. More extensive data collection on transport-related mortalities is needed. Preliminary studies indicate that higher transport mortalities result from larger shipment sizes, due to a number of factors. Therefore, the United States supports a reduction in shipment sizes for sensitive species requiring further study.

12. Trade in Wild-Caught Animal Specimens (Doc. 8.35)

Negotiating position: Advocate adoption of the resolution prepared by the Animals Committee (and submitted by the United States) dealing with wild-caught significant trade animal species, whereby the Animals Committee will (in consultation with the Secretariat): Identify problems with the implementation of Article IV, which may be operating to the detriment of species; recommend appropriate remedial measures; recommend a consultative process with the exporting Party, and recommend the suspension of trade from countries not implementing the recommended remedial measures. This resolution supplements the other U.S. proposal (Doc. 8.23) regarding the wild bird trade.

Information and comments: AAZPA, ALDF, HSUS, NYZS, PIJAC and TRAFFIC support the adoption of the Animals Committee resolution; AHA and Defenders et al. (on behalf of AWF, AWI, IWC, RAN, SAPL and Sierra Club) support this resolution, but not as a substitute for the bird trade resolutions (see agenda items 11 and 12). AAZPA and NYZS support full implementation of Article IV of the Convention. HSUS and AHA urge the consideration at COP8 of the resolution submitted by Uruguay (see agenda item 11) on live wild-caught animals at the same time as the Animals Committee resolution; HSUS supports all aspects of the Uruguay resolution. AHA supports this resolution as a more long term effort to deal with significant trade species on a country-by-country basis, and see it as functioning in addition to the wild bird resolution. PIJAC and TRAFFIC consider this resolution to be more comprehensive that the bird trade resolution (agenda item 11), which they oppose, although they do not support their implied assumption that the two resolutions are mutually exclusive. TRAFFIC recommends that the provision "requiring that a country demonstrate a substantial commitment to implementing the recommendations of the Animals Committee" be strengthened. PIJAC contends that this resolution is more flexible and diplomatic.

Rationale: Article IV paragraph 2(a) requires that a Scientific Authority of the State of export advise that an export will not be detrimental to the survival of that species, prior to the issuance of an export permit for specimens of a species listed in appendix II. Many Parties have not been able to conduct properly designed surveys and necessary biological studies, so as to identify scientifically-based quotas and to implement effective management plans for species listed in appendix II. There is cause for serious concern that the international commercial trade in wild-caught specimens is contributing to the decline in the wild of some species listed in Appendix II. This resolution supplements the U.S. proposal specifically dealing with the wild bird trade (Doc. 8.23); the two are not mutually exclusive but are designed to operate in parallel.

13. Detrimental Trade in Sea Turtles (no document)

Negotiating position: There is no document on this topic. The U.S. position is to continue the certification of Japan under the Pelly Amendment to the Fishermen's Protective Act until Japan ends all trade in sea turtles and removes its CITES reservations.

Information and Comments: HSUS strongly supports the U.S. position to continue the certification of Japan under the Pelly Amendment until Japan ends all trade in sea turtles and removes its CITES reservations. AHA considers the U.S. position on this agenda item to be too weak, urging the United States to condemn Japan for continuing to trade in both hawksbill sea turtles and other appendix I species. Several private citizens also have asked the United States to urge Japan to stop trading in sea turtles immediately, and to remove their reservations. Greenpeace et al. also request that the CITES parties undertake a full inventory of stockpiles of bekko (hawksbill sea turtle shells).

Rationale: On March 20, 1991, the Departments of Interior and Commerce certified Japan under the Pelly Amendment for diminishing the effectiveness of CITES, by its continued trade in endangered sea turtles. Japan announced on June 19, 1991 that it will sharply limit hawksbill sea turtle (*Eretmochelys imbricata*) imports between now and December 1992, at which time it will end all sea turtle trade, and it will withdraw its hawksbill sea turtle reservation by 1994. Japan's Pelly certification will remain in effect until it removes its CITES reservations and ceases trade in sea turtles.

14. Trade in Crocodilian Products (Doc. 8.26)

Negotiating position: Advocate adoption of the resolution submitted by the United States and Australia to require the skins of all crocodilian species to be tagged before being allowed to be traded by CITES Parties (whether or not a reservation has been entered by a Party).

Information and Comments: AAZPA, HSUS and NYZS support the proposed U.S. position. AAZPA and NYZS support the institution of a system for marking crocodilian products in trade.

Rationale: This refers to a resolution submitted by both the United States and Australia to institute a system of universal marking for all crocodilian skins in trade, as a response to serious problems of illegal trade in crocodilian skins, parts, and products.

15. Trade in Plant Specimens

a. Trade in flasked seedlings (Doc. 8.27).

Negotiating position: (Change) Oppose an exemption from CITES document requirements for artificially propagated appendix I flasked orchid seedlings on the grounds that they are not readily recognizable; encourage efforts to expedite document issuance for these specimens; continue to explore this issue with other Parties. Oppose any change in the definition of artificially propagated that would remove the requirement to maintain the parental stock indefinitely.

Information and comments: CSSA, FFPS, HSUS, NRDC and an individual orchid scientist support the U.S. position. CSSA and NRDC oppose any exemptions for appendix I specimens; they are concerned that the arguments used for exempting flasked seedlings as "not readily recognizable" would be a dangerous precedent that could be applied to other taxa. FFPS disagrees with the assumption in the resolution that wild-collected orchid fruits will never be used to produce flasked seedlings, noting that such may be possible in the future. Kerry Walter (an orchid scientist) is concerned that in very small populations, taking capsules from the wild can in fact be damaging. FFPS considers this provision to be a potential loophole in allowing uncontrollable appendix I trade, and is opposed to any exemption from permit requirements for parts or derivatives of appendix I species. FFPS objects to the provision in the resolution excluding appendix II species from a number of the presently stipulated requirements. Kerry Walter supports the U.S. position, noting that the goal should be to make the permitting process more efficient, not to remove the need for permits completely; he notes further that flasked seedlings should not be ignored by the Convention but should be passed more easily through CITES; he provides comments on specifics of the resolution relating to culture methods.

AABG, AOS, PA, UCI and 4 private individuals, scientists, and growers oppose the U.S. position, in favor of exemptions for flasked orchid seedlings. Several private individuals support exemptions for all plants in flasks. AABG, AOS, PA, UCI and a private company note minimal or nonexistent potential damage to wild populations, and the potential that propagation has for reducing pressures on wild populations. AABG also recommends exemptions for meristem tissue/propagules. UCI considers the time and money needed to obtain CITES documents to create unwarranted hardships. AOS and a private individual feel that such an exemption would allow freer movement of plants; AOS recommends that artificially propagated status be confirmed by the intact seal on the flask opening, noting that flasks under aseptic conditions cannot be tampered with. A private individual is opposed to exempting flasks from appendix I species or hybrids if either parent is of wild origin. AOS notes that such an exemption would reduce the international traffic in adult orchid plants, advocating the establishment of flasking laboratories in countries of origin of wild-collected orchids; PA notes the increase in such laboratories. COGG notes that it is difficult to determine whether a division of an Appendix I orchid species is artificially propagated or not, except in sterile flasks, which are unambiguous. They encourage educational programs that would explain CITES regulations for plants. UCI notes that the United States is a prime producer of flasked plants for international trade, and as such should remove restrictions in order to facilitate artificial propagation.

PA recommends that only the issue of flasked seedlings be dealt with at COP8, with all other plant issues in Documents 8.27 and 8.28 deferred to a detailed treatment of CITES and plants issues at a future COP. They recommend that flasked orchid seedlings be exempt from CITES document requirements as an extension of existing plant exemptions. They contend that flasked orchid seedlings are already exempt from CITES requirements, since under Article VII(4) they are "deemed to be specimens of species in appendix II", and under Resolution Conf. 6.18 flasked seedling cultures are standard exemptions for appendix II. PA notes that such an exemption would ease administrative and financial constraints on underfinanced and overburdened staffs administering CITES in the United States and abroad. They provide a discussion of the role of artificial propagation in conservation of endangered plants, and are concerned that if such an exemption is not adopted, some will abandon efforts to flask rare orchids.

Rationale: This refers to seedlings of Appendix I orchids still in aseptic flasks, which are artificially propagated and therefore deemed to be specimens of appendix II species. The proposed resolution would deregulate such flasked seedlings, arguing that because they cannot be distinguished from hybrid seedlings of the appendix I species, they are not readily recognizable, and should be exempted from the treaty's requirements. The United States is strongly opposed to categorical assumptions on what may or may not be readily recognizable. Additionally, even though trade in such specimens may not be detrimental to wild populations, the treaty does not provide for an exemption from permit requirements for parts or derivatives of appendix I plant species. The Service will encourage efforts to expedite issuance of permits (if commercial) or certificates (if noncommercial) for these specimens, and will continue to explore this issue with other Parties. Products of appendix II operations that cannot maintain their parental stock indefinitely may still be traded under Article IV.

b. Nursery registration for artificially propagated Appendix I species (Doc. 8.28).

Negotiating position: Oppose the resolution establishing stringent registration criteria for operations and shipping, with defined inspection of nurseries that produce artificially propagated specimens of appendix I plants and hybrids for commercial purposes. Support sound conservation practices in nurseries by cooperative development of international guidelines within Resolution Conf. 5.15.

Information and comments: AABG, HSUS, CCGA, COGG, CSSA, NRDC, an individual orchid scientist (Kerry Walter), and two private individuals support the U.S. position. CCGA, COGG, CSSA, IOS and NRDC specifically oppose nursery registration in that they feel that such registration would be too time-consuming, burdensome (on growers, the Secretariat, and/or the Management Authorities), complex, and expensive. Kerry Walter considers the registration as proposed to be impossible to implement or control. NRDC is concerned that some Management and Scientific Authorities would not exercise the necessary care in certifying nurseries, thereby re-opening trade in wild-collected appendix I species incorrectly identified as artificially propagated. FFPS support nursery registration, but is concerned with the expense of the presented system and the ability of Management Authorities of exporting countries to implement it. FFPS is concerned that the criteria proposed could allow for collection of wild material to replenish parental stock that could be detrimental to wild populations or lead to fraudulent documentation of "artificially propagated"; they suggest that the CITES Secretariat be satisfied first that specimens are not available from

existing stock. AABG is concerned that the presented system would be so cumbersome as to shut down legal trade, and stimulate graft and corruption. COGG is concerned that the requirements of this resolution would lead to monumental paperwork and be counterproductive to the goals of CITES; they also have many concerns with the specific nursery registration guidelines in the resolution.

Rationale: The proposed system is overly strict and inflexible, and would be counterproductive and well as prohibitively expensive to implement. Resolution Conf. 5.15 provides an adequate basis for developing registration.

c. Artificial Propagation and Trade in Appendix I Hybrids (Doc. 8.27).

Negotiating position: Support efforts to refine and clarify the meaning of artificially propagated and the trade in such Appendix I hybrids, but oppose repeal of Conf. 2.12(c) and 6.19.

Information and comments: CSSA, HSUS, IOS, NRDC and a private company support the proposed U.S. position. NRDC notes that this resolution would allow countries to issue "artificial propagation" certificates to wild-collected plants which had been held in a nursery for only a few weeks, by dropping all restrictions defining propagation for plants on Appendix II. COGG encourages efforts to allow a freer flow of artificially propagated plants between exporting and importing countries, and a clarification of CITES paperwork requirements. COGG provides a detailed discussion of the potential contributions of artificial propagation of orchids and other plants to plant conservation, and problems they perceive with increased regulation; they also think that hybrids should not be regulated by CITIES. PA recommends deferring this issue until a definitive proposal for CITES implementation for plants can be prepared for a future COP. A private individual provides a detailed critique of what he considers to be the Service's interpretation of Resolution Conf. 2.12 for plants, with a recommended re-interpretation.

Rationale: (Change) The need for replacement of prior resolutions of the COP on artificially propagated plants is not considered necessary, and is not established in the supporting document, which is also confusing and therefore premature for adoption. The Secretariat's Plants Officer, with the Plants Committee, may need to develop training and implementation materials or guidelines on artificial propagation before or for COP9.

d. Plant nomenclature (Doc. 8.29).

Negotiating position: (Change) Support: the adoption of the checklist of names of Cactaceae; the use of certain texts as generic standards; the preparation of an orchid checklist; and the issuance of CITES documents utilizing these standard names. Support the adoption of a more recent checklist of cycads as a guideline but not a standard. Support cooperative assignment of priorities for checklist development on orchid taxa subject to significant trade. Consider the allocation of some funds from the CITIES Trust Fund for the preparation of the orchid checklist, but as a low priority.

Information and comments: CSSA, HSUS, IOS and a private company support the proposed U.S. position. CSSA and IOS support adoption of the checklists, provided that they are regularly updated by the Nomenclature Committee. FFPS supports preparation of an orchid checklist, but questions the expenditure of $40,000 per year from the Trust Fund for this purpose. AABG prefers appending the cycad checklist, as simpler than the development of an orchid checklist, noting that Cactacea and Orchidaceae nomenclatural problems are greater than for Cycadaceae. UCI is opposed to the U.S. position on an orchid checklist, and opposes the cooperative assignment of checklist development and the attempt by CITES to produce a standard list of scientific names; they consider such an effort for orchids to be a waste of money and outside the purview of CITES. An orchid scientist (Kerry Walter) makes specific suggestions as to references for generic names, and the role of the World Conservation Monitoring Center (WCMC); he notes their species database for Orchidaceae, recommending that WCMC's database of more than 4,000 orchid taxa should be a starting point for a standard CITES orchid nomenclatural reference; he supports the funding proposes for the checklist coordinator. Another scientist, Gustavo Romero, recommends checklist preparation by Kew Gardens for Old World orchid species, and the Mexican Orchid Society for New World species. A private individual recommends that all shippers be required to identify their reference for the names used.

Rationale: (Change) Implementation of the Convention is strengthened by the consistent use of names of listed species. The checklist of Cactaceae will be complete, but the more recent checklist for cycads is without synonyms and thus somewhat unsuitable, because of the potential misuse and misinterpretation of names.

16. Significant trade in Appendix II Species (Doc. 8.30 not yet received)

Negotiating position: This document will be received at COP8. Support the continued focus of the Parties on Appendix II species identified as subject to significant trade and the proper implementation of Article IV, as critical to the implementation of the treaty and species conservation. Support the provisions of funding for the coordination and implementation of significant trade study projects, with oversight by the Animals, Plants, and Standing Committees.

Information and comments: AAZPA, PIJAC, and NYZS recommend that the United States take an active leadership role in the Significant Trade Project, and in seeking full compliance with Article IV. AHA and HSUS support continued focus on compliance with Article IV and support funding for significant trade projects. PIJAC recommends that the United States take a leadership role in revitalizing the Significant Trade process and making remedial measures a reality. PIJAC supports reevaluating the Significant Trade Study to ensure that it produces the best available data in adequate time for review by the scientific and trade communities and the Parties, and to ensure credibility and viability of the process; they consider the data antiquated and accepted without adequate time for review by other authorities. PIJAC urges adoption by the Parties of a long-range plan for this study, including funding mechanisms, review processes, work programs; they prefer species data sheets that are easily updated to the large "tome" produced every two years. PIJAC suggests a new process to evaluate, recommend, and implement remedial measures; they suggest that too much is being asked of the Secretariat, Animals Committee, and the Parties, PIJAC suggests that IUCN should be implored to become more involved in this process. AAZPA and NYZS recommend that if a Party fails to comply with Article IV for more than two species, other Parties should impose trade sanctions. AHA suggests combining this agenda item with agenda item 12. AABG recommends greater funding for studies of significant trade plants, including research in propagation and reintroduction.

Rationale: This topic refers to the trade in those Appendix II species identified as subject to significant trade, for which insufficient biological information exists to warrant trade at current levels. Many of these species may have been traded at levels

detrimental to their survival. The CITES Parties have provided funds to the World Conservation Union (IUCN) and the Conservation Monitoring Centre to assess priorities in studying these species.

17. Trade with States not Parties to the Convention (Doc. 8.54)

Negotiating position: Support a procedure leading to refusal of documentation from non-Parties that have not identified Management and Scientific Authorities, provided the same procedure applies to Parties that have not identified such Authorities. Oppose an unqualified ban on trade in wild-origin Appendix I specimens with non-Parties. The United States does not support the cumbersome process of requiring approval by the Animals or Plants Committees of imports of captive-bred or artificially propagated appendix I specimens from non-Parties.

Information and comments: Defenders et al. support the proposed U.S. position, as long as the requirements of the treaty are enforced for Parties and non-Parties alike, with presumptions against trade with non-Parties. AAZPA, HSUS and NYZS support the proposed U.S. position with regards to refusal of documentation from both Parties and non-Parties not identifying Management and Scientific Authorities. HSUS supports a ban on trade in wild-origin Appendix I specimens with non-Parties, and supports a requirement of approval by Animals or Plants Committee for imports of captive-bred or artificially propagated Appendix I specimens from non-Parties; AAZPA and NYZS agree with the United States in opposing this provision, as being unwarranted and creating more bureaucracy and paperwork. AHA agrees with the HSUS position, but prefers an unqualified ban on trade with non-Parties, in order to give preference in trade to Parties and a disincentive to non-Party statute. AHA further urges the United States to support restrictions on imports from non-Parties, since the United States supports trade moratoria when there is no Scientific Authority advice, and non-Parties cannot have a Scientific Authority advice.

Rationale: The United States supports recommendations on trade moratoria when it is shown that trade is continuing without Scientific Authority advices, to the detriment of species, whether from Parties or non-Parties. Issuance of export permits without Scientific Authority determinations of nondetriment is not allowed under the treaty. For wild-origin appendix I specimens, the resolution submitted would ban such trade regardless of whether the non-Party had identified relevant Authorities, and regardless of whether those Authorities oversee functioning in accordance with Article X and Resolution Conf. 3.8. In the case of captive-bred or artificially propagated Appendix I specimens, the advice of the Animals and Plants Committee would be useful. However, decisions on trade moratoria should be made in accordance with functions and procedures set forth in Articles XII and XIII.

18. Existence of Hair, Wool and Cloth of Vicuna in the European Economic Community, Japan and Hong Kong (Doc. 8.55)

Negotiating position: Oppose additional controls over stockpiles of vicuna (*Vicugna vicugna*) wool and cloth legally traded and held by certain nonrange States. Oppose placing a time limit on legally traded stockpiles. Support instead calling on the Parties to accept only cloth with certain registered marks exported only from those CITES Parties that are members of the Vicuna Convention.

Information and comments: No comments received.

Rationale: The vicuna has been listed in appendix I since 1975 and certain populations in Chile and Peru in appendix II since 1987, in order to export wool and cloth. The cloth must be marked according to CITES requirements, and a properly executed Appendix II export permit from either Chile or Peru is required. Under the Vicuna Convention Chile and Peru must have the cloth identified by a registered mark, and it must be made from wool sheared from live animals.

This resolution would create a precedent whereby the Parties disallow the trade in items already legally found in trade and could be used to sanction trade in illegally traded specimens. The vicuna cloth has been traded legally as Appendix II items and has been placed in stockpiles. This resolution would give the countries with stockpiles one year to identify and liquidate these stockpiles. This would cause an unnecessary burden upon the Parties which allowed legal import of the Appendix II products in good faith with the proper CITES documents. If the vicuna range states are having a problem with illegal vicuna exports, the solution is not found in such an ex post facto requirement on legal appendix II vicuna wool.

19. Return to the wild of confiscated live animals of species included in Appendices II and III (Doc. 8.56)

Negotiating position: Oppose requiring Scientific Authority advice on the return of confiscated appendix II and III specimens to the State of export. Oppose requiring a postal vote of the Parties requesting advice on reintroduction to the wild of specimens that are returned to their State of origin. The United States supports the return to the wild of confiscated live animals, when biologically and ecologically appropriate, and encourages interested scientific organizations, such an IUCN, to develop a list of considerations to be assessed before introducing or reintroducing animals to the wild, to be consulted by interested Parties.

Information and comments: NYZS supports the U.S. position; AAZPA and HSUS support the return to the wild of confiscated live animals when appropriate, and supports the development of a list of factors to be considered prior to such returns. AHA supports requiring Scientific Authority advices prior to returns to the exporting country, in order to obtain scientific input as to whether there is any potential harm to wild populations of such reintroductions. HSUS opposes requiring Scientific Authority advices, but suggests the establishment of a CITES Working Group dealing with rehabilitating and releasing captured animals to the wild.

Rationale: Interest in what Parties should do with confiscated specimens, both live and dead and their products goes back to the drafting of the Convention. The re-export of appendix II specimens does not require a Scientific Authority finding. The Parties have spoken quite clearly on the issue of return of confiscated specimens to the country of origin and have consistently left the management of native wild specimens in the hands of each sovereign State when trade is not involved. This resolution goes beyond the Convention as discussed in Article VIII, paragraph 4(b), and attempts to impose upon what a State can do with the wildlife within its borders. The United States supports the return to the wild of confiscated live animals, when biologically and ecologically appropriate, but considers such determinations beyond the scope of CITES. The United States encourages the development by scientists of a list of considerations to be assessed before introducing or reintroducing animals to the wild, to be consulted by interested Parties, and would encourage IUCN or other international scientific organizations to pursue such an effort.

20. Export of Confiscated Specimens (Doc. 8.32)

Negotiating position: Advocate the adoption of the resolution proposed by the Untied States to clarify eligibility for export permits (under certain conditions) of illegally obtained specimens that have been subsequently confiscated.

Information and comments: AAZPA and NYZS support the proposed U.S. position. Defenders (on behalf of AWF, AWI, IWC, RAN, SAPL, and Sierra Club) opposes any action that would expedite trade in confiscated specimens, and thus oppose the proposed U.S. position. They claim that the return of ill gotten goods to trade rewards the trade. AHA opposes the resolution, and considers it unnecessary. AHA and Defenders et al. recommend that confiscated goods only be sold as part of law enforcement operations. HSUS strongly opposes this resolution and the U.S. position, claiming that it promotes illegal trade and may increase corruption of government officials; they support a prohibition against the export of illegally-obtained specimens.

Rationale: While illegally imported specimens have been deemed eligible for reexport certificates under Conf. 4.17, no similar clarification has been made for specimens illegally obtained in the country of export. The prohibition against export of illegally obtained specimens was obviously meant to prevent those who illegally obtained the specimens from getting permits to export them. Export of confiscated specimens should also not be allowed if the individuals from whom the specimens were seized received any financial compensation for the specimens. The Scientific Authority would still have to make its "no detriment" finding before the permit could be issued, and appendix I specimens could not be traded for primarily commercial purposes.

21. Marking of Specimens (Doc. 8.33)

Negotiating position: Support a resolution requiring the use of coded microchip implants for marking live appendix I captive bred animals in trade and those which form part of a travelling exhibition or circus.

Information and comments: AAZPA, AHA, HSUS, and NYZS support the proposed U.S. position. AAZPA and NYZS recommend that the marking be first shown to be not harmful to the specimens involved; they recommend that microchips meet uniform standards and be properly implanted and registered; they recommend that CITES adopt the IUCN CBSG microchip standards. AHA recommends that microchip or other marking be required for all appendix I live animals in trade, with the number registered with the CITES Secretariat.

Rationale: In Conf. 7.12 the Parties recommended that coded microchip implanted be tried on a trial basis and that the Animals Committee further explore the issue. The Animals Committee looked at the issue in its forth and fifth meetings in Australia in 1990 and Canada in 1991, and recognized the value of microchip technology in the marking of high value captive bred specimens. This resolution is a direct result of those two meetings. The United States has long supported efforts to develop practical and effective methods of marking CITES specimens, particularly of high value appendix I species. The IUCN/SSC Captive Breeding Specialist Group has studied microchip technology, availability, and reliability, and recommended standards for microchip use throughout the world. Efforts should be made to ensure that microchips meet uniform standards and are properly controlled and registered.

22. Standardization of CITES Permits and Certificates (Doc. 8.34 not yet received)

Negotiating position: This document will not be received until COP8; no position is possible at this time.

Information and comments: AAZPA, NRA, NYZS, and SCI urge the United States to support efforts to standardize CITES permits and certificates used by all Parties.

23. Transport of Live Specimens (Doc. 8.36)

Negotiating position: Support the adoption by the COP of the report of the Chairman of the Transport Working Group (TWG). The United States will remain actively involved with the TWG, and with all aspects of the transport of live wild animals.

Information and comments: AHA, AAZPA, HSUS and NYZS support the TWG report and the increased attention by the United States to the humane transport of live wild animals. AHA urges the United States to work with CITES and IATA to improve the conditions under which live wild animals are transported; they also encourage the United States to chair the TWG and seek greater participation in the TWG of representatives from Africa, Latin America, and Asia. AAZPA and NYZS note that the humane shipment of animals needs international standards and coordination with input from knowledgeable animal handlers, keepers, curators and biologists.

Rationale: The humane transport of live wild animals remains a significant concern of the United States. The TWG's Terms of Reference with the Standing Committee include working to improve implementation of the Convention and relevant resolutions, training, improvement of international standards, coordination with the International Air Transport Association Live Animals Board, and the transport of live wild birds.

24. Role of the Scientific Authority (Doc. 8.37)

Negotiating position: Advocate adoption of the resolution submitted by the United States outlining the responsibilities of Scientific Authorities, and the process for the issuance of nondetriment findings by the Scientific Authority, which are required by the CITES treaty.

Information and comments: AAZPA, AHA, HSUS and NYZS support the U.S. position, and the resolution submitted by the United States. AAZPA and NYZS note that CITES must assist all Parties to establish a Scientific Authority. AHA urges the United States to go further, by requiring Parties to identify a Scientific Authority, and recommending not trading with countries that have not done so; they also recommend that Animals Committee request copies of the required non-detriment finding from an exporting Party for species of particular concern, with the absence of such a finding as grounds for non-acceptance of shipments from that Party. ALDF and Defenders et al. (on behalf of AWF, AWI, IWC, RAN, SAPL, and Sierra Club) note that Scientific Authorities around the world, when they exist, are seldom utilized in the manner foreseen by CITES; they recommend that Parties deny the validity of permits issued by Management Authorities when a Scientific Authority has not been a participant in the permit process. FICA and SCI opposes the U.S. position and the resolution on the role of Scientific Authorities. They object to the resolution's section on trade in hunting trophies of Appendix I animals because they oppose incorporation of provisions in Conf. 2.11 that recommend that Scientific Authority findings by an importing country be made based, among other things, on biological information on the status of the species. SCI is opposed to incorporating the provisions of Doc. 3.27 relating to the Scientific Authority finding on imports of Appendix I species. They are also opposed to any special attention to Appendix II significant trade species. They consider this proposed resolution

to be contrary to the provisions of the treaty.

Rationale: The Animals Committee agreed that such a resolution was necessary, and asked the United States to help develop it. It is critical that a country consult with the Scientific Authority and involve the scientific community in providing the best available biological information on decisions to conserve wildlife and plant resources. The effectiveness of the Convention is seriously undermined when a country does not have an active Scientific Authority.

25. Proposals to Register the First Commercial Captive-breeding Operation for an Appendix I Animal Species (Doc. 8.38)

Negotiating position: (Change) Support the proposed resolution to return the major responsibility for approving commercial breeding operations for appendix I species to each Management Authority, while strengthening the role of the Secretariat in accepting or refusing such registrations; support the establishment of new, consolidated criteria for approval of such facilities. In terms of the first such breeding operation for an Appendix I species, continue to explore this issue with other Parties and with Animals Committee at COP8.

Information and comments: AAZPA, AHA, ALDF, Defenders et al. (on behalf of AWF, AWI, IWC, RAN, SAPL, and Sierra Club) and NYZS oppose the proposed U.S. position and oppose the adoption of the resolution; HSUS supports it, if it is strengthened. AAZPA and Defenders et al. are opposed to each Management Authority's being in control of the registration of a commercial captive-breeding facility for appendix I species; they consider it essential for review of proposals by the COP. Defenders et al. consider the oversight and control by the Parties to be critical, as the potential for abuse of this system is too great. AAZPA and NYZS note that some proposals submitted for consideration at COP8 do not meet several existing requirements; they recommend more scrutiny of breeding stock origin and legal origin of specimens. AAZPA, AHA, ALDF, Defenders et al., and NYZS are concerned that captive breeding facilities will become a conduit for wild-caught specimens. AHA is concerned that once a Management Authority designates a species, hundreds of individuals of endangered species could be laundered through a facility, even if the Secretariat were to later recommend action. ALDF notes that a number of private breeding facilities misrepresent their captive breeding capabilities, and the scientific experts present at a COP should be available to advise the Parties as to the credibility of an application. ALDF further notes that this resolution delegates too much substantive power to the Secretariat. AAZPA supports consolidation of existing resolutions on this subject, but believes that all CITES Parties at a COP should continue to approve the first commercial facility for each species. AHA recommends COP approval for all such facilities, and not just the first for a given species. HSUS supports the resolution and the proposed U.S. position, if the role of the Secretariat is strengthened in accepting or refusing such registrations; they also support strengthened criteria for approval of such facilities.

Rationale: This resolution replaces Resolutions Conf. 6.21 and 7.10, which allow for the registration of the first commercial captive-breeding operation for an appendix I animal species, upon a two-thirds majority vote of the Parties. On the recommendation of the Animals Committee, this resolution establishes standards by which each Party's Management Authority could determine which facilities are registered as captive-breeding an Appendix I animal species for commercial purposes. The Secretariat is delegated authority to approve and register facilities put forward by a Party, after consultation with all Parties and appropriate experts.

26. Guidelines for Evaluating Marine Turtle Ranching Proposals (no document)

Negotiating position: None necessary; guidelines will not be discussed at COP8.

Information and comments: No comments received.

Rationale: The Secretariat has stated that no discussion of guidelines for evaluating marine turtle ranching proposals (none of which were submitted by Parties) can occur at COP8. IUCN has informed the Secretariat that it is not able to follow up on the proposed Guidelines.

27. Exemption for Blood and Tissue Samples for DNA Studies from CITES Permit Requirements (Doc. 8.41)

Negotiating position: Oppose exemptions from permit requirements for blood and tissue samples for DNA studies.

Information and comments: AHA and HSUS support the U.S. position. AHA notes that potential exists for such samples to be taken from animals in the wild in ways that may be detrimental to their populations. AAZPA and NYZS oppose the U.S. position, and urge the United States to support the resolution. They believe that small samples of blood and tissue for DNA studies should be exempt from permit requirements, at least when studies are conducted in conjunction with a country's Management Authority to verify the origin or taxonomy of specimens. They are concerned by the amount of time required to process permits.

Rationale: Such exemptions go beyond those specified in the treaty. The United States supports encouraging efficient and timely issuance of permits for perishable samples, as was suggested by the Secretariat at COP7.

28. Criteria for Amendments to the Appendices (Doc. 8.50)

Negotiating position: The Service supports the need to reevaluate the Berne Criteria for listing species in the appendices, but opposes consideration at COP8 of the complex and extensive document revising the Berne Criteria. The Service supports the establishment of a separate working group reporting to the Standing Committee to address these important issues, accompanied by a workshop involving a diverse group of scientists and experts, and to revise the criteria for consideration at COP9.

Information and comments: AAZPA, AHA, ALDF, Defenders et al. (on behalf of AWF, AWI, IWC, RAN, SAPL, and Sierra Club), FICA, NRA, NYZS, SCI and TRAFFIC support the U.S. position that the Berne Criteria need to be reevaluated, for which there is insufficient time at COP8, and that a separate working group or committee should be established to address these issues after COP8. NRA and SCI urge the United States to assure that such a working group is open to NGO input; along with FICA, they claim that for some popular species, a rational and scientific approach to Appendix I has been abandoned. Greenpeace et al. (on behalf of AWF, AWI, CIEL, IWC, RAN, SAPL, and Sierra Club) also oppose adoption of the "Kyoto Criteria" resolution, without commenting on the need for revision of the Berne Criteria. Greenpeace et al. claim that the recommendation in the resolution to avoid split listings is inconsistent with the CITES definition of species, which supports protecting subspecies and geographically distinct populations; they oppose that part of the proposed resolution that requires far more supporting evidence to delist than to list a species, which contradicts the Mace-Lande criteria cited in the resolution. HSUS opposes a reevaluation of the Berne Criteria at COP8 or any other COP, and opposes the establishment of

a working group. AHA notes that criteria for transferring species onto or within the CITES Appendices should not be confused with purely scientific determinations of the status of species in the wild; CITES criteria must take into consideration management, trade, and law enforcement information. AHA considers the criteria proposed by Zimbabwe et al. to be insufficient and inadequate for all but a few species of large mammals; ALDF considers the criteria to be defective. AAZPA considers the Mace-Lande criteria inappropriate for use in CITES listings, in part because they require census data which are typically not available. AAZPA and NYZS state that the conservation of species should take priority over commercial or economic consideration, and that commercial activities should be restricted to those which result in significant conservation of the species and its habitat. AHA urges the United States to sponsor a special scientific workshop to consider the Berne criteria. TRAFFIC notes that a special IUCN workshop was recently held in Cambridge, U.K. (which the Service did not participate in) on this topic; their comments include a summary of that meeting. The workshop recommended that IUCN: review all mammals, birds, and crocodiles on Appendix I to test the applicability of the Mace-Lane Criteria; develop further criteria; recommend which species should remain on Appendix I; and develop additional sets of criteria for plants, invertebrates, amphibians, and marine vertebrates.

Rationale: The Berne Criteria need to be reviewed and adapted to address a broader array of taxa and to be more descriptive and definitive, to the extent possible. The diverse scientific and management issues addressed in the proposed resolution and background statement are too complex to deal with at a COP without detailed scientific and technical deliberations completed in advance.

29. Review of Procedures and Criteria for the Transfer of Crocodilians From Appendix I to Appendix II (Doc. 8.25)

Negotiating position: (Change) Support adoption of the resolution recommending that commercial captive-breeding operations only be established using wild-caught specimens if captive-bred specimens are not available, and only it if can be established that use of wild-caught stock does not result in the depletion of breeding stock in the wild. Support adoption of certain ranching proposal considerations, including limiting the harvest of wild specimens to programs described in the proposal and not allowing later initiation of new cropping programs. Support more rigorous review of proposals involving cropping of wild specimens.

Information and comments: AAZPA, HSUS and NYZS support the U.S. position, particularly the rationale that emphasis should be placed on not harvesting wild adults. HSUS opposes the collection of wild adult crocodilians for direct trade or to stock breeding operations.

Rationale: Ranching programs for crocodilians based on controlled egg or hatchling collection can be a positive force for conservation. Crocodilian species have been (and can again be) overharvested quickly unless strong management programs exist; emphasis should be placed on not harvesting wild adults.

30. Support of Range States for Amendments to Appendices I and II (Doc. 8.51)

Negotiating position: Support a recommendation that a Party proposing to amend the Appendices notify and consult with the range States concerned, and include any range State opinions in the proposal. The United States supports recommending submission of the full text of the proposal to range States 60 days prior to submission to the Secretariat. The United States opposes an amendment to the Rules of Procedure requiring withdrawal of an appendix I listing proposal upon a ⅔ vote of the range States, as contrary to the text of the Convention. However, the United States supports suggestions that range States consider and, if they desire, vote on species proposals in their respective COP regional meetings, and be given a specific opportunity to present their recommendations to Committee I.

Information and comments: AAZPA, FICA, HSUS, NRA and NYZS support the U.S. position. AAZPA, FICA, HSUS and NYZS particularly support the United States opposition to amending the Rules of Procedure (as stated above). ALDF, Defenders et al. (on behalf of AWF, AWI, IWC, RAN, SAPL, and Sierra Club), and Greenpeace et al. (on behalf of CIEL, Earth Trust, EIA, IFAW, IPPL, PAWS, and SAPL) also support the U.S. position, noting further that ranges states should not be given full veto power over any species listing or delisting, which is in direct contradiction of the language, spirit and experience of the treaty. AHA supports the U.S. position, but feels it does not go far enough. AHA, Greenpeace et al., and HSUS oppose the requirement that proposals be circulated to range States 60 days prior to submission to the Secretariat and that range States' opinions be included in any proposal, as being overly burdensome; they note that this would require proposals to be prepared 210 days prior to the COP, which for financial and staff reasons would bar many countries from submitting proposals. Greenpeace et al. agree that range States should have a more formal process for commenting on proposals. HSUS opposes suggestions that range States vote on species proposals in their regional meetings at COPs, because this could discourage independent actions and encourage range States to act in a block rather than individually. AHA notes that non-range States have a sovereign right to submit any legiitimate proposal, as the United States has done several times, and that range States do not need a specific opportunity to address a COP, since all Parties have such an opportunity already. SCI disagrees with the U.S. opposition to amending the Rules of Procedure on withdrawal of a proposal if it is not supported by at least one third of the range States, and does not consider such a requirement to be contrary to the treaty; they support giving range States a stronger voice in listings. SCI notes that this resolution stems from a lack of implementation by many Parties of Resolution Conf. 6.7, which called for consultation with range states prior to imposition of stricter domestic measures.

Rationale: The United States supports the exchange of information with the range States, and the full participation and democratic decisions of all Parties on species to be included in appendices I and II.

31. Review of Appendix III (Doc. 8.42)

Negotiating position: Oppose the proposed resolution urging more judicious use of appendix III, including direct consultation with the Animals or Plants Committee and a review of existing appendix III listings.

Information and comments: AAZPA, HSUS, NYZS and TRAFFIC support the U.S. position and rationale on this issue. TRAFFIC recommends that the use and implementation of appendix III be reviewed by the Standing Committee, with recommendations to be presented for discussion at COP9.

Rationale: The CITES Secretariat has been working to screen appendix III proposals and consult with the submitting Party. The Service supports the need for judicious use of appendix III, but not the need for a resolution at this time. The Service supports urging all Parties to carry out their responsibilities in implementing and enforcing appendix III listings.

32. "Stricter Domestic Measures" (Doc. 8.52)

Negotiating position: The United States opposes a recommendation that would limit a State's right to take any stricter domestic measures with regard to its own or other countries' species, but could support a recommendation that such State consult with range States before taking stricter measures. The United States supports a recommendation that range States and all Parties have laws that adequately implement CITES (including means to minimize illegal trade), but opposes a recommendation that range States promote sustainable use.

Information and comments: AAZPA, AHA, ALDF, Defenders et al. (on behalf of (on behalf of AWF, AWI, IWC, RAN, SAPL, and Sierra Club), Greenpeace et al. (on behalf of CIEL, Earth Trust, EIA, IFAW, IPPL, PAWS, and SAPL), HSUS and NYZS support the U.S. position opposing the resolution limiting a country's right to take stricter domestic measures. ALDF and Defenders et al. consider wildlife as a resource for all the people of the world, and not just the economic property of a range State; they consider the U.S. position to be both legally and ethically correct. HSUS supports the U.S. position, but also opposes that States consult with range States before taking stricter measures. AAZPA and NYZS urge the United States to work to make other countries aware of the consequences of this resolution. AHA prefers that the U.S. opposition be stronger, noting that any country has the sovereign right under the treaty to impose any trade restrictions it chooses. AHA and HSUS support the United States in its opposition to a recommendation that range States promote sustainable use; AHA notes that such a decision is up to each country individually. Greenpeace et al. note that while the United States cites its sovereign right to impose any domestic measures it chooses, in the case of CITES, the Parties specifically included this right in Article XIV; they contend that the right of Parties to take stricter domestic measures is more firmly rested upon the treaty itself than upon sovereignty grounds. They recommend that the U.S. position state that it opposes this proposal because it is inconsistent with CITES. SCI opposes the U.S. position; while recognizing that the treaty allows Parties to take stricter domestic measures, they contend that the treaty refers principally to stricter controls over a range States' exports of listed species.

Rationale: The Convention provides that nothing shall "affect the right of a party to adopt * * * stricter domestic measures regarding the conditions for trade * * * or the complete prohibition thereof * * *" The United States endorses consultations with range States prior to adopting stricter domestic measures, and full consideration of their views, but it will not limit itself to adopting only those measures supported by range States. The United States reserves its sole authority to make final decisions under the Endangered Species Act, Marine Mammal Protection Act, Lacey Act, etc., and supports the similar right of all other countries regarding their stricter domestic laws. The United States has been a leader in efforts to see that all Parties have laws that adequately implement CITES. The United States also supports the principles of sustainable use, and the utilization of natural resources, including wildlife, on a sustainable basis. In recognizing the sovereign rights of individual countries, however, it is not the business of CITES to promote sustainable use of wildlife over other conservation regimes; rather, it is up to each Party to decide the basis of its conservation programs. CITES does provide that if a CITES-controlled species is traded internationally, its trade shall not be detrimental to that species' survival.

XV. Conclusion of the Meeting

1. Determination of the Time and Venue of the Next Regular Meeting of the Conference of the Parties (no document)

Negotiating position: No documents have been received regarding possible host governments. Favor holding COP9 in a country where all Parties and observers will be admitted without political difficulties. Support the holding of COPs on a biennial basis, or, as in the case of COP8, after an interval of 2½ years.

Information and comments: HSUS supports holding COP9 after 2 or 2½ years anywhere that all Parties and NGOs will be admitted without difficulties. AHA supports not holding COP9 any later than 2½ years after COP8, preferably in the Third World.

Rationale: COP meetings energize governmental and nongovernmental organizations concerned with CITES issues to examine its implementation, and species that need it. Stretching out intervals between meetings to 3 years is not in the interest of conservation; the cost savings that might result from a 3-year interval would be partially reduced by an increase in committee meetings in the interim.

Author: This notice was prepared by Dr. Susan S. Lieberman, Office of Management Authority, U.S. Fish and Wildlife Service (703/358–2095).

Dated: February 25, 1992.

Richard N. Smith,

Acting Director.

[FR Doc. 92–5047 Filed 3–3–92; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Invs. Nos. 701–TA–309 and 731–TA–528 and 529 (Final)]

Notice of Institution and Rescheduling of Investigation; Magnesium from Canada and Norway

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of final antidumping investigations and rescheduling of the ongoing countervailing duty investigation regarding imports of pure and alloy magnesium from Canada.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731–TA–528 and 529 (Final) under section 735(b) of the Tariff Act of 1930 (the act) [1] to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada and Norway of pure and alloy magnesium,[2] that have been found by the U.S. Department of Commerce (Commerce), in preliminary determinations, to be sold in the United States at less than fair value (LTFV).

The Commission also gives notice of the schedule to be followed in these antidumping investigations and the rescheduling of the ongoing countervailing duty (CVD) investigation regarding imports of pure and alloy magnesium from Canada (inv. No. 701–TA–309 (Final)), which the Commission instituted effective December 4, 1992.[3]

[1] 19 U.S.C. 1673d(b).

[2] The products covered by these investigations are pure and alloy magnesium. Pure unwrought magnesium contains at least 99.8 percent magnesium by weight and is sold in various slab and ingot forms and sizes. Alloy magnesium contains less than 99.8 percent magnesium by weight, with magnesium being the largest metallic element in the alloy by weight. Granular and secondary magnesium are excluded from the scope of these investigations. Pure and alloy magnesium are provided for in subheadings 8104.11.00 and 8104.19.00, respectively, of the Harmonized Tariff Schedule of the United States (HTS).

[3] 56 F.R. 66875, Dec. 26, 1991.

The schedules for the subject investigations will be identical, pursuant to Commerce's alignment of its final subsidy and dumping determinations. Unless these investigations are extended, Commerce will make its final CVD and LTFV determinations on or before April 27, 1992, and the Commission will make its final injury determinations on or before June 16, 1992.[4]

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E,[5] and part 207, subparts A and C.[6]

EFFECTIVE DATE: February 18, 1992.

FOR FURTHER INFORMATION CONTACT: Fred Fischer (202–205–3179), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background

The antidumping investigations are being instituted as a result of affirmative preliminary antidumping determinations by Commerce that imports of pure and alloy magnesium from Canada and Norway are being sold in the United States at less than fair value within the meaning of section 733 of the act.[7] The antidumping investigations were requested in a petition filed on September 5, 1991, by Magnesium Corp. of America (Magcorp), Salt Lake City, UT.

Participation in the Investigations and Public Service List

Persons wishing to participate in the antidumping investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final antidumping investigations available to authorized applicants under the APO issued in these investigations, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in these investigations will be placed in the nonpublic record on April 21, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with all of the subject investigations beginning at 9:30 a.m. on May 6, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before April 28, 1992. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on May 1, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 601.13(f), and 207.23(b) of the Commission's rules.

Written Submissions

Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the deadline for filing is April 30, 1992. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is May 13, 1992; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before May 13, 1992. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules.

By order of the Commission.

Issued: February 28, 1992.

Kenneth R. Mason,

Secretary.

[FR Doc. 92–5132 Filed 3–3–92; 8:45 am]

BILLING CODE 7020–02–M

[4] 19 U.S.C. 1673d(a) and § 1673d(b).

[5] 19 CFR part 201.

[6] 19 CFR part 207.

[7] 19 U.S.C. § 1673b.

INTERSTATE COMMERCE COMMISSION

Agency Information Collection Under OMB Review

The following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) are being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Kathleen King, (202) 927–5493. Comments regarding this information collection should be addressed to Kathleen King, Interstate Commerce Commission, room 1312, Washington, DC 20423 and to Ed Clark, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. When submitting comments, refer to the OMB number or the Title of the Form.

Type of Clearance: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.

Bureau/Office: Office of Economics.

Title of Form: Quarterly Report of Revenues, Expenses and Income.

OMB Form Number: 3120–0027.
Agency Form Number: RE&I.
Frequency: Quarterly.
Respondents: Class I Railroads.
No. of Respondents: 17.
Total Burden Hours: 408.

Type of Clearance: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection.
Bureau/Office: Office of Economics.
Title of Form: Records Retention.
OMB Form Number: 3120–0121.
Agency Form Number: None.
Frequency: Annual.
Respondents: Class I and II Motor Carriers of Property, Class I Motor Carriers of Passenger and Class I Railroads.
No. of Respondents: 2092.
Total Burden Hours: 20,920.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92–4995 Filed 3–3–92; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CRRCLA)

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on February 25, 1992, a proposed Consent Decree in *United States* v. *E.I. du Pont de Nemours & Company*, Civil Action No. 3–92–CV–10028, was lodged with the United States District Court for the Southern District of Iowa, Central Division. The proposed Consent Decree resolves the liability of the Settling Defendant under sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. 9606 and 9607, at the County Road X23 Superfund Site ("Site") located near the towns of West Point and Fort Madison, Iowa in Lee County. Under the terms of the Consent Decree, the Settling Defendant has agreed to conduct a remedial action at the Site, to reimburse EPA for past costs of $422,176.00, and to reimburse the United States for all oversight and future costs incurred at the Site.

The Department of Justice will receive, for 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, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *E.I. du Pont de Nemours & Company*, D.J. Ref. No. 90–11–2–555.

The proposed Consent Decree may be examined at the office of the United States Attorney, Southern District of Iowa, 115 U.S. Courthouse, East 1st and Walnut Sts., Des Moines, Iowa 50309, the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66106, and at the Environmental Enforcement Section Document Center, 601 Pennsylvania Ave., NW., Box 1097, Washington, DC 20004, 202–347–2072. A copy of the proposed Consent Decree can be obtained in person or by mail from the Document Center. In requesting a copy, please enclose a check in the amount of $18.50 (25 cents per page reproduction charge) payable to the Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–4993 Filed 3–3–92; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on February 26, 1992, a proposed Amended Consent Decree in *United States* v. *Virgin Islands Housing Authority*, Civil No. 86–112, was lodged with the United States District Court for the District of the Virgin Islands. The proposed Amended Consent Decree concerns defendant's compliance with a Consent Decree that was entered by the District of the Virgin Islands on January 20, 1989. The original Consent Decree settled the United States' claims that the Virgin Islands Housing Authority had violated various provisions of the Safe Drinking Water Act.

Under the terms of the Consent Decree the settling defendant will pay $15,000 in stipulated penalties, complete various capital improvements, and adhere to the operation, maintenance, monitoring, reporting and recordkeeping requirements of the Amended Consent Decree. This will settle the United States' claims for stipulated penalties and injunctive relief based on the United States' assertion that the Virgin Islands Housing Authority violated certain terms of the original Consent Decree.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Virgin Islands Housing Authority*, D.O.J. Ref. 90–5–1–1–2550A.

The proposed Consent Decree may be examined at the Region II Office of the Environmental Protection Agency, 26 Federal Plaza, New York, NY. Copies of the Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20044, (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 Building, NW., Box 1097, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $8.25 (25 cents per page reproduction cost) made payable to Consent Decree Library.

Barry M. Hartman,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 92–4994 Filed 3–3–92; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. chapter 35), considers comments on the reporting/recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and/or Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills ((202) 523–5095). Comments and questions about the items on this list should be directed to Mr. Mills, Office of Information Resources Management Policy, U.S. Department of Labor, 200 Constitution Avenue, NW., room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, room 3001, Washington, DC 20503 ((202) 395–6880).

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Extension

Employment and Training Administration

Attestation by Employer for Off-Campus Work Authorization for F–1 Students, ETA 9034, As Needed, Individuals or households; State or local governments; Business of other for profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations, 40,000 respondents; 40,040 total hours; 1 hr. per response; 1 form.

The information provided on this form by employers seeking to use aliens admitted as students on F–1 visas in off-campus work will permit DOL to meet Federal responsibilities for program administration, management and oversight.

Veterans Employment and Training

Eligibility Data Form for Requesting Assistance in Obtaining Veterans' Reemployment Rights, 1293–0002, Other, Individuals or households, 2,500 respondents; 625 hours; .25 hours per response.

The information is needed to determine eligibility of veteran complainants for reemployment rights they are seeking as well as to state alleged violations by employers of the pertinent statutes and request assistance in obtaining appropriate reemployment benefits.

Annual Report from Federal Contractors, 1293–0005, VETS 100, Annually, Businesses or other for-profit; small businesses or organizations, 158,150 respondents; 75,075 total burden hours; 30 minutes average per response.

The annual report is required by 38 U.S.C. 2012(d) from entities with contracts of $10,000 or more with Federal departments or agencies covering (a) numbers of special disabled and Vietnam-era veterans in the workforce by job category and hiring location and (b) number of employees hired and of those, the number of special disabled and Vietnam-era veterans.

Signed at Washington, DC, this 25th day of February 1992.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 92–4997 Filed 3–3–92; 8:45 am]

BILLING CODE 4510–22–M

Employment and Training Administration

[TA–W–26,658]

Atlas Wireline Services, Broussard, LA; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 16, 1991 in response to a worker petition which was filed on December 16, 1991 on behalf of workers at Atlas Wireline Services, a Division of Western Atlas International, Incorporated, Broussard, Louisiana. The workers are engaged in activities related to exploration and drilling for unaffiliated firms in the oil and gas industry.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA–W–26,588). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 21st day of February 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–4998 Filed 3–3–92; 8:45 am]

BILLING CODE 4510–30–M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of February 1992.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–26,625; Intrex Corp., Harrison, NJ

TA–W–26,614; Sequent Computer Systems, Beaverton, OR

TA–W–26,595; Dynac Corp., St. Joseph, MI

TA–W–26,487; General Motors Corp., Powertrain Div., Ypsilanti, MI

TA–W–26,649; Massillon Stainless Steel Works, Inc., Massillon, OH

TA–W–26,685; DuBois Chemical, East Rutherford, NJ

TA–W–26,699; Fashions by Anna, Inc., Orange, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA–W–26,663; Compaq Computer Corp., Printed Circuit Board Dept., Houston, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–26,761; Vulcan Materials Co., Jacksonville, FL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–26,691; Apache Corp., Denver, CO

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–26,694 & TA–W–26,695; Black Hills Trucking, Inc., Watford City and Williston, ND

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–26,670; Lermer Corp., Eatontown, NJ

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA–W–26,633; Summit Timber Co., Darrington, WA

U.S. imports of softwood lumber decreased both absolutely and relative to U.S. shipment in 1990 compared with 1989 and decreased absolutely in Jan-Sept 1991 compared with the same period in 1990.

TA–W–26,652 & TA–W–26,653; Tex/Con Oil and Gas Co., Houston, TX and Crescent, OK

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–26,654 & TA–W–26,655; Tex/Con Oil and Gas Co., Gorham, KS and Portland, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–26,662; Brunswick Defense, Brunswick Corp., Willard, OH

Increased imports did not contribute importantly to worker separations at the firm.

Affirmative Determinations

TA–W–26,690; Wiman Apparel, St. Gaylord, MN

A certification was issued covering all workers separated on or after December 16, 1990.

TA–W–26,643 & TA–W–26,644; Duxbak, Inc., Cambridge, MD & Willards, MD

A certification was issued covering all workers separated on or after December 1, 1990.

TA–W–26,786; Nanci Andrews, Altoona, PA

A certification was issued covering all workers separated on or after Jan. 16, 1991.

TA–W–26,621; Chevron Chemical Co., Kennewick, WA

A certification was issued covering all workers separated on or after November 15, 1990.

TA–W–26,718; Potomac Sportswear, Martinsburg, WV

A certification was issued covering all workers separated on or after December 27, 1990.

TA–W–26,496; United Technologies Automotive, Boyne City, MI

A certification was issued covering all workers separated on or after October 18, 1990.

TA–W–26,475; Arbor Foods, Inc., Toledo, OH

A certification was issued covering all workers separated on or after October 21, 1990 and before September 30, 1991.

TA–W–26,628; Nikki Lee Fashions, Inc., Duryea, PA

A certification was issued covering all workers separated on or after November 21, 1990.

TA–W–26,661; Bridgeport Machines, Inc., Bridgeport, CT

A certification was issued covering all workers separated on or after December 2, 1990.

TA–W–26,700; Halliburton Services, Rankin, TX

A certification was issued covering all workers separated on or after January 1, 1991 and before February 1, 1992.

TA–W–26,798; Exxon Co U.S.A., Eastern Div. Production Dept, New Orleans, LA

A certification was issued covering all workers separated on or after January 21, 1991.

TA–W–26,772; Exxon Co U.S.A., Midland Office, Midland, TX

A certification was issued covering all workers separated on or after December 31, 1990.

TA–W–26,666; Exxon Co U.S.A., Onshore Exploration Div., Denver, CO

A certification was issued covering all workers separated on or after December 4, 1990.

TA–W–26,758; Harwood Companies, Inc., Marion, VA

A certification was issued covering all workers separated on or after January 13, 1991.

TA–W–26,688; Scientific Drilling International, Inc., Mills, WY

A certification was issued covering all workers separated on or after January 1, 1991.

TA–W–26,675; Par Directional Drilling, Inc., Lafayette, LA

A certification was issued covering all workers separated on or after January 1, 1991 and before January 1, 1992.

TA–W–26,680; Val Mode, Inc., Prichard, AL

A certification was issued covering all workers separated on or after November 12, 1990.

TA–W–26,766, TA–W–26,767, & TA–W–26,768; Brown Shoe Co., Union, MO, Owensville, MO & Dixon, MO

A certification was issued covering all workers separated on or after January 13, 1991.

TA–W–26,687; Muskogee Inspection Co (MICO), Muskogee, OK

A certification was issued covering all workers separated on or after December 23, 1990.

TA–W–26,689; Tubular Corp., of America (TCA), Muskogee, OK

A certification was issued covering all workers separated on or after December 23, 1990.

TA–W–26,476 & TA–W–26,476A; Arco Oil and Gas Co., Bakersfield, CA & Operating at Various Other Locations in the State of CA

A certification was issued covering all workers separated on or after October 17, 1990.

TA–W–26,657 & TA–W–26,657A Arco Oil and Gas Co., Houston, TX & Operating at Various Other Locations in Southern TX

A certification was issued covering all workers separated on or after November 21, 1990.

TA–W–26,722; Arco Oil and Gas Co., Midland, TX & Operating at Various Locations in The Following States:

A; CO, B; KS, C; MI, D; NM, E; OK, F; TX (excluding Southern & Southeastern), G; WY

A certification was issued covering all workers in the above cited states separated on or after January 6, 1991.

TA–W–26,723 & TA–W–26,723A; Arco Oil and Gas Co. Dallas, TX and Plano Technical Services Center, Plano, TX

A certification was issued covering all workers separated on or after January 6, 1991.

TA–W–26,724; Arco Oil and Gas Co., Lafayette, LA & Operating at Various Locations in The Following States:

A; AR, B; AL, C; LA, D; TX (excluding Southern & Central)

A certification was issued covering all workers in the above cited states separated on or after January 6, 1991.

I hereby certify that the aforementioned determinations were issued during the month of February 1992. Copies of these determinations are available for inspection in room C–4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: February 24, 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92–4999 Filed 3–3–92; 8:45 am]

BILLING CODE 4510–30–M

Federal-State Unemployment Compensation Program; Unemployment Insurance Program Letters Interpreting Federal Unemployment Insurance Law

The Employment and Training Administration interprets Federal law pertaining to unemployment insurance as part of the fulfillment of its role in administration of the Federal-State unemployment insurance system. There interpretations are issued in Unemployment Insurance Program Letters (UIPLs) to State Employment Security Agencies (SESAs). The UIPLs described below are published in the **Federal Register** in order to inform the public.

Unemployment Insurance Program Letter No. 11–92

This UIPL advises State agencies of the Department of Labor's position on the payment of interest from a State unemployment fund. It specifically addresses the question of whether refunds of contributions or retroactive payments of unemployment compensation may also include payments of interest from a State's unemployment fund.

Unemployment Insurance Program Letter No. 15–92

This UIPL addresses two amendments made to the Federal Unemployment Tax Act (FUTA) by the enactment of the Emergency Unemployment Compensation Act (EUC) of 1991, Public Law 102–164. The first amendment made the between and within terms denial provisions of section 3304(a)(6)(A), FUTA, a State option with respect to services performed by "non-professionals." The second amendment extended the 0.2 percent FUTA surtax (section 3301, FUTA) for one additional year. The last year for the tax is now calendar year 1996.

Dated: February 21, 1992.

Roberts T. Jones,

Assistant Secretary of Labor.

U.S. Department of Labor

Employment and Training Administration, Washington, DC 20110

CLASSIFICATION—UI

CORRESPONDENCE SYMBOL—TEU

Date: December 30, 1991.

Directive: Unemployment Insurance Program Letter No. 11–92

To: All State Employment Security Agencies

From: Donald J. Kulick, Administrator for Regional Management

Subject: Payment of Interest from a State Unemployment Fund

1. **Purpose.** To advise State agencies of the Department of Labor's position on payment of interest from a State unemployment fund.

2. **References.** Sections 303(a)(1), (4) and (5) of the Social Security Act (SSA); sections 3304(a)(3) and (4), and 3306(f) and (h) of the Federal Unemployment Tax Act (FUTA); and UIPL 25–89.

3. **Background.** Over the years, questions have arisen concerning whether refunds of contributions or retroactive payments of unemployment benefits may also include payments of interest from a State unemployment fund. This UIPL is issued to advise States of the Department of Labor's position on the payment of interest from the unemployment fund. Because this matter also involves a determination as to whether such interest could be considered to be "sums erroneously paid" into the unemployment fund, the term "sums erroneously paid" is also interpreted.

As part of the development of this UIPL, the Department reviewed the advice it had provided States concerning interest payments from the unemployment fund. The Department found that in the majority of cases, the States had been advised that any payment of interest would conflict with Federal law requirements. However, in several cases involving court orders requiring payment of interest on late benefit payments to claimants, the Department took the opposite position. In these cases, the Department advised that interest could be paid from the Unemployment fund as long as the interest payment did not exceed the amount of interest earned in the fund. This UIPL resolves these conflicting positions and hereafter restricts payment of interest from a State unemployment fund solely to a refund of interest "erroneously paid into such fund." This UIPL does not address whether interest may be paid from funds granted under Title III, SSA, for the administration of a State's unemployment compensation law.

4. **Federal Law Requirements.** The relevant Federal law requirements are as follows:

a. Section 3304(a)(3), FUTA, requires, as a condition of employers in a State receiving credit against the Federal unemployment tax, that an approved State law shall provide that:

All money received in the unemployment fund shall (except for refunds of sums erroneously paid into such fund . . .) immediately upon such receipt be paid over to the Secretary of the Treasury to the credit of the Unemployment Trust Fund * * * *

Section 303(a)(4), SSA, contains the same requirement as a condition for receiving administrative grants.

b. Section 3304(a)(4), FUTA, requires, as a condition of employers in a State receiving credit against the Federal unemployment tax, that an approved State law shall provide that:

All money withdrawn from the unemployment fund of the State shall be used solely in the payment of unemployment compensation, exclusive of expenses of administration, and for refunds of sums erroneously paid into such fund * * * *

Section 303(a)(5), SSA, contains the same requirement as a condition for receiving administrative grants.

c. Section 3306(f), FUTA, defines "unemployment fund," in pertinent part, as:

A special fund, established under a State law and administered by a State agency, for the payment of compensation * * * An unemployment fund shall be deemed to be maintained during a taxable year only if throughout such year * * * no part of the moneys of such fund was expended for any purpose other than the payment of compensation (exclusive of expenses of administration) and for refunds of sums erroneously paid into such fund * * * *

d. Section 3306(h), FUTA, defines the term "compensation" as "cash benefits payable to individuals with respect to their unemployment."

e. Section 303(a)(1), SSA, requires, as a condition for receiving administrative grants, that a State law include provision for:

Such methods of administration * * * as are found by the Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due.

5. **Discussion.** Since the inception of the unemployment insurance program, the Department and its predecessor agencies have interpreted the above provisions as requiring that withdrawals from the unemployment fund must be limited to payments of compensation, i.e., cash benefits payable to individuals with respect to their unemployment. A withdrawal may fail to meet the definition of compensation for one of several reasons: It is not a cash benefit; it is not payable to an individual; or it is not paid with respect to the individual's unemployment. Regardless of the reason, an exception to this requirement is allowed only as permitted or required under Federal law.

In a December 16, 1988, decision in a conformity proceeding involving the State of Minnesota, the Secretary of Labor affirmed the Department's position on an issue concerning withdrawals from a State's

unemployment fund. (See UIPL 25–89, dated April 5, 1989 (54 FR 22973 (May 30, 1989)). In that decision, the Secretary adopted the Administrative Law Judge's Recommended Decision. In discussing section 303(a)(5), SSA, and section 3304(a)(4), FUTA, the Administrative Law Judge noted that:

Congress itself has defined the only exceptions to the fundamental requirements of the legislation. SSA and FUTA neither explicitly nor implicitly authorize either the Secretary or the individual States to modify or augment those exceptions. The pertinent legislative history buttresses this restrictive view * * * *

In sum, States may neither withdraw amounts for payments which are not "compensation," nor may States restrict withdrawals so that an individual does not receive the full amount of compensation to which he or she is entitled, unless a clear and unambiguous exception is found in the Federal law. Of the several exceptions in Federal law to the requirement that withdrawals from the unemployment fund be used solely for the payment of "compensation," only one is relevant to whether amounts may be withdrawn for the payment of interest. This exception pertains to amounts erroneously paid into the unemployment fund and is discussed below.

a. *Payment of interest on benefits.* Although the payment of interest on benefits may be intended to make whole the claimant, such payment is not a payment of compensation. The payment is not made with respect to the individual's unemployment, but instead with respect to a delay in the payment of compensation. Therefore, interest on late payments of compensation may not be paid from the fund. This interpretation is consistent with the restrictive nature of the Federal law provisions discussed above; if there is to be an exception, it must be clearly specified in Federal law.

In addition, the payment of interest is a cost of administration related to the proper determination of a claim for benefits. The Federal law provisions cited above expressly prohibit payments from the fund for "expenses of administration."

b. *Payment of interest on refunds.* Federal law provides for the "refund of sums erroneously paid into" a State's unemployment fund. (Sections 3304(a) (3) and (4), FUTA, section 3306(f), FUTA, and sections 303(a) (4) and (5), SSA.) The term "erroneously paid" means that some error has been made, either by the employer or his agent (e.g., a miscalculation in amount due) or the agency (e.g., an incorrect rate assignment) which results in money being paid into the fund which was not required by law to be paid. Any amount properly paid into the fund under the law in effect at the time of the payment is not an erroneous payment because no error was made.

This exception applies only to "sums erroneously paid into" the fund. This means no amount in excess of the sum actually paid in error into the fund may be refunded. Therefore, interest on an erroneous payment may not be paid from the unemployment fund under this exception.

It should be noted that, if interest is erroneously paid into the unemployment fund, the interest erroneously paid into the fund may be refunded. This might occur in those few States which require penalty and interest to be paid into the unemployment fund. However, the amount that may be refunded is limited solely to the amount actually paid into the unemployment fund in error.

6. **Interpretation.** Provisions of Federal law relating to the withdrawal of money from the unemployment fund are interpreted as follows concerning the payment of interest from the fund and refunds of sums erroneously paid into the fund:

a. *Payments of Interest on Benefits.* Moneys may be withdrawn from the fund only for cash payments to individuals with respect to their unemployment except as specifically provided for in section 303, SSA, or section 3304(a), FUTA. Interest on benefit payments to claimants is not "compensation" but is an administrative expense, and therefore may not be paid from the fund.

b. *Payments of Interest on Refunds.* Amounts may be withdrawn from a State unemployment fund to refund sums erroneously paid into the fund. Sums are "erroneously paid" into the fund only if an error is made by the employer, his agent or the State agency which results in an amount being paid into the fund which was not required by the State law in effect at the time the payment was made. Interest on an erroneous payment does not represent a sum "erroneously paid into" the fund. However, an amount equal to any interest erroneously paid into the unemployment fund may be refunded; interest erroneously paid into another State fund may under no circumstances be refunded from the unemployment fund.

7. **Action.** State agency administrators are requested to review existing State law provisions involving the payment of interest to ensure that Federal law requirements as set forth in this program letter are met. Prompt action, including corrective legislation, should be taken to assure Federal requirements are met.

8. **Inquiries.** Please direct inquiries to the appropriate Regional Office.

U.S. Department of Labor

Employment and Training Administration, Washington, DC 20210

CLASSIFICATION—UI

CORREPONDENCE SYMBOL—TEURL

DATE: January 27, 1992.

DIRECTIVE: Unemployment Insurance Program Letter No. 15–92

TO: All State Employment Security Agencies

FROM: Donald J. Kulick, Administrator for Regional Management

SUBJECT: The Emergency Unemployment Compensation Act of 1991 (Pub. L. 102–164)—Provisions Amending the Federal Unemployment Tax Act

1. **Purpose.** To advise State employment security agencies (SESAs) of the provisions of the Emergency Unemployment Compensation Act of 1991, Public Law 102–164, which amend the Federal Unemployment Tax Act (FUTA).

2. **References.** Sections 302 and 402 of Public Law 102–164; the Federal Unemployment Tax Act (sections 3301–3311 of the Internal Revenue Code of 1986); UIPL 18–78, dated March 6, 1978; UIPL 4–83, dated November 15, 1982; UIPL 41–83, dated September 13, 1983; UIPL 30–85, dated July 12, 1985 (50 FR 48274, 48280); UIPL 11–86, dated January 31, 1986; the Draft Legislation to Implement the Employment Security Amendments of 1970 . . . H.R. 14705 ("1970 Draft Language"); the Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976—P.L. 94–566 ("1976 Draft Language"); and Supplements 1 through 5 to the 1976 Draft Language.

3. **Background.** On November 15, 1991, the President signed into law the Emergency Unemployment Compensation Act of 1991, Public Law 102–164. Public Law 102–164 created a temporary emergency unemployment compensation (UC) program, amended the law pertaining to UC for ex-servicemembers, and made other changes affecting the Federal-State UC program. This issuance is limited to the two amendments made to the FUTA which affect the Federal-State UC program.

The first amendment makes the "between and within terms denial" provisions optional with respect to "nonprofessional" services. The second amendment extends the 0.2 percent temporary tax under FUTA for one year. The last year for this tax is now calendar year 1996.

Only the first amendment may require changes in State laws.

4. **Between and Within Terms Denial.**

a. *Text of Amendment.*

Sec. 302. Optional Benefits for Certain School Employees

(a) **In General.**—

(1) Subclause (I) of section 3304(a)(6)(A)(ii) of the Internal Revenue Code of 1986 is amended by striking "shall be denied" and inserting "may be denied".

(2) Subparagraph (A) of section 3304(a)(6) of such Code is amended by striking "and" at the end of clauses (iii) and (iv) and by inserting after clause (v) the following new clause:

"(vi) with respect to services described in clause (ii), clauses (iii) and (iv) shall be applied by substituting 'may be denied' for 'shall be denied', and".

(b) **Effective Date.**—The amendments made by this section shall apply in the case of compensation paid for weeks beginning on or after the date of the enactment of this Act.

b. *Discussion.*

(1) Between and Within Terms Denial—Situation Prior to Enactment of Public Law 102–164 with Additional Background Information. Section 3304(a)(6)(A), FUTA, (a part of the Internal Revenue Code of 1986) requires each State to pay UC based on services performed for certain governmental entities and nonprofit organizations on the same terms and conditions as are applicable to other services covered by the State law. Exceptions to this requirement were found in five distinct clauses of section 3304(a)(6)(A). The exceptions in clauses (i) through (iii) provided that an employee of an educational institution was ineligible to receive UC (based on such services) between academic

years or terms and during vacation periods and holiday recesses within terms if the employee had a "reasonable assurance" or performing services in such educational employment in the following academic year, term, or remainder of a term. Clause (iv) provided for the same denials for an employee of an educational service agency (ESA) who performed services in an educational institution. Clause (v) provided for the same denials based on services provided to or on behalf of an educational institution. These clauses are referred to as the "between and within terms denial" provisions.

The between and within terms denial provisions are applicable to services commonly called "professional" and "nonprofessional" services. "Professional" is the name given to the services described in clause (i) of section 3304(a)(6)(A) as services performed in an "instructional, research, or principal administrative capacity." "Nonprofessional" is the name given to services described in clause (ii) as services performed in "any other capacity." Although clauses (i) and (ii) apply only to services performed for an educational institution, the distinction between professional and nonprofessional services also applies to the services performed for an entity to which clauses (iv) and (v) apply. Individuals who might normally be considered professional employees (e.g., librarians) may be "nonprofessionals" for purposes of the between and within terms denial if the services are not performed in an instructional, research, or principal administrative capacity.

Prior to the enactment of Public Law 102–164, clauses (i) through (iv) were mandatory for both professional and nonprofessional services. Clause (v) was optional. However, if State law contained a provision implementing clause (v), it was required to apply equally to all services described in section 3304(a)(6)(A)(i)-(iv). (See UIPL 41–83, Attachment I, page 4.)

(2) Between and Within Terms Denial—Effect of Public Law 102–164. The amendments made by section 302 of Public Law 102–164 substitute the phrase "may be denied" for "shall be denied" in clause (ii)(I) of section 3304(a)(6)(A), FUTA, which pertains to the between terms denial based on services performed by "nonprofessional" employees. The amendments also add new clause (vi), which provides that, with respect to the nonprofessional services described in clause (ii), the phrase "shall be denied" shall be applied by substituting "may be denied" for purposes of clause (iii) and clause (iv). Clause (iii) addresses the within terms denial, and clause (iv) addresses both the between and within terms denials based on services performed in an educational institution while in the employ of an ESA.

The sole effect of these amendments is to make the between and within terms denial provisions of clauses (ii), (iii), and (iv) optional for all services performed in a "nonprofessional" capacity. No State legislative amendments are required for purposes of conformity/compliance. However, if the State chooses to no longer apply a between and within terms denial provision to nonprofessional services, then the State law must be amended to remove the disqualifying language.

(3) Application of Amendments made by Public Law 102–164. A State may not apply the optional denial to some nonprofessional services while excluding other nonprofessional services. For example, a State may not exempt janitorial services from the between terms denial while applying the between terms denial to other nonprofessional services. This reinstates the position taken by the Department prior to clauses (ii), (iii), and (iv) being made mandatory by the 1983 enactment of Public Law 98–21. (See Supplement 5 to the 1976 Draft Language at pages 20–21, UIPL 18–78 at page 3, and UIPL 4–83, Attachment II, page 14.) Similarly, a State electing to deny nonprofessionals between terms under clause (ii)(I), must incorporate the entire clause, including clause (ii)(II) pertaining to retroactive payment of compensation. (See UIPL 4–83, Attachment II, page 14.)

States do have the option of adopting a more restrictive test than the "reasonable assurance" test for nonprofessional services. For example, instead of requiring the reasonable assurance requirement as specified under clause (ii), the State law may include a provision requiring a contract to return to work in the next year or term. (See UIPL 41–873, Attachment I, at page 7.) States may not introduce a less restrictive test than the reasonable assurance test which would result in the denial of compensation in circumstances to which section 3304(a)(6)(A) applies.

Finally, because the clauses of section 3304(a)(6)(A) are distinct from one another, a State may choose to adopt any one or more of the clauses in regard to "nonprofessional" employees. For example, a State may deny benefits within terms based on services performed by nonprofessionals, but permit payment between years and terms based on these same services. (See Supplement 3 to the 1976 Draft Language at page 7.)

(4) Draft Language. Two versions of draft language are provided in the Attachment to this program letter. The first applies the between and within terms denial provisions to all services performed by professional and nonprofessional employees. The second implements the new amendments by applying the between and within terms denial provisions only to professional employees.

(5) Conforming State Laws. Conformity and compliance with the requirements of section 3304(a)(6)(A) is a condition for employers in a State receiving credit against the Federal unemployment tax. As such, it is important that State law provisions be consistent with Federal law provisions. Since the Department continues to find technical problems in State law provisions implementing the between and within terms denial clauses, States are encouraged to compare their provisions with the draft language to assure consistency with these Federal law requirements.

(6) Effective Date. Under section 302(b) of Public Law 102–164, the amendments are effective for UC paid for weeks of unemployment beginning on or after the date of enactment. Since the date of enactment was November 15, 1991, States are no longer required to apply the between and within terms denial provisions to nonprofessional services for weeks of unemployment beginning on or after November 17, 1991. No question will be raised with any State that construes its law as authorizing it to give effect to these amendments prior to the enactment of conforming amendments to the State law.

5. **Extension of Temporary 0.2 Percent FUTA Tax.**

a. *Text of Amemdment.*

Sec. 402. Extension of FUTA Surtax

Section 3301 of the Internal Revenue Code of 1986 (relating to rate of unemployment tax) is amended—

(1) By striking "1995" in paragraph (1) and inserting "1996", and

(2) By striking "1996" in paragraph (2) and inserting "1997".

b. *Discussion.* Section 11333 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508) amended section 3301, FUTA, to extend the 0.2 percent temporary tax through 1995. Section 402 of Public Law 102–164 extends the tax for one additional year through 1996. No change was made in the distribution of the tax among the various accounts in the Unemployment Trust Fund.

6. Action Required. SESAs are requested to notify appropriate staff of these amendments. SESAs are encouraged to review State laws pertaining to the between and within terms denial provisions to assure consistency with Federal law requirements.

7. Inquiries. Inquiries should be directed to your Regional Office.

8. Attachment. Draft Language to Implement the Between and Within Terms Denial Provisions.

Attachment To UIPL NO. 15–92

Draft Language for State Laws

I. The following language is intended for States choosing to require the between and within terms denial based on both professional and nonprofessional services. It consolidates and replaces the draft language provided in UIPLs 41–83 and 4–83 and in the 1976 Draft Language. Section citations follow those used in the Manual of State Employment Security Legislation (Revised September 1950) and subsequent issuances of draft language. The draft language pertaining to the optional denial in clause (v) of section 3304(a)(6)(A), FUTA, has been revised to accord more closely with the actual language of clause (v). (The "Commentary" provided in the 1970 Draft Language and the 1976 Draft Language is not updated by this UIPL. States needing additional information are advised to refer to the issuances found in the "References" section of the UIPL. The Department plans on consolidating these issuances into a single UIPL addressing the requirements of section 3304(a)(6)(A), FUTA.)

To avoid creating the crossover problems described in UIPL 30–85, State law should not intertwine professional or nonprofessional services in the same provision. To emphasize this point, in subparagraphs (C) and (D) the reference to "(A) and (B)" is changed to "(A) or (B)." This revision also tracks more closely to the language in FUTA. Similarly, States

should not intertwine services performed for different types of employers (educational institutions, educational service agencies, or other employers who provide services to or on behalf of an educational institution); instead a distinct provision should address each type of employer.

The draft language provided below applies only to the services required to be covered by section 3304(a)(6)(A), FUTA (e.g., State and local governmental entities and certain nonprofit organizations). As a result, the draft language does not apply the between and within terms denial to services performed in Federal or other schools. A State wishing to apply the denial clauses to services performed for these Federal and other schools should fashion its law to apply to services performed for all educational institutions, and not just those to which section 3304(a)(6)(A) pertains. This may be done by separating the "equal treatment" requirement of paragraph (3) of the draft language given below, which pertains only to services to which section 3304(a)(6)(A) applies, from the between and within terms denial provisions. (See UIPL 11–86.)

Section 4(a)(3)

(3) Benefits based on service in employment defined in section 2(k)(1)(B) [1] and (C) [2] shall be payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other services subject to this Act; except that—

(A) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or terms (or when an agreement provides instead for a similar period between two regular but not successive terms, during such period) or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(B) With respect to services performed in any other capacity for an educational institution, benefits shall not be payable on the basis of such services to any individual for any week which commences during a period between two successive academic years or terms if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years on terms; except that, if compensation is denied to any individual under this subparagraph and such individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of compensation for each week for which the individual filed a timely claim for compensation and for which compensation was denied solely by reason of this subparagraph.

(C) With respect to any services described in subparagraph (A) and (B), benefits shall not be payable on the basis of services in any such capacity to any individual for any week which commences during an established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess;

(D) With respect to any services described in subparagraph (A) or (B), benefits shall not be payable on the basis of services in any such capacity as specified in subparagraphs (A), (B), and (C) to any individual who performed such services in an educational institution while in the employ of an educational service agency. For purposes of this subparagraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions; and

(E) With respect to services to which sections 2(k)(1)(B) and (C) apply, if such services are provided to or on behalf of an educational institution, benefits shall be denied under the same circumstances as described in subparagraphs (A), (B), (C), and (D).

II. The following language is intended for use by States choosing to not apply the between and within terms denial provisions to any nonprofessional services. It includes language implementing optional clause (v) of section 3304(a)(6)(A), FUTA, pertaining to services provided to or on behalf of an educational institution, but limits its application to professional services. States are referred to the discussion in Section I above, concerning intertwining services performed for different types of employers and treatment of services performed in Federal or other schools.

Section 4(a)(3)

(3) Benefits based on service in employment defined in section 2(k)(1)(B) [1] and (C) [2] shall be payable in the same amount, on the same terms and subject to the same conditions as benefits payable on the basis of other service subject to this Act; except that—

(A) With respect to service performed in an instructional, research, or principal administrative capacity for an educational institution, benefits shall not be paid based on such services for any week of unemployment commencing during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) or during a period of paid sabbatical leave provided for in the individual's contract, to any individual if such individual performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms;

(B) With respect to any services described in subparagraph (A), benefits shall not be payable on the basis of services in any such capacity to any individual for any week which commences during a established and customary vacation period or holiday recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period following such vacation period or holiday recess;

(C) With respect to any services described in subparagraph (A), benefits shall not be payable on the basis of services in any such capacity as specified in subparagraphs (A) and (B) to any individual who performed such services in an educational institutition while in the employ of an educational service agency. For purposes of this subparagraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one or more educational institution; and

(D) with respect to services to which sections 2(k)(1)(B) and (C) apply, if such

[1] Coverage of State of local government employment.

[2] Coverage of 501(c)(3) nonprofit organizations.

[1] Coverage of State and local government employment.

[2] Coverage of 501(c)(3) nonprofit organizations.

services are provided to or on behalf of an educational institution, benefits shall be denied under the same circumstances as described in subparagraphs (A), (B), and (C).

[FR Doc. 92-5001 Filed 3-3-92; 8:45 am]
BILLING CODE 4510-30-M

Job Training Partnership Act; Immigrant Demonstration Project

AGENCY: Employment and Training Administration.

ACTION: Notice of availability of funds and of Solicitation for Grant Applications (SGA).

SUMMARY: The Employment and Training Administration, U.S. Department of Labor, is soliciting proposals on a competitive basis for the conduct of projects to demonstrate innovative methods and techniques for serving the training and employment needs of the immigrant population. Eligible participants will be Private Industry Councils (PIC) or other entities designated to develop and administer the job training plan for service delivery areas under the Job Training Partnership Act (JTPA) which have cooperative working relationships with community organizations that have demonstrated effectiveness in serving and working with immigrant populations.

PIC means an organization described under section 102 of JTPA which is established for each service delivery area in the JTPA system and which has the responsibilities enumerated under section 103 of JTPA, including providing the policy guidance for and exercising oversight with respect to, activities under the job training plan for its service delivery area.

The term "or other entities designated to develop and administer the job training plan for JTPA service delivery area" means an organization that has been selected under the provisions of section 103(b)(1) and may be a unit of general local government in its service delivery area (or an agency thereof), a nonprofit private organization or corporation, or any other agreed upon entity or entities.

DATES: The application will be available March 19, 1992. The requests must be made in writing to the address below. Telephone and telefacsimile (FAX) will not be honored. The request must cite SFA/DAA 92-004 and must include two (2) self-addressed labels. Requests will be honored on a first come, first served basis until the supply of 300 is exhausted. The closing date for receipt of proposals will be April 20, 1992, 2 p.m. eastern time. Any application not meeting the designated place, date, and time of delivery will not be considered.

ADDRESSES: Mail your request to obtain Solicitation for Grant Application (SGA) to: U.S. Department of Labor, Employment and Training Administration, Office of Grants and Contract Management, Division of Acquisition and Assistance, 200 Constitution Avenue, NW., room C-4305, Washington, DC 20210, Attention: Willie E. Harris, Reference SGA/DAA 92-004.

FOR FURTHER INFORMATION CONTACT: Willie E. Harris, Telephone: (202) 535-8706 (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The Employment and Training Administration, U.S. Department of Labor, will award approximately four (4) to six (6) grants and the maximum grant award will be $190,000. Pending availability of funds, effective program operation and the needs of the Department, the grants may be extended up to two additional years (one year at a time). The period of performance will be 15 months from date of execution by the Government. ETA is interested in demonstrating innovative, replicable and effective approaches to meeting the needs of immigrants which are: (1) To attain necessary basic education and occupational skills, (2) to attain employment having long-term prospects, and (3) to attain necessary supportive services for enhancing resolution of the first two needs.

The final decision on the award will be based on what is most advantageous to the Federal Government as determined by the ETA Grant Officer.

Signed at Washington, DC on February 19, 1992.

Robert D. Parker,

ETA Grant Officer.

[FR Doc. 92-5000 Filed 3-3-92; 8:45 am]
BILLING CODE 4510-30-M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Consolidation Coal Co.

[Docket No. M-92-09-C]

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Loveridge No. 22 Mine (I.D. No. 46-01433) located in Monongalia County, West Virginia. Due to deteriorating roof conditions, certain areas of the mine cannot be safely traveled. The petitioner proposes to establish airway monitoring stations to measure the quality and quantity of air entering and leaving the affected area.

2. AMAX Coal Co.

[Docket No. M-92-10-C]

Amax Coal Company, R.R. 12, Box 455, Brazil, Indiana 47834-9796 has filed a petition to modify the application of 30 CFR 77.216-3 (water, sediment, or slurry impoundments and impounding structures; inspection requirements; correction of hazards; program requirements) to its Chinook Mine (I.D. No. 12-00322) located in Clay County, Indiana. The petitioner proposes to examine impoundment numbers 1211 IN08-00322-01 (Basin 5A); 1211 IN08-00322-03 (Basin 5C); and 1211 IN08-00322-05 (Basin 017) at intervals not to exceed 14 days.

3. Amax Coal Co.

[Docket No. M-92-11-C]

Amax Coal Company, One Riverfront Place, 20 NW. First Street, Evansville, Indiana 47708-1258 has filed a petition to modify the application of 30 CFR 75.901(a) (protection of low- and medium-voltage three-phase circuits used underground) to its Wabash Mine (I.D. No. 11-00877) located in Wabash County, Illinois. The petitioner proposes to use a portable generator to supply electrical power to mobile mining equipment when such mining equipment is being moved form one area of the mine to another. The generator would be operated without grounding the neutral to a low resistance ground field.

4. Kerr-McGee Coal Corp.

[Docket No. M-92-12-C]

Kerr-McGee Coal Corporation, P.O. Box 727, Harrisburg, Illinois 62946 has filed an amended petition to modify the application of 30 CFR 75.326 to its Galatia Mine (I.D. No. 11-02752) located in Saline County, Illinois. The petitioner requests that MSHA's Decision and Order, granted October 21, 1991, for docket number M-91-54-C be amended as follow: Allow the use of the MSHA approved fire resistant styrene-butadiene rubber (SBR) conveyor belt within the two 450 feet rock tunnels currently installed in the mechanized mining unit. The area will be monitored by both a low-level carbon monoxide system and a methane monitoring system as required under the earlier petition.

5. National Cement Co., Inc.

[Docket No. M-92-01-M]

National Cement Company, Inc., P.O. Box 460, Ragland, Alabama 35131 has filed a petition to modify the application of 30 CFR 56.13020 (use of compressed air) to its Ragland Plant (I.D. No. 01-00027) located in St. Clair County, Alabama. The petitioner proposes to use low pressure air up to 30 PSI for personal cleaning of dust from clothing.

6. ASARCO Inc.

[Docket No. M-92-02-M]

ASARCO Incorporated, P.O. Box 8, Hayden, Arizona 85235 has filed a petition to modify the application of 30 CFR 56.14109(a) (unguarded conveyors with adjacent travelways) to its Ray Mine (I.D. No. 02-00150) and its Ray Concentrator (I.D. No. 02-00826) both located in Pinal County, Arizona. The petitioner requests that the emergency stop device along the conveyor belt system remain in its present position. The conveyor belt in one mine is approximately 5½ feet, and in the other mine 4½ feet, above the ground. The stop cord runs parallel to the conveyor between the top (load) and bottom (return) belts and is readily accessible in the event of an unlikely fall.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4050 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before April 3, 1992. Copies of these petitions are available for inspection at that address.

Dated: 27 February 1992.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 92-5002 Filed 3-3-92; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Shipyard Employment Standards Advisory Committee; Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Shipyard Employment Standards Advisory Committee, established under the provisions of the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. app. I) and section 7(b) of the Occupational Safety and Health Act, 29 U.S.C. 656(b)), will convene on April 1, 1992, at 8:30 a.m., at the Loews Annapolis Hotel, 126 West Street, Annapolis, Maryland 21401. The meeting will adjourn on April 2, 1992, at approximately 4 p.m. The public is encouraged to attend.

The agenda is as follows:

I. Call to Order.

II. Review the transcripts of February 4 & 5, 1992, meeting.

III. Discussion of the following standards:

(a) Report on 29 CFR part 1915, subpart G, Materials Handling and Storage (Final Review).

(b) Report on 29 CFR part 1915, subpart P, Fire Protection (Final Review).

(c) Report on 29 CFR part 1915, subpart Q, Hazardous Materials (Final Review).

(d) Subpart L. Electrical.

(1). 1926 subpart K (Temporary Service).

(2). 1910 subpart S (Electrical).

(e) 29 CFR part 1915, subpart F, General Working Conditions (Final Review).

(f) AD-HOC Committee Report on 29 CFR 1915, subpart Z, Lead.

IV. New Business. Discussion of the following standards, as time permits.

(a) Proposed 1915 subpart U, Surface Preparation and Preservation.

Time permitting, the Committee will consider oral presentations relating to agenda items. Persons wishing to address the Committee should submit a written request to Mr. Thomas Hall (address below) by the close of business, March 27, 1992. The request must include the name and address of the person wishing to appear, the capacity in which the appearance will be made, a short summary of the intended presentation, and an estimate of the amount of time needed.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, room N-3647, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-8617.

Signed at Washington, DC, this 26th day of February, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary of Labor.

[FR Doc. 92-4947 Filed 3-3-92; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 92-10; Exemption Application No. D-8819, et al.]

Grant of Individual Exemptions; Pilgrim's Pride Retirement Savings Plan, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Pilgrim's Pride Retirement Savings Plan (the Plan) Located in Pittsburg, Texas

[Prohibited Transaction Exemption 92–10; Exemption Application No. D–8819]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) the cash sale of two parcels of improved and unimproved real property (herein identified as Parcels #10 and #11) by the Plan to Pilgrim's Pride Corporation (the Employer), a party in interest with respect to the Plan; and (2) the cash sale of nine other parcels (herein identified as Parcels #1 through #9) of improved and unimproved real property by the Plan to the Employer; provided the following terms and conditions are met: (a) the terms of the sales are not less favorable to the Plan than similar terms negotiated at arm's length between unrelated third parties; (b) the aggregate sales price of Parcels #10 through #11, is the greater of $14,308, the total cost to the Plan in acquiring such parcels, or the sum of the fair market values of Parcels #10 through #11, as determined by an independent, qualified appraiser, on the date of the sale; and (c) the aggregate sales price of Parcels #1 and #9 is the greater of $559,900 or the sum of the fair market values of Parcels #1 and #9, as determined by an independent, qualified appraiser, on the date of the sale.

Written Comments

The Department received no requests for hearing and one written comment from the applicant with respect to the notice of proposed exemption (the Notice). In that letter, the applicant informed the Department that they wished to correct certain information published in the Notice. Accordingly, the following information is incorporated into the granted exemption, as corrected: (a) the correct street address of the Employer is 110 S. Texas Avenue, rather than 1105 Texas Avenue as indicated in paragraph number 1 of the Notice; and (b) Netex Poultry Company (Netex) is not the predecessor of the Employer as indicated in paragraph number 2 of the Notice, rather Netex was an unrelated corporation which was, on December 3, 1973, merged into the Employer. The predecessor of the Employer was Pilgrim Industries, Inc., which originally adopted the Plan on June 30, 1969, as the Pilgrim Industries, Inc. Profit Sharing Retirement Plan and Trust.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice published on December 24, 1991, at 56 FR 66651 and to the correction of that Notice published on January 8, 1992, at 57 FR 699.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Wells Fargo Bank, N.A. (Wells Fargo) Located in San Francisco, California

[Prohibited Transaction Exemption 92–11; Exemption Application Nos. T–7492, D–7568 and D–7679]

Exemption

Part I—Exemption for Cross-Trading Between Certain Funds

Effective February 5, 1988, the restrictions of sections 406(a)(1)(A) and 406(b)(2) of the Act, section 8477(c)(2)(B) of the Federal Employees' Retirement System Act (FERSA) and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) of the Code, shall not apply to (1) the purchase and sale of stocks (including the common stock of Wells Fargo & Co. (WFC)) between Index Funds and/or Model-Driven Funds (collectively, Funds); and (2) the purchase and sale of stocks (including the common stock of WFC) between Index or Model-Driven Funds and various large pension plans (the large Plans) pursuant to portfolio restructuring programs of the Large Plans if the following conditions and the general Conditions of Part III are met:

(a) The Index or Model-Driven Fund is based on an index which represents the investment performance of a specific segment of the public market for equity securities in the United States and/or foreign countries. The organization creating and maintaining the index must be (1) engaged in the business of providing financial information, evaluations, advice or securities brokerage services to institutional clients, (2) a publisher of financial news or information, or (3) a public stock exchange or association of securities dealers. The index must be created and maintained by an organization independent of Wells Fargo and its affiliates. The index must be a generally accepted standardized index of securities which is not specifically tailored for the use of Wells Fargo or its affiliates.

(b) The price for the stock is set at the closing price for that stock on the day of trading; unless the stock was added to or deleted from an index underlying a Fund or Fund(s) after the close of trading, in which case the price will be the opening price for that stock on the next business day after the announcement of the addition or deletion.

(c) The transaction takes place within three business days of the "triggering event" giving rise to the cross-trade opportunity. A *triggering event* is defined as:

(1) A change in the composition or weighting of the index and/or model underlying a Fund;

(2) A change in the overall level of investment in a Fund as a result of investments and withdrawals made on the Fund's regularly scheduled "opening date"; or

(3) A declaration by Wells Fargo (recorded on Wells Fargo's records) that a "triggering event" has occurred which will be made upon an accumulation of cash in a Fund attributable to dividends on and/or tender offers for portfolio securities equal to not less than .05 percent and not more than .5 percent of the Fund's total value;

(d) With respect to transactions involving a Large Plan:

(1) It has assets in excess of $50 million;

(2) Fiduciaries of the Large Plan who are independent of Wells Fargo are, prior to any cross-trade transactions, fully informed of the cross-trade technique and provide advance written approval of such transactions. Within 45 days of the completion of the Large Plans's portfolio restructuring program such fiduciaries shall be fully apprised in writing of the transactions results. However, if such program takes longer than three months to complete, interim reports of the transaction results will be made within 30 days of the end of each three month period;

(3) Such Large Plan transactions occur only in situations where Wells Fargo has been authorized to restructure all or a portion of the Large Plan's portfolio into an Index or Model-Driven Fund (including a separate account based on an index or computer model) or to act as a "trading adviser" in carrying out a Large Plan-initiated liquidation or restructuring of its equity portfolio; and (e) Wells Fargo receives no additional direct or indirect compensation as a result of the cross-trade transaction.

Part II—exemption for the Acquisition, Holding and Disposition of Wells Fargo & Co. Stock

The restrictions of sections 406(a)(1)(D), 406(b)(1) and 406(b)(2) of the Act, and section 8477(c)(2)(A) and (B) of FERSA and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(D) and (E) of the Code, shall not apply to the acquisition, holding and disposition of the common stock of WFC by Index and Mode-Driven Funds, if the following conditions of Part III are met:

(a) The acquisition or disposition of the WFC stock is for the sole purpose of maintaining strict quantitative conformity with the relevant index upon which the Index or Model-Driven Fund is based;

(b) All acquisition and dispositions, other than through cross-trade transactions meeting the conditions of Part I, will comply with Rule 10b-18 of the Securities and Exchange Commission including the limitations regarding the price paid or received for such stock;

(c) Aggregate daily purchases of WFC stock, other than cross-trade purchases meeting the conditions of Part I, will constitute no more than the greater of: (1) 10 percent of the stock's average daily trading volume for the previous five days; or (2) 10 percent of the stock's trading volume on the date of the transaction;

(d) If the necessary number of shares of WFC stock cannot be acquired within 10 business days from the date of the event which causes the particular Index or Model-Driven Fund(s) to require WFC stock, Wells Fargo will appoint a fiduciary which is independent of Wells Fargo and its affiliates to design acquisition procedure and monitor Wells Fargo's compliance with such procedures;

(e) All purchases and sales of WFC stock, other than cross-trades meeting the conditions of Part I, will be executed on the national exchange on which WFC stock is primarily traded;

(f) No transactions will involve purchases from or sales to Wells Fargo, or any affiliate, officer, director, or employee of Wells Fargo or any party in interest with respect to a plan which has invested in the Index or Model-Driven Fund. This requirement does not preclude purchases and sales of WFC stock in cross-trade transactions meeting the conditions of Part I;

(g) No more than five (5) percent of the total amount of WFC stock issued and outstanding at any time shall be held in the aggregate by Index and Model-Driven Funds managed by Wells Fargo;

(h) WFC stock shall constitute more than two (2) percent of any independent third party index on which the investments of an Index or Model-Driven Fund are based;

(i) A plan fiduciary independent of Wells Fargo authorizes the investment of such plan's assets in an Index or Model-Driven Fund which purchases and/or holds WFC stock; and

(j) A fiduciary independent of Wells Fargo and its affiliates will direct the voting of the WFC stock held by an Index or Model-Driven Fund on any matter in which shareholders of WFC are required or permitted to vote.

Part III—General Conditions

(a) Wells Fargo maintains or causes to be maintained for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (b) of this Part to determine whether the conditions of this exemption have been met, except that a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Wells Fargo or its affiliates, the records are lost or destroyed prior to the end of the six-year period.

(b)(1) Except as provided in paragraph (2) of this subsection (b) and notwithstanding any provisions of subsection (a)(2) and (b) of section 504 of the Act, the records referred to in subsection (a) of this Part are unconditionally available at their customary location for examination during normal business hours by—

(A) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) Any fiduciary of a plan participating in an Index or Model-Driven Fund who has authority to acquire or dispose of the interests of the plan, or any duly authorized employee or representative of such fiduciary,

(C) Any contributing employer to any plan participating in an Index or Model-Driven Fund or any duly authorized employee or representative of such employer, and

(D) Any participant or beneficiary of any plan participating in an Index or Model-Driven Fund, or any duly authorized employee or representative of such participant of beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this subsection (b) shall be authorized to examine trade secrets of Wells Fargo, any of its affiliates, or commercial or financial information which is privileged or confidential.

Part IV—Definitions

(1) Index Fund—Any investment fund, account or portfolio sponsored, maintained and/or trusteed by Wells Fargo or an affiliate in which one or more investors invest which is designed to replicate the capitalization-weighted composition of a stock index which satisfies the conditions of part I(a) and part II(h).

(2) Model-Driven Fund—Any investment fund, account or portfolio sponsored, maintained and/or trusteed by Wells Fargo or an affiliate in which one or more investors invest which is based on computer models using prescribed objective criteria to transform an independent third-party stock index which satisfies the conditions of part I(a) and part II(h).

(3) Opening date—The regularly-scheduled date on which investments in or withdrawals from an Index or Model-Driven Fund may be made.

(4) Trading adviser—A person whose role is limited to arranging a Large Plan-initiated liquidation or equity restructuring within a stated time so as to minimize transaction costs.

EFFECTIVE DATE: The effective date with respect to part I of this exemption is February 5, 1988.

Revocation of Existing Exemption

The Department hereby revokes PTE 87–51, effective [insert date 30 days after date of publication in the **Federal Register**].

The exemption is subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published November 1, 1991 at 56 FR 56246.

WRITTEN COMMENTS: The Department received four comments with respect to the proposed exemption and no requests for a hearing. These comments are discussed below.

The applicant submitted a comment concerning the scope of relief that was proposed in part I (relating to cross-trades). The applicant noted that, in the event that a plan which invests in an Index or Model-Driven Fund is a party in interest with respect to a plan which invests in a different Index or Model-Drive Fund (for example, if the first plan provides services to the second plan), a

cross-trade between the two Funds would appear to constitute a sale or exchange between a plan and a party in interest with respect to the plan which would be prohibited by section 406(a)(1)(A) of the Act. The applicant thus requests that part I of the exemption be amended to provide additional relief from the prohibitions of section 406(a)(1)(A) of the Act and section 4975(c)(1)(A) of the Internal Revenue Code of 1986.

The applicant also commented that paragraph (f) of part II of the exemption (which precludes transactions involving acquisitions and dispositions of WFC stock with a number of specified persons including, among others, any party in interest with respect to a plan which has invested in the index or Model-Driven Fund) may prohibit cross-trades involving WFC stock between two Funds if a plan invested in one of the Funds is a party in interest with respect to a plan invested in the other Fund. The applicant is also concerned that paragraph (f) of Part II might be interpreted to require Wells Fargo to determine if any party buying or selling WFC stock on the national exchange on which WFC stock is primarily traded at the same time that an Index or Model-Driven Fund is selling or buying WFC stock on such exchange is a party in interest with respect to a plan participating in the Fund.

The applicant has requested that the Department clarify that paragraph (f) of part II of the exemption does not apply to cross-trades of WFC stock between Funds in which a plan invested in one Fund is a party in interest with respect to a plan invested in the other Fund. The applicant also requests that the Department clarify whether a prohibited transaction is deemed to occur, and whether the condition of paragraph (f) of part II is deemed to be violated, in the event that a Fund and a party in interest with respect to a plan participating in the Fund engage in "blind" transactions in WFC stock on the national exchange on which WFC stock is primarily traded.

Based on the representations of the applicant and the safeguards and conditions applicable to cross-trades and transactions involving WFC stock, the Department has decided to modify part I of the exemption to provide relief from the prohibitions of section 406(a)(1)(A) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1)(A) of the Code for cross-trade transactions described in part I.

With respect to transactions involving the purchase or sale of WFC stock on a national exchange, the Department notes that, generally, pursuant to the Conference Report accompanying ERISA [1] a transaction will not be considered a prohibited transaction if the transaction is an ordinary "blind" purchase or sale of securities through an exchange where neither buyer or seller (nor the agent of either) knows the identity of the other party involved.

Furthermore, the Department notes that purchases and sales of WFC stock in cross-trades are subject to part I of the exemption. The conditions of part II of the exemption which are applicable to individual transactions in WFC stock (such as paragraphs (b), (c) and (e) of part II) are not applicable to cross-trades involving WFC stock which meet the conditions of part I. In this regard, the Department has determined to modify paragraph (f) of part II to clarify that the condition imposed therein also does not apply to cross-trades of WFC stock that otherwise also meet the conditions of part I.

Two of the commentators were in favor of granting the exemption as proposed. One commentator stated that the exemption would enable the Funds to track the underlying Indices more accurately and reduce transaction costs. He also stated that the conditions contained in the exemption provided adequate protection of investors. The other commentator indicated support for the proposal based on the reduction in transaction costs that would be achieved through the use of cross-trades.

The third commentator objected to the proposal. This comment was subsequently withdrawn.

After consideration of the entire record, the Department has determined to grant the exemption, as modified herein.

FOR FURTHER INFORMATION CONTACT: David Lurie of the Department, telephone (20) 523–7901. (This is not a toll-free number.)

Surgical Group, P.S.C. Profit Sharing Plan and Retirement Plan Located in Paducah, KY 42001

[Prohibited Transaction 92–12; Exemption Application No. D–8665]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed purchase of Paducah Bankshares Inc. common stock (the Stock) by the individually directed accounts (the Accounts) of Dr. Wally O. Montgomery in the Surgical Group, P.S.C. Profit Sharing Plan and in the Surgical Group, P.S.C. Retirement Plan (the Plans) from Dr. Wally O. Montgomery and his wife Geraldine, joint owners of the Stock and parties in interest with respect to the Plans, provided that: (a) The purchase of the Stock will be a one-time transaction for cash; (b) the Accounts will purchase the Stock at a price no greater than the fair market value of the Stock; (c) the Accounts will not pay any expense in connection with the proposed transaction; and (d) Dr. Montgomery will be the only participant affected by the transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on January 8, 1992 at 57 FR 706.

Clarification: The notice of proposed exemption inadvertently omitted relief from sections 406(a), 406 (b)(1) and (b)(2) of the Act. Accordingly, the Department is hereby providing such relief in this exemption.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Berger of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

Otologic Medical Services, P.C. Profit Sharing Plan (the Plan) Located in Iowa City, Iowa

[Prohibited Transaction Exemption 92–13; Exemption Application No. D–8769]

Exemption

The restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed purchase, by the account of Dr. Guy E. McFarland under the Plan, of a 50 percent undivided interest (the Interest) in a parcel of undeveloped real property from Dr. Guy E. McFarland and his wife Bonita, joint owners of the Interest and parties in interest with respect to the Plan, provided the purchase price does not exceed the fair market value of the Interest on the date of the purchase.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on December 24, 1991 at 56 FR 66649.

Clarification: The notice of proposed exemption inadvertently omitted relief from sections 406(a), 406 (b)(1) and (b)(2) of the Act. Accordingly, the Department

[1] H. Rpt. 93–1280, August 12, 1974, p. 307.

is hereby providing such relief in this exemption.

FOR FURTHER INFORMATION CONTACT:

Mr. Eric Berger of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

McPheters and Richardson, P.C. Profit Sharing Plan (the Plan) Located in New York, NY

[Prohibited Transaction Exemption 92–14; Exemption Application No. D–8760]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) shall not apply to a proposed series of loans (the Loans) over a five year period to McPheters and Richardson, P.C. (the Employer) by the individually-directed accounts (the Accounts) in the Plan of Messrs. R. Douglas McPheters and Ambrose M. Richardson in the cumulative amount of: (1) The lesser of $50,000 of each Account; or (2) 25 percent of the assets of each Account. The proposed exemption is conditioned on the following requirements: (a) the terms and conditions of the Loans are not less favorable to the Accounts than those obtainable in arm's length transactions with an unrelated party; (b) the Loans are secured by first lien interests in all of the accounts receivable (the Receivables) of the Employer; (c) for purposes of securing each individual Loan, only those Receivables that are less than 120 days old are utilized as actual collateral; (d) the interest rate for the Loans is two percentage points greater than the rate charged the Employer by Citibank, N.A. for a similar lending arrangement; (e) before a Loan is made from their respective Account, Messrs. McPheters or Richardson approves the disbursement; (f) at all times, the fair market value of the Receivables represents at least 200 percent of the outstanding balance of the Loans made by each Account or Messrs. McPheters or Richardson require that the Employer pledge additional collateral or prepay the Loans; and (g) the only accounts in the Plan that are affected by the Loans are those of Messrs. McPheters and Richardson.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published in the **Federal Register** on January 27, 1992 at 57 FR 3072.

TEMPORARY NATURE OF EXEMPTION: This exemption is temporary in nature and will expire five years from the date of the grant. Subsequent to the expiration of the exemption, the Accounts may continue to hold any Loan provided such Loan is made during the five year period of the exemption.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C. this 28th day of February, 1992.

Ivan Strasfeld,

Director of Exemption Determinotions, Pension ond Welfore Benefits Administration, Department of Labor.

[FR Doc. 92–5026 Filed 3–3–92; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Division of Atmospheric Sciences Special Emphasis Panel; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C., 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Atmospheric Sciences.

Date: March 16 and 17, 1992.

Time: 9 a.m. to 5 p.m. each day.

Place: Room 500V, National Science Foundation, 1110 Vermont Avenue, NW., Washington, DC.

Type of Meeting: Closed.

Agendo: Review and evaluation of Coupling, Energetics, and Dynamics of Atmospheric Regions (CEDAR) Applications.

Contact: Dr. Richard A. Behnke, Program Manager, Upper Atmospheric Facilities, Division of Atmospheric Sciences, National Science Foundation, Washington, DC (202) 357–7390; or Dr. Fred Roesler, Program Director, Aeronomy, Division of Atmospheric Sciences, National Science Foundation, Washington, DC, (202) 357–7618.

Reason for Late Notice: Difficulty in arranging meeting date for all members.

Dated: February 28, 1992.

M. Rebecca Winkler,

Committee Monagement Officer.

[FR Doc. 92–5037 Filed 3–3–92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Biological and Critical Systems; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Biological and Critical Systems.

Date and Time: March 18–19, 1992; 6:30 a.m. to 5 p.m.

Place: Room 500B, NSF, 1110 Vermont Avenue, NW., Washington, DC

Type of Meeting: Closed.

Contoct Person: Dr. Shih-Chi Liu, Program Director, Earthquake Hazard Mitigation Program, rm 1132, NSF, Washington, DC 20550, (202) 357–9780.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Biological and Critical Systems.

Agenda: To review and evaluate proposals submitted under the Structural Control

Research for Performance, Safety and Hazard Mitigation Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: February 28, 1992.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 92-5034 Filed 3-3-92; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panels; Meetings

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting(s) to be held at 1800 G Street, NW., Washington, DC 20550 (except where otherwise indicated).

SUPPLEMENTARY INFORMATION: The purpose of the meetings is to provide advice and recommendations to the National Science Foundation concerning the support of research, in the Molecular Biosciences Division. The agenda is to review and evaluate proposals as part of the selection process of awards. The entire meeting is closed to the public because the panels are reviewing proposals that include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Dated: February 28, 1992.

M. Rebecca Winkler,

Committee Management Officer.

SPECIAL EMPHASIS PANELS: NOTICE OF MEETINGS

Committee name	Review agenda	Date(s)	Times	Room
Special Emphasis Panel for Molecular Biosciences	NYI Proposals. Contact: Ms. Brenda Flam, (202) 357-9400..	April 9-10, 1992	8:30-5	* 500D
Special Emphasis Panel for Molecular Biosciences	RPG & CAA proposals. Contact: Dr. Eleanor McGowan, (202) 357-7474..	March 26-27, 1992	8:30-5	** 1243

* At 1110 Vermont Avenue, NW., Washington, DC.
** At 1800 G Street, NW., Washington, DC.

[FR Doc. 92-5033 Filed 3-3-92; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-344]

Portland General Electric Co., Trojan Nuclear Plant; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Facility Operating License No. NPF-1 issued to Portland General Electric Company, et al., (the licensee), for operation of Trojan Nuclear Plant located in Columbia County, Oregon.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant relief from the provisions of title 10, Code of Federal Regulations, part 50, appendix R, section III.J, "Emergency Lighting." This exemption would permit use of the portable emergency battery lighting in areas needed for operations of safe shutdown equipment and in access and egress routes thereto.

The proposed action is in accordance with the licensee's application for amendment dated December 30, 1988, and supplemented by letters dated April 15, 1991, October 15, 1991, and February 11, 1992.

The Need for the Proposed Action

The proposed exemption is required in order to provide the licensee the opportunity to use portable emergency battery lighting units at outdoor locations which lack readily available power supplies and are difficult to protect against harsh weather.

Environmental Impact of the Proposed Action

The Commission has completed its evaluation of the proposed exemption and concludes that portable emergency battery lighting is an acceptable means of achieving emergency lighting in safe shutdown areas which are located outdoors.

The proposed exemption does not increase the probability or consequences of accidents. No changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential nonradiological impacts, the proposed exemption involves portable emergency battery lighting only. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in the Final Environmental Statement related to operation of the Trojan Nuclear Plant, dated August 1973.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to this action, see the licensee's application for exemption dated December 30, 1988, and supplemented by letters dated April 15, 1991, October 15, 1991, and February 11, 1992, which are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room at the Branford Price Millar Library, Portland State University, 934 SW. Harrison Street, P.O. Box 1151, Portland, Oregon 97207.

Dated at Rockville, Maryland, this 24th day of February, 1992.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Director, Project Directorate V, Division of Reactor Project III/IV/V, Office of Nuclear Reactor Regulation.

[FR Doc. 92–5023 Filed 3–3–92; 8:45 am]

BILLING CODE 7590–01–M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from February 7, 1992 thru February 21, 1992. The last biweekly notice was published on February 19, 1992 (57 FR 6033).

Notice Of Consideration Of Issuance Of Amendment To Facility Operating License And Proposed No Significant Hazards Consideration Determination And Opportunity For Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By April 3, 1992, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the local public document room for the particular facility involved.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: December 6, 1991

Description of amendment request: The proposed amendment would revise Section 3/4.9, Auxiliary Electrical System, to incorporate a surveillance for the inverters associated with the High Pressure Coolant Injection (HPCI) and Reactor Core Isolation Cooling (RCIC) Systems. Several minor editorial changes are also included to improve the clarity of the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change adds a surveillance to Technical Specifications concerning the electrical inverters associated with the HPCI and RCIC systems. These inverters provide power to the flow control mechanisms of these systems. Loss of the RCIC inverter results in a minimum flow condition. Loss of the HPCI inverter results in HPCI going to zero flow. The inverters have an automatic reset. After the inverters reset, RCIC flow returns to normal and HPCI restarts. The operation of PNPS in accordance with the proposed surveillance will not alter the function or configuration of the subject inverters or the HPCI and RCIC Systems. The surveillance will be performed during the verification of operability of the auxiliary electrical system and will not be performed during power operation. Hence, this new surveillance will be performed when the HPCI and RCIC systems are not required and it will not involve an increase in the probability or consequences of an accident previously evaluated.

(2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not change the configuration or function of PNPS and involves surveillance activities to be performed when the associated systems are not required. Therefore, operating PNPS in accordance with the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed change does not involve a significant reduction in a margin of safety. The proposed change adds a surveillance intended to ensure the operability of existing equipment (i.e., the inverters associated with the HPCI and RCIC Systems). The proposed change does not modify the configuration, function, or setpoint of the inverters or the associated systems. Hence, operating PNPS in accordance with the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199, attorney for the licensee.

NRC (Acting)Project Director: Anthony J. Mendiola

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: February 7, 1992

Description of amendment request: The proposed changes extend Reactor Protection System (RPS) instrumentation surveillance test intervals (STI) from one month to three months, provide for 12- and 6-hour allowable out-of-service times (AOT) for repairs and tests, and delete the water level perturbation requirement. Changes to Control Rod Block and Primary Containment

Isolation Systems (PCIS) instrumentation common to RPS are also proposed, as well as appropriate bases changes.

Administrative changes to clarify nomenclature, correct a typographical error and provide information to operators are also proposed.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not increase the probability of occurrence of a malfunction of equipment important to safety previously evaluated in the safety analysis report. NRC-accepted studies by GE (NEDC-30851P-A, "Technical Specification Improvement Analyses for BWR Reactor Protection System," including Supplements 1 and 2, instruments common to Control Rod Block and PCIS functions) indicate that RPS failure frequency will increase by a small amount by increasing RPS instrument surveillance frequency from one to three months. The increase in core damage frequency due to less frequent testing is less than one percent. However, a decrease in core damage frequency due to the estimated reduction in scram frequency and the effect of reducing unnecessary cycles on RPS equipment due to less frequent testing more than offsets the small increase in RPS failure frequency. Since the Control Rod Block System functions to anticipate and prevent inadvertent rod withdrawals and attendant scrams, less frequent testing can potentially increase scram frequency. Supplement 1, for control rod block, estimates an increase of 0.06% which can be considered negligible. Supplement 2, for PCIS functions, indicates a net increase in the probability of an isolation failure on the order of 0.3% to 1% for increased STIs and 2% for increased AOTs. Again, this is considered insignificant. Therefore, overall core damage frequency is unaffected by this change.

Sensitivity studies were also performed to measure the effects of changes in component failure rates, changes in common cause failure rates, reduced redundancy during testing, human error rates during testing, component wear out rates caused by testing, and changes in test intervals and allowable out-of-service times. These studies indicate common cause failure of the scram contactors are the most significant contributors to RPS failure frequency. Because scram contactors are cycled during testing of each RPS instrument channel, the scram contactors are most susceptible to testing-related wear out. Consequently the frequency of testing the RPS channel test switch function is changed from once every refuel outage to weekly while other functions are increased to three months. This assures the scram contactors are regularly checked for common mode failure while also reducing the total number of scram contactor tests. All other factors have an insignificant effect on RPS failure frequency over the ranges analyzed.

Because RPS failure frequency is not strongly sensitive to surveillance test intervals and allowable out-of-service times, the current requirements for test intervals and out-of-service times can be extended to the period specified to allow reasonable test/repair times without placing undue stress on plant personnel that can contribute to human error. The 12-hour and 6-hour allowable out-of-service times were selected consistent with NEDC-30851P-A and its supplements and are considered reasonable for performing repairs and tests. Increasing the surveillance test interval for high reactor pressure, high drywell pressure, reactor low level, and condenser low vacuum instruments to three months results in an increased calibration interval of three months for the associated analog trip units. Setpoint calculations for these devices assume a drift over a six-month period; therefore, setpoint changes to account for drift are not necessary.

Plant-specific analyses for the Pilgrim Nuclear Power Station (PNPS) were performed to evaluate effects on analysis conclusions of RPS design configuration, Technical Specification test method, and component differences between the generic plant and PNPS. The plant specific GE Report MDE-31-0286, documents these differences and concludes the generic study conclusions are applicable to PNPS. Difference in component failure rates are within the ranges used in the sensitivity analyses. Other differences (i.e., PNPS does not have a high reactor level scram, PNPS uses HFA vs. Potter and Brumfield relays in the RPS logic, PNPS has a scram on low condenser vacuum, PNPS has an air dump system, etc.) have been evaluated and have negligible impact on RPS failure frequency.

Although calibration frequency of the average power range monitor (APRM) flow bias is not addressed in the GE Topical Report, the calibration frequency is changed from monthly to quarterly to be consistent with the APRM functional test frequency. This test consists of a calibration of the flow control trip reference. A three month calibration frequency will not significantly increase the likelihood of signal drift. The devices involved with the flow bias signal have required recalibration once in approximately three years for each channel, indicating exceptional circuit stability. These devices are located in an environmentally controlled area thereby assuring continued stability.

Note 7 of Table 4.1.1 is rewritten to reflect 3-month APRM testing and to more clearly specify the APRM testing requirements when entering the RUN mode. Because mode switch interlocks prevent simple functional testing of APRM trips until the RUN mode is entered, this testing will continue to be done after entering RUN mode. A 24 hour limit is imposed to replace the phrase "as soon as practicable" to make the surveillance requirement more definitive.

The flow bias signal calibration requirement, "Internal Power and Flow Test," is reworded to more clearly define the required testing. Also, a new column is added to each of the Tables 3.1.1, 3.2.A, and 3.1.C-1 to inform the operators of the number of available instrument channels for each function. A typographical error is corrected in Table 3.2.F. Plant records list an instrument as RI 1001-609 but Table 3.2.F has it numbered as 1001-607. These changes are not technical changes but, rather, are clarifications to be more consistent with plant nomenclature and to provide aids to the operators.

Note 6 of Table 4.1.1 is deleted because reactor water level perturbations are no longer required after the functional testing of reactor water level instruments. Instrument checks verify the response of these sensors. Instrument checks are performed daily per Note 7 of Table 4.1.2. Purposely perturbing reactor water level is an undesirable test due to the potential for initiating an inadvertent transient. Use of instrument checks is consistent with Standard Technical Specifications, acceptable IEEE-279 on-line sensor check methods, and PNPS design. This change represents a plant safety enhancement by reducing potential plant transients.

Using the above analysis, the following determinations are made:

1. The operation of PNPS in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect the design response of plant safety systems to an accident scenario. Since the functions of mitigative systems are not affected, accident analysis results and conclusions are, therefore, not affected by the proposed changes.

2. The operation of PNPS in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

These changes do not result in any physical modifications, changes of instrument setpoints, or changes of PNPS design bases. Therefore, they cannot create the possibility for a new or different accident, transient, or other event.

3. The operation of PNPS in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.

The only margin of safety affected by the proposed changes is related to their impact on the potential to increase the RPS or isolation failure frequency. Changes in RPS or isolation failure frequency and core damage frequency have been demonstrated to be insignificant.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800

Boylston Street, 36th Floor, Boston, Massachusetts 02199, attorney for the licensee.

NRC Acting Project Director: Anthony J. Mendiola

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: December 18, 1991 as revised February 17, 1992

Description of amendment request: This amendment reflects a reorganization of the Duke Power Company (DPC). The reorganization essentially decentralizes the corporate management of nuclear activities to each of DPC's three nuclear site facilities, including the Catawba Site. The revisions to the Technical Specifications (TS) also reflect and are complementary to revisions to the DPC Quality Assurance Topical Report. The review of this report, based upon the guidance of Standard Review Plan 17.3 as issued in August 1990, is being addressed as a separate action from the revision of the TS.

The proposed changes throughout TS Section 6.0, "Administrative Controls," reflect the creation of several new positions and the retitling of other positions. Previously, the Vice President of Nuclear Production oversaw activities at all three DPC nuclear facilities (Catawba 1 and 2, McGuire 1 and 2, and Oconee 1, 2 and 3). The reorganization now places a Vice President at each site, including the Vice President of the Catawba Nuclear Site. The Senior Corporate Nuclear Executive will be the Senior Vice President-Nuclear Generation Department for all three nuclear sites.

The Vice President of Nuclear Production is now titled Vice President Catawba Nuclear Site. Other position title changes include: health physics to radiation protection; unit to station; auxiliary operators to non-licensed operators; operating engineer to shift operations manager; shift technical advisor to shift manager; Catawba Safety Review Group (CSRG) to Safety Review Group (SRG); Manager, Station Training Services to Training Manager; and changes to TS 6.5.1.3, 6.5.1.5 and 6.6.1 to reflect the revised position titles for the Operations Superintendent, the Mechanical Superintendent, the I&E Superintendent and the Work Control Superintendent; etc.

Certain functions, for example, in TS 6.5.1.4, 6.5.1.6, 6.5.1.7, 6.5.1.10, 6.5.1.11, and 6.5.1.12, have been reassigned to the newly created positions of Vice President-Catawba Site or Manager, Safety Assurance.

Certain functions, for example, in TS 6.5.2.1, 6.5.2.2, 6.5.2.9.M, 6.5.2.10a and c have been reassigned from the former position of Vice President-Nuclear Production to the Executive Vice President-Power Generation or to the Senior Vice President-Nuclear Generation Department.

The Manager, Human Resources, has been added to TS 6.5.1.12 to reflect the assigned responsibility for the fire protection program.

Other changes, from example, in TS 6.5.1.8, 6.5.1.9, 6.5.2.9, 6.8.1, 6.8.2, 6.8.3 and 6.15.1 are made to reflect the DPC's revisions of its Quality Assurance (QA) Topical Report in accordance with the guidance in Standard Review Plan (SRP) Section 17.3, "Quality Assurance Program Description," that was issued in August 1990. SRP 17.3 provides guidance for the licensee to put a performance-oriented quality assurance program into place. The NRC staff's review of the DPC QA Topical Report is being addressed as a separate review activity from the review of amendments to the Administrative Controls section of the TS.

Other revisions have been made to TS 6.2.3 for the Safety Review Group and to TS 6.5.2 for the Nuclear Safety Review Board regarding the composition and member qualifications required for these groups and also to reflect revised position titles and nomenclature.

Other miscellaneous changes in titles, terms, and footnotes are made throughout TS 6.0 to reflect the major changes discussed above.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendments would not involve a significant increase in the probability or consequences of a previously evaluated accident. Nor would they create the possibility of a new or different kind of accident from any accident previously evaluated. The changes do not have any impact upon the design or operation of plant equipment; therefore, they cannot serve to initiate a new type of accident.

The proposed amendments would not involve a reduction in a margin of safety. The changes would not impact the design or operation of any plant systems or components.

Based upon the preceding analysis, Duke Power Company concludes that the proposed amendments do not involve a Significant Hazards Consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Duke Power Company, et al., Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 8, 1992, as revised February 13, 1992

Description of amendment request: This amendment reflects a reorganization of the Duke Power Company (DPC). The reorganization essentially decentralizes the corporate management of nuclear activities to each of DPC's three nuclear site facilities, including the McGuire Site. The revisions to the Technical Specifications (TS) also reflect and are complementary to revisions to the DPC Quality Assurance Topical Report. The review of this report, based upon the guidance of Standard Review Plan 17.3 as issued in August 1990, is being addressed as a separate action from the revision of the TS.

The proposed changes throughout TS Section 6.0, "Administrative Controls," reflect the creation of several new positions and the retitling of other positions. Previously, the Vice President of Nuclear Production oversaw activities at all three DPC nuclear facilities (Catawba 1 and 2, McGuire 1 and 2, and Oconee 1, 2 and 3). The reorganization now places a Vice President at each site, including the Vice President of the McGuire Nuclear Site. The Senior Corporate Nuclear Executive will be the Senior Vice President-Nuclear Generation Department for all three nuclear sites. TS 6.2.1 is augmented by the definitions of the requirements, authority, and lines of responsibility of the offsite and onsite organizations. This provides consistency with the TS for the other two DPC facilities, Catawba and Oconee.

The Vice President of Nuclear Production is now titled Vice President McGuire Nuclear Site. Other position title changes include: health physics to radiation protection; unit to site or station; auxiliary operators to non-

licensed operators; shift technical advisor to shift manager; McGuire Safety Review Group (MSRG) to Safety Review Group (SRG); Station Manager to Training Manager in TS 6.4; and changes to TS 6.5.1.3, 6.5.1.5, and 6.6.1 to reflect the revised position titles for the Mechanical Superintendent, the Operations Superintendent, the I&E Superintendent and the Work Control Superintendent; etc.

Certain functions, for example, in TS 6.5.1.4, 6.5.1.6, 6.5.1.7, 6.5.1.10, 6.5.1.11, and 6.5.1.12, have been reassigned to the newly created positions of Vice President-McGuire Site or Manager, Safety Assurance.

Certain functions, for example, in TS 6.5.2.2, 6.5.2.9.M, 6.5.2.10, and 6.5.2.11 have been reassigned from the former position of Vice President-Nuclear Production to the Executive Vice President-Power Generation or to the Senior Vice President-Nuclear Generation Department.

The Manager, Human Resources has been added to TS 6.5.1.12 to reflect the assigned responsibility for the fire protection program.

Other changes, for example, in TS 6.5.1.8, 6.5.1.9, 6.5.2.9, 6.8.1, 6.8.2, 6.8.3, and 6.15.1 are made to reflect the DPC's revisions of its Quality Assurance (QA) Topical Report in accordance with the guidance in Standard Review Plan (SRP) Section 17.3, "Quality Assurance Program Description," that was issued in August 1990. SRP 17.3 provides guidance for the licensee to put a performance-oriented quality assurance program into place. The NRC staff's review of the DPC QA Topical Report is being addressed as a separate review activity from the review of amendments to the Administrative Controls section of the TS.

Other revisions have been made to TS 6.2.3 for the Safety Review Group and to TS 6.5.2 for the Nuclear Safety Review Board regarding the composition and member qualifications required for these groups and also to reflect revised position titles and nomenclature.

Other miscellaneous changes in titles, terms, and footnotes are made throughout TS 6.0 to reflect the major changes discussed above.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed amendments would not involve a significant increase in the probability or consequences of a previously evaluated accident. Nor would they create the possibility of a new or different kind of accident from any accident previously evaluated. The changes do not have any impact upon the design or operation of plant equipment; therefore, they cannot serve to initiate a new type of accident.

The proposed amendments would not involve a reduction in a margin of safety. The changes would not impact the design or operation of any plant systems or components.

Based upon the preceding analysis, Duke Power Company concludes that the proposed amendments do not involve a Significant Hazards Consideration. The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Entergy Operations, Inc., Docket Nos. 50-313 and 50-368, Arkansas Nuclear One, Unit Nos. 1 and 2 (ANO-1&2), Pope County, Arkansas

Date of amendment request: January 21, 1992

Description of amendment request: The proposed amendment would revise ANO-1 Technical Specification (TS) 3.5.1.13 to include measurement ranges for the seismic monitors and would revise the Channel Description, Item 42.b.1 in Table 4.1-1, to correct the component nomenclature. Additionally, Item 2a in Table 3.3-7 of ANO-2 TS 3/4.3.3.3 would be revised to correct a typographical error in the measurement range for seismic equipment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below: 1*Criterion 1 - Does Not Involve A Significant Increase in the Probability or Consequences of An Accident Previously Evaluated*

Accident mitigation features of ANO-1 or ANO-2 do not involve seismic monitoring instrumentation. Furthermore, this proposed change does not affect the design or operability requirements of this instrumentation. Therefore, this [sic] proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. 1*Criterion 2 - Does Not Create the Possibility of o New or Different Kind of Accident from Any Previously Evoluoted*

The proposed changes correct an editorial deficiency and does [sic] not involve any design changes, plant modifications, changes in acceptance criteria or changes in plant operation. Seismic monitoring instrumentation is not identified as an initiator of any event, nor is it identified as a mitigator in any event, and therefore, can not [sic] create the possibility of a new or different kind of accident from any previously evaluated. 1*Criterion 3 - Does not Involve A Significant Reduction in the Morgin of Sofety*

The design, function, and operability requirements for the seismic monitoring instrumentation remains [sic] unaffected by these proposed changes. Additionally, this instrumentation does not provide any protective function and is not associated with any "margin of safety." Therefore, these proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: John T. Larkins

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: February 7, 1992

Description of amendment request: The proposed amendment would authorize the termination of the Cooling Tower Drift Program and change references to the program to reflect the program's termination.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. No significant increase in the probability or consequences of an

accident previously evaluated results from this change.

The intent of the Cooling Tower Drift Program is to measure the deposition of drift containing dissolved minerals from the cooling tower to determine the effect on the ecosystem. The deposition was measured prior to plant startup and monitored during at least three years of operation in accordance with the requirements of the EPP [Environmental Protection Plan]. Operational

monitoring observations and prestartup reference monitoring observations were compared. No statistically significant difference in the amounts of the analyzed components were [sic] detected. Additionally, the program does not affect the performance, integrity or reliability of any system in any way that could lead to an accident.

Thus, the probability or consequences of previously analyzed accidents are not increased.

b. The change would not create the possibility of a new or different kind of accident from any previously analyzed.

The termination of the Cooling Tower Drift Program has been anticipated. The EPP states that the program "will be continued for three years of operation" and "if no statistically significant amounts of the analyzed components are detected during this time period, then a proposal can be made to NRC to terminate the program." The scope of the change is limited to termination of the program as described in the EPP. There are no new or different surveillance tests or actions implemented by the revision. There is no addition, deletion, or modification to any system or component.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from those previously analyzed.

c. The change would not involve a significant reduction in the margin of safety.

The termination of the Cooling Tower Drift Program has previously been anticipated in the EPP. The required three years of operation with the program in place has been exceeded. No assumption, methods, or results of applicable safety analyses are changed.

The additional deposition of minerals into the ecosystem has been shown to be statistically insignificant when compared to preexisting levels.

These changes thus do not involve a significant reduction in the margin of safety.

Based on the above evaluation, Entergy Operations has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: John T. Larkins

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: January 6, 1992

Description of amendment request: The proposed amendment would revise the Technical Specification to modify the snubbler surveillance requirements in accordance with Generic Letter 90-09 dated December 11, 1991.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed change will incorporate the NRC Staff recommendations of Generic Letter 90-09 regarding snubber inspections into the snubber inspection program defined by Waterford 3 Technical Specification 3/4.7.8. Entergy concurs with the NRC's evaluation that the recommended changes in the Generic Letter will maintain the required level of confidence in snubber operability. Therefore, since the confidence level is adequately maintained, this change will not increase the probability or consequence of an accident previously evaluated.

The proposed change does not change the design nor the design bases of plant systems or equipment at Waterford 3. Therefore, the current plant safety analyses remain complete and accurate in addressing the licensing basis events and analyzing plant response and consequences. As such, the plant conditions for which the design basis accident analyses have been performed are still valid. Therefore, the proposed change can not create the possibility of a new or different kind of accident than previously evaluated.

Plant safety margins are established throughout the Waterford 3 Technical Specifications. The required level of confidence in the operability (i.e. reliability) of Waterford 3 snubbers is not affected by this change, in that snubber operability is still determined by visual inspection. Since there will be no change to any of the existing safety margins, the proposed amendment will not involve a reduction in margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: N.S. Reynods, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: John T. Larkins

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: January 30, 1992

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) to raise the average electrolyte temperature of a sample of battery cells from 60 degrees F to 70 degrees F and adjust the limits for specific gravity accordingly.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Previously analyzed accidents that are potentially affected by this change are those that require operation of the station batteries. This would include all accidents that postulate the loss of offsite power (LOOP) concurrent with the accident (e.g., a loss of coolant accident with a LOOP). For these accidents, the batteries provide field flash and power to the control system to start the EDGs [Emergency Diesel Generators]. Additionally, the station batteries are needed for the station blackout event to carry essential loads. This proposal requests changes to Waterford 3 specifications that increase the minimum amount of stored energy that can be contained in the batteries. These changes have no negative impact on the reliability or performance of the station batteries and, therefore, have no actual impact on any previously analyzed accident in the Final Safety Analysis Report. As such, the operation of Waterford 3 in accordance with the proposed changes does not involve a significant increase in the probability or consequence of any accident previously evaluated.

To create a new or different kind of accident, these changes will have to introduce a new failure path. Only surveillances for the station batteries are affected. No design requirements for the station batteries or power distribution systems are altered. Because the proposed amendment would not change the design, configuration or method of operation of the plant, it would not create the possibility of a new or different kind of accident.

Increasing the minimum average electrolyte temperature and specific gravity allowed by the TSs means the minimum stored energy that can be contained in the batteries is increased. This represents a general improvement in safety. The modification does not change the design basis for any equipment in the plant. Since existing TS operability and surveillance requirements are not reduced by the proposed changes, the operation of Waterford 3 in accordance with these changes does not involve a reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room Location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122

Attorney for licensee: N.S. Reynods, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: John T. Larkins

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: October 30, 1991

Description of amendment request: The proposed changes would revise the Updated Final Safety Analysis Report (UFSAR) to reflect the use of longer fuel cycles at the South Texas Project, Units 1 and 2. The licensee proposes changing the cycle length from 11,900 MWD/MTU to 20,000 MWD/MTU, the core average burnup from 23,700 MWD/MTU to 40,000 MWD/MTU and the average burnup limit from 23,740 MWD/MTU to 45,000 MWD/MTU. As a result of the changes, the source term values will change. The changes were submitted to the staff because a review by the licensee identified them as an unreviewed safety question.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated. *Equipment Qualification*

Based upon SER [Safety Evaluation Report] Supplement 4 which presents the NRC acceptance criteria, the proposed changes to UFSAR Table 3.11-1 for equipment doses inside containment (1.5E+8 rads) exceeds the previously reviewed and accepted NRC acceptance criteria of 1.4E+8 rads.

HL&P has evaluated the increased doses against the present equipment qualification documentation. This evaluation concludes that the increases in radiation doses due to the proposed change are still enveloped by the qualification data with sufficient margin as required by 10CFR50.49 and other qualification standards. Therefore, the changes to equipment doses do not involve a significant increase in the probability or consequences of an accident previously evaluated. *Other Radiological Analyses*

Extended burnup fuel has been approved by the NRC in NUREG/CR-5009, "Assessment of the Use of Extended Burnup Fuel in Light Water Power Reactors." This document was referenced in SER Supplement 6 to approve the extension of Cycle 1 of Unit 2 to 400 EFPD [effective full-power day].

NUREG/CR-5009 states that for Chapter 15 accidents, except for the fuel handling accident, "the factors of increases in the radioactive sources are less than the uncertainty involved in determining the overall risk to the public."

A 20 percent increase in the thyroid dose due to a fuel handling accident would increase the STPEGS dose value from 24.6 rem to 29.5. This is still below the NRC acceptance limit of "less than or equal to 25 percent of the 10CFR100, Paragraph 11 exposure guideline values, i.e., less than or equal to 75 rem to the thyroid".

Therefore, based on the NRC's findings in NUREG/CR-5009 and in the STPEGS SER Supplement 6, the effects of the proposed changes on the radiological consequences of postulated accidents do not significantly impact the results of these analyses as presented in the UFSAR and does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated. *Equipment Qualification*

Since the equipment in the impacted areas has been qualified for dose levels greater than the revised dose projections, the probability for equipment failure has not been increased. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. *Other Radiological Analyses*

The proposed change involves increasing the cycle length and, therefore, the burnups assumed in developing the radiological source terms. NUREG/CR-5009 states that the effect on the source terms is small. This proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) The proposed changes do not involve a significant reduction in a margin of safety. *Equipment Qualification*

HL&P has evaluated the increased doses against the present equipment qualification documentation. This evaluation concludes that the increases in radiation doses due to the proposed change are still enveloped by the qualification data with sufficient margin as required by 10CFR50.49 and other qualification standards. Therefore, the changes to equipment doses do not involve a significant reduction in a margin of safety. *Other Radiological Analyses*

NUREG/CR-5009 states that for Chapter 15 accidents, except for the fuel handling accident, "the factors of increases in the radioactive sources are less than the uncertainty involved in determining the overall risk to the public."

For the fuel handling accident, a 20 percent increase in the thyroid dose due to a fuel handling accident would increase the STPEGS dose value from 24.6 rem to 29.5. This is still below the NRC acceptance limit of less than or equal to 25 percent of the 10CFR100, Paragraph 11 exposure guideline values.

The effects of the proposed changes on plant system radioisotopic inventories, plant shielding, normal radioisotope releases, normal offsite doses, worker occupational doses, and on the radiological consequences of postulated accidents do not significantly impact the results of these analyses as presented in the UFSAR and do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the request for amendments involves no significant hazards consideration.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton Texas 77488

Attorney for licensee: Jack R. Newman, Esq., Newman & Holtzinger, P.C., 1615 L Street, NW, Washington, DC 20036

NRC Project Director: Suzanne C. Black

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: February 7, 1992

Description of amendment request: The proposed amendment would revise the Technical Specifications by extending the surveillance requirements of Technical Specification 4.6.1.2.a to allow the second Type A Containment Integrated Leakage Rate test, within the second 10 year service period, to be conducted during the Cycle 11 refueling outage scheduled to commence in May 1992. The proposed Technical Specification change is a one time extension for Cycle 11 only.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed technical specification change has been reviewed against the criteria of 10 CFR 50.92, and it has been determined not to involve a significant hazards consideration. Specifically, the proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed. The leakage condition of the containment extrapolated from the

ILRT of February 8, 1988, was 36.8 percent of the conservative limit of 0.75 La. No operations are known to have occurred which would suggest a significant degradation of this estimate. There are no design basis accidents adversely affected due to this change.

2. Create the possibility of a new or different kind of accident from any previously analyzed. Containment isolation features limit the consequences of an accident. The proposed extension to the test schedule will have no impact on this. Since there are no changes in the way the plant is operated, the potential for an unanalyzed accident is not created. The change meets the requirements of 10 CFR 50, Appendix J, Subsection III.D.1.(a) since the surveillance interval extension will allow three Type A tests to be completed at approximately equal intervals within the 10-year period.

3. Involve a reduction in the margin of safety. The change does not impact or reduce the margin of safety of the containment or other protective boundaries, nor does it challenge the safety limits or their boundaries. Also, since the change does not affect the consequences of any accident previously analyzed, there is no reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry & Howard, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: John F. Stolz

Pacific Gas and Electric Company, Docket No. 50-133, Humboldt Bay Power Plant, Unit 3, Eureka, California.

Date of Amendment Request: August 7, 1991, supplemented November 22, 1991 (Reference LAR 91-01)

Description of Amendment Request: The proposed amendments would revise the Technical Specifications (TS) for the Humboldt Bay Power Plant, Unit 3 (HBPP) to incorporate editorial and administrative changes into Section VII, "Administrative Controls." The proposed TS changes would: (1) change the title of the General Office Nuclear Plant Review and Audit Committee (GONPRAC) to Nuclear Safety Oversight Committee (NSOC); (2) revise GONPRAC (to become NSOC) membership requirements by not specifying the occupants of 9 various positions as mandatory members, specifying a minimum composition of a chairman and 4 members, and specifying minimum qualifications for GONPRAC members; (3) delete language allowing alternate GONPRAC members; (4) redefine a quorum to be one half or more of GONPRAC members; and (5) replace the title of Vice President, Nuclear Power Generation, with Senior Vice President and General Manager, Nuclear Power Generation. The specific TS changes proposed are as follows:

(1) TS VII.B, "Organization," TS VII.D, "Review and Audit," and TS VII.I, "Record Retention," would be revised to change all references from GONPRAC to NSOC.

(2) TS VII.D.2.b, "Composition," would be revised to functionally describe the committee composition, appointment of members, and qualification requirements.

(3) TS VII.D.2.c, "Alternates," would be deleted.

(4) TS VII.D.2.f, "Quorum," would be revised to eliminate reference to alternates and to redefine the requirements for a quorum.

(5) TS VII.B, "Organization," and TS VII.D, "Review and Audit," would be revised to change all references from Vice President, Nuclear Power Generation, to Senior Vice President and General Manager, Nuclear Power Generation.

Basis for proposed no significant hazards consideration determination: As required by 10 C.F.R. 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed TS changes are administrative in nature and specify requirements to ensure that committee members have a high degree of experience and technical capability, and change a management title to reflect the current organization. The proposed changes do not affect accident evaluations.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

b. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed TS changes are administrative in nature and do not affect any plant systems, plant operations, or the type of accidents that might occur at HBPP.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

c. Does the change involve a significant reduction in a margin of safety?

The proposed changes are administrative in nature and do not affect the margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the proposed changes: (1) do not involve a significant increase in the probability or consequences of an accident previously evaluated; (2) do not create the possibility of a new or different kind of accident from any accident previously evaluated; and (3) do not involve a significant reduction in a margin of safety. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room Location: Eureka-Humboldt County Library, 421 I Street (County Court House), Eureka, California 95501.

Attorney for Licensee: Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7441, San Francisco. California 94210.

NRC Branch Chief: John H. Austin.

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 8, 1992, as supplemented February 4, 1992

Description of amendment request: The licensee requests an amendment to the Technical Specifications to revise Section 3.11 (Moveable Incore Instrumentation). This section would be revised to specify 38 as the minimum number of detectors required operable. The current Technical Specification requirement is that 75 percent of the installed detectors must be operable. There are 50 installed detectors, and the 38 results from 75 percent of the 50 detectors. Therefore, the proposed operability requirement is effectively the same operability requirement that currently exists. This change is being requested since the licensee intends performing a plant modification to install eight (8) additional detectors making 58 the total number of installed detectors. These additional detectors are intended to improve the capability and reliability of the Moveable Incore Instrumentation System. The amendment also corrects administrative and typographical errors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The proposed changes do not involve an increase in the probability of a previously analyzed accident because they do not involve a change in the current operability requirements of the movable detector guide thimbles. The technical specification changes allow supplemental thimbles to be used along with the original thimbles and correct some administrative and typographical errors. The changes will allow for improved reliability of the Movable Incore Instrumentation System. The administrative technical specification changes will provide for clarification and consistency of the text in section 3.11.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because they do not affect any current technical specification requirements. The proposed changes allow for an increase in the number of movable detector guide thimbles available for reactor flux monitoring and correct some administrative errors. The operability requirements of the movable detector guide thimbles will not be affected.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed technical specification changes do not involve a significant reduction in a margin of safety because they do not involve a change in current operability requirements. The changes will allow for improved reliability of the Movable Incore Instrumentation System. The administrative technical specification changes will provide for clarification and consistency of the text in section 3.11.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 13, 1992

Description of amendment request: The licensee intends to begin a 24-month operating cycle starting with cycle nine (scheduled to start in May 1992). In order to accommodate operation on a 24-month cycle, the licensee requests an amendment to the Technical Specification (TS) to incorporate the changes listed below:

(1) The licensee requests to change the frequency of snubber functional testing (specified in Section 4.11.B.1) and reviews of snubber maintenance records (specified in Section 4.11.C.2) to accommodate operation with a 24-month cycle.

(2) The licensee requests to change all the applicable TS pages to replace the wording "every refueling outage," or similar words, with "once per 18 months." These clarifications are intended to prepare the TS for future submittals. They are intended to avoid confusion between the existing surveillance intervals and those surveillance intervals which, in the future, receive approval to be extended to once per 24 months. Each specific 24-month surveillance interval will be requested in future submittals. In addition, the requested change also clearly delineates those surveillance items which are only refueling outage related regardless of the length of the operating cycle. The applicable pages are; 4.1-3, 4.4-3, 4.4-6, 4.5-1 through 4.5-5, 4.5-7, 4.5-8, 4.6-1 through 4.6-3, 4.7-1, 4.8-1, 4.10-4, 4.13-1, Table 4.1-1, and Table 4.1-3.

(3) The licensee requests to change the check valve gross leakage testing (specified in Section 4.5.B.2.d) to be consistent with the guidance of the NRC letter to all licensees dated February 23, 1980, and the requirement of the NRC letter to the licensee dated February 11, 1980. The proposed change increases the frequency of testing to require a check valve leakage check whenever a plant shutdown and depressurization occurs.

(4) The proposed amendment also corrects typographical errors.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Consistent with the requirements of 10 CFR 50.92, the enclosed application is judged to involve no significant hazards based on the following information:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response:

The proposed changes do not involve a significant increase in the probability or consequences of a previously-analyzed accident. The changes for snubber testing do not involve any physical changes to the plant, nor do they alter the way the snubbers function. The type of testing performed, and the actions taken if a snubber were to fail its functional test, remain unchanged. The punitive and self-corrective nature of the Technical Specification would force a more frequent test interval if the snubber failure rate rose. The review of snubber maintenance records will continue to ensure that the indicated snubber service life will not be exceeded prior to the next scheduled review. ... Changing the wording of existing specifications from "every refueling outage," or similar words to "once per 18 months," will avoid confusion between existing surveillance intervals and those surveillance intervals that receive approval to be extended to once per 24 months. [Other than snubber functional testing, the actual extensions to 24-month surveillance intervals will be requested in future submittals.] The change in the check valve leakage check is consistent with the guidance of the NRC's letter to licensees dated February 23, 1980, and the requirement of the NRC's letter to the Power Authority dated February 11, 1980.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response:

The proposed changes do not create the possibility of a new or different kind of accident. The changes for snubber testing do not involve any physical changes to the plant, nor do they alter the way the snubbers function. The ability of the snubbers to provide dynamic load support during a design basis event remains as is. The type of testing performed, and the actions taken if a snubber were to fail its functional test, remain unchanged. The punitive and self-corrective nature of the Technical Specification would force a more frequent test interval if the snubber failure rate rose. The review of snubber maintenance records will continue to ensure that the indicated snubber service life will not be exceeded prior to the next scheduled review. ... Changing the wording of existing specifications from "every refueling outage," or similar words, to "once per 18 months," will avoid confusion between existing surveillance intervals and those surveillance intervals that receive approval to be extended to once per 24 months. [Other than snubber functional testing, the actual extensions to 24-month surveillance intervals will be requested in future submittals.] The change in the check valve leakage check is consistent with the guidance of the NRC's letter to licensees dated February 23, 1980, and the requirement of the NRCs letter to the Power Authority dated February 11, 1980.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response:

The proposed changes do not involve a significant reduction in a margin of safety. Past operating experience indicates that the snubber program successfully minimizes snubber failures. The type of testing performed and the actions taken if a snubber were to fail its functional test, remain unchanged. The punitive and self-corrective nature of the Technical Specification would force a more frequent test interval if the snubber failure rate rose. The review of snubber maintenance records will continue to ensure that the indicated snubber service life will not be exceeded prior to the next scheduled review. ... Changing the wording of existing specifications from "every refueling outage," or similar words, to "once per 18 months," will avoid confusion between existing surveillance intervals and those surveillance intervals that receive approval to be extended to once per 24 months. [Other than snubber functional testing, the actual extensions to 24-month surveillance intervals will be requested in future submittals.] The change in the check valve leakage check is consistent with the guidance of the NRC's letter to licensees dated February 23, 1980, and the requirement of the NRC's letter to the Power Authority dated February 11, 1980.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. The NRC staff also notes that the editorial changes proposed are similar to example (i) of the Commission's Examples of Amendments That Are Considered Not Likely to Involve Significant Hazards Consideration published in the **Federal Register** on March 6, 1986 (51 FR 7744) in that these proposed changes would be purely administrative changes and therefore do not involve a significant hazards consideration. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Robert A. Capra

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of amendment request: October 16, 1991

Description of amendment request: The proposed amendment would make changes to Seabrook Station Technical Specifications (TS) implementing the guidance of NRC Generic Letter 90-06, "Resolution of Generic Issue 70, 'Power-Operated Relief Valve and Block Valve Reliability,' and Generic Issue 94, 'Additional Low-Temperature Overpressure Protection for Light-Water Reactors,' pursuant to 10 CFR 50.54(f)." The proposed amendment would revise Seabrook Station TS to increase the availability of the pressurizer Power Operated Relief Valves (PORVs) and the Overpressure Protection Systems to mitigate Reactor Coolant System (RCS) pressure transients. The TS revision requires that power be maintained to in-line block valves which are closed to isolate leaking pressurizer PORVs so that the block valves can be readily opened to allow the pressurizer PORVs to be used in mitigating RCS pressure transients. The TS revision also provides adequate measures to assure that a pressurizer PORV will not become stuck open when a block valve is inoperable yet maintains the ability to use the pressurizer PORVs for RCS pressure transient mitigation. In addition, the TS revision also provides enhanced operational flexibility by using a pressurizer PORV in combination with a Residual Heat Removal (RHR) System suction relief valve for low temperature overpressure protection. This TS revision also increases the availability of the Overpressure Protection Systems devices by reducing the allowed outage time for one of the two required Overpressure Protection Systems devices from 7 days to 24 hours when in MODE 5 or 6.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.92(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes to Technical Specification 3/4.4.4 are intended to increase the availability of the PORVs to mitigate RCS pressure transients. The proposed changes will not increase the probability of occurence of an inadvertent opening of a pressurizer safety or relief valve which are analysed in the Updated Final Safety Analysis Report (FSAR) Section 15.6.1. There is no change proposed to the PORV actuation circuitry or to the PORV or block valve power supply configuration.

The proposed changes to Technical Specification 3/4.4.9.3 are intended to increase the availability of equipment which is utilized to mitigate low temperature overpressure transients, by reducing the allowed outage time for such equipment in MODE 5 and 6.

Design Basis low temperature overpressure transients are initiated by inadvertent mass additions (e.g. a charging pump or Safety Injection (SI) pump) with no letdown, or by heat additions caused by the starting of an idle RCP with the secondary side more than 50° F warmer than the primary. The proposed changes to Technical Specification 3/4.4.9.3 will have no affect on the probability of occurrence of low temperature overpressure transient. The changes will improve the availability of equipment utilized to mitigate such a transient.

There is no increase in the consequences of an accident previously evaluated in the FSAR. The only accident analysis which take credit for the PORVs in mitigating the accident and its consequences is the Steam Generator Tube Rupture (SGTR) Accident. The FSAR description of this accident has been superseded by the SGTR analysis submitted to the NRC on April 16, 1991. In this analysis the PORVs are assumed to be utilized by the operators as required by Emergency Response Procedure E-3 to reduce RCS pressure and thus terminate flow to the faulted Steam Generator. The proposed changes to Technical Specification 3/4.4.4 which improve the availability of the PORVs, will not increase the consequences of an accident previously evaluated (i.e. the SGTR accident).

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes to Technical Specifications 3/4.4.4 and 3/4.4.9.3 do not affect the functions of the PORVs in MODE 1, 2 or 3 or the Overpressure Protection System functions required in MODE 4 below 329° F, MODE 5 and MODE 6. There is no change proposed to the PORV actuation circuitry or to the PORV or block valve power supply configuration. There is no reduction in surveillance testing of the PORVs or Overpressure Protection Systems.

The proposed changes will result in an improvement in the availability of the PORVs and Overpressure Protection Systems to mitigate RCS pressure transients.

(3) The proposed changes do not result in a significant reduction in the margin of safety.

The margin of safety associated with the PORVs or the Overpressure Protection Systems is defined in the Bases for their corresponding Technical Specifications.

The Bases for Technical Specification 3/4.4.4 reads as follows: *13/4.4.4. RELIEF VALVES*

The power-operated relief valves (PORVs) and steam bubble function to relieve RCS pressure during all design transients up to and including the design step load decrease with steam dump. Operation of the PORVs minimizes the undesirable opening of the spring-loaded pressurizer Code safety valves. Each PORV has a remotely operated block valve to provide a positive shutoff capability should a relief valve become inoperable. The PORVs and their associated block valves are powered from Class 1E power busses.

The proposed changes to Technical Specification 3/4.4.4 do not reduce the margin of safety defined in its Bases. The function of the PORVs and their block valves is not changed. The Bases for Technical Specification 3/4.4.4 is proposed to be

clarified by specifying that automatic operation of the PORVs is not credited in any MODE 1, 2 or 3 transient and, therefore, the PORVs can be considered operable in either the automatic or manual mode.

The Bases for Technical Specification 3/4.4.9 in pertinent part reads as follows: *3/4.4.9 PRESSURE/TEMPERATURE LIMITS COLD OVERPRESSURE PROTECTION*

The OPERABILITY of two PORVs, or two RHR suction relief valves, or an RCS vent opening of at least 1.58 square inches ensures that the RCS will be protected from pressure transients which could exceed the limits of Appendix G to 10 CFR Part 50 when one or more of the RCS cold legs are less than or equal to 329° F. Either PORV or either RHR suction relief valve has adequate relieving capability to protect the RCS from overpressurization when the transient is limited to either: (1) the start of an idle RCP with the secondary water temperature of the steam generator less than or equal to 50° F above the RCS cold leg temperature, or (2) the start of a centrifugal charging pump and its injection into a water-solid RCS.

The proposed changes to Technical Specification 3/4.4.9.3 do not reduce the margin of safety defined in its Bases. The changes will enhance the availability of the Overpressure Protection System devices by reducing the current allowed outage time in MODE 5 or 6 from 7 days to 24 hours, thereby providing a greater level of safety. The Bases for Technical Specification 3/4.4.9.3 will be clarified by stating that a PORV in combination with a RHR suction relief valve is an acceptable configuration for cold overpressure protection. This combination is acceptable because, as indicated in the current Bases, "Either PORV or either RHR suction relief valve has adequate relieving capability to protect the RCS from overpressurization..."

In view of the preceding, NHY has determined that the Technical Specification changes proposed in License Amendment Request 91-08 do not involve a significant hazards consideration.

The NRC staff has reviewed the licensee's analysis, and based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833

Attorney for licensee: Thomas Dignan, Esquire, Ropes & Gray, One International Place, Boston, Massachusetts 02110-2624

Acting NRC Project Director: Anthony J. Mendiola

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: August 16, 1991, supplemented February 3, 1992.

Description of amendment request: The proposed amendment would revise Technical Specification 3/4.4.5, "Steam Generators," and its bases to allow sleeving of steam generator tubes to effect repairs of defective steam generator tubes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

Toledo Edison has reviewed the proposed change and determined that a significant hazards consideration does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1, in accordance with these changes would:

1a. Not involve a significant increase in the probability of an accident previously evaluated because, as discussed in Topical Report BAW-2120P, the OTSG [once-through-steam-generator] tube sleeve has been analyzed and tested to operating and design conditions which bound the original tube; the structural integrity of the OTSG tubes is maintained by the sleeving process; the sleeve is less susceptible to the identified corrosion failure mechanisms of the original tube because of the use of an improved material, Alloy 690 Inconel; and the continued integrity of the sleeve will be verified by the TS OTSG inspection requirements. Therefore, there is no significant increase in the probability of the steam generator tube rupture accident which is associated with the proposed changes.

1b. Not involve a significant increase in the consequences of an accident previously evaluated because, as discussed in Topical Report BAW-2120P, the OTSG tube sleeve has been analyzed and tested to operating and design conditions which bound the original tube. the steam generator tube rupture accident and its consequences are associated with these proposed changes. The structural integrity of the OTSG tubes for containing fission products is maintained by the sleeving method. In addition, the sleeve is less susceptible to the identified corrosion failure mechanisms of the original tube because of the use of an improved material, Alloy 690 Inconel. The continued integrity of the sleeve will be verified by the TS OTSG inspection requirements and plugging of a defective sleeve will be available Accordingly, there is no significant increase in radiological consequences of an accident previously evaluated.

2a. Not create the possibility of a new kind of accident from any accident previously evaluated because the OTSG tube sleeve functions is essentially the same manner as the original tube. The purpose of sleeve repair is to repair a degraded OTSG tube in order to maintain the function and integrity of the tube. The sleeve repair method has been analyzed and tested and meets OTSG design conditions. Continued tube sleeve integrity is verified by TS inspections. Repairing the tube to a serviceable condition utilizing this sleeving method does not create the possibility of a new kind of accident.

2b. Not create the possibility of a different kind of accident from any accident previously evaluated because the OTSG tube sleeve functions is essentially the same manner as the original tube. The purpose of the sleeve repair is to repair a degraded OTSG tube in order to maintain the function and integrity of the tube. The repaired sleeve has been analyzed and tested and meets OTSG design conditions. Continued tube sleeve integrity is verified by TS inspections. Repairing the tube to a serviceable condition utilizing this sleeving method does not create the possibility of a different kind of accident.

3. Not involve a significant reduction in a margin of safety because the reactor pressure boundary of the tube is maintained by the installation of the sleeve. The sleeve plugging limit has been calculated to be a 70 percent through-wall defect which is the same plugging limit as the unsleeved OTSG tube. Defects are detectable at 40 percent in the tube sleeve. Therefore, there is no significant reduction in a margin of safety. The thermal output effect of installing tube sleeves has been analyzed (as described in Topical Report BAW-2120P) with a slight reduction in RCS flow and full-power steam superheat shown to result. However, this reduction is significantly less than that of a tube that has been plugged. Therefore, there is no significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: November 27, 1991

Description of amendment request: The proposed amendment would revise Technical Specification Table 6.2-1 to allow an individual with a valid Senior Reactor Operator ('SRO") license and who is qualified as a Shift Technical Advisor ('STA") to assume the control room command function during any

absence of the Shift Supervisor from the control room.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The change does not affect accident initiators or assumptions. The proposed change simply provides flexibility in meeting an administrative requirement and does not involve any modifications or changes in the plant. The Shift Supervisor will remain on site and available to resume the control room command function. Shift personnel will continue to have the expertise to recognize and effectively respond to plant transients or other abnormal events. The radiological consequences of any accident previously evaluated remain unchanged.

2. Create the possibility of a new or different kind of accident from any previously evaluated.

The proposed change does not create any new accident initiators nor involve any modifications or changes in the plant. The proposed change simply provides flexibility in meeting an administrative requirement and does not involve any modifications or changes in the plant. The Shift Supervisor will remain on site and available to resume the control room command function. The STA or SRO/STA will continue to provide engineering and accident assessment expertise on shift. The training, experience, and expertise on shift to analyze, assess, and evaluate plant transients and accidents will not be diminished.

3. Involve a significant reduction in a margin of safety.

The proposed change will not affect any safety limits, boundary performance, or system performance. The proposed change simply provides flexibility in meeting an administrative requirement and does not involve any modifications or changes in the plant. The Shift Supervisor will remain on site and available to resume the control room command function. The STA or SRO/STA will continue to provide engineering and accident assessment expertise on shift. The training, experience, and expertise on shift to analyze, assess, and evaluate plant transients and accidents will not be diminished.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: John N. Hannon

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of amendment request: December 6, 1991

Description of amendment request: The proposed amendment would revise the Technical Specifications to increase the maximum room temperature for the Electric Penetration Rooms from 101° F to 106° F.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

The proposed change to Technical Specification 3.7.12, Table 3.7-4, and Bases 3/4.7.12 does not involve an unreviewed safety question because operation of Callaway Plant with this change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

This change does not involve a significant increase in the probability or consequences of an accident previously evaluated. This amendment ensures that a Technical Specification compliance situation does not arise. Since the safety-related equipment contained in the Electrical Penetration Rooms will not be adversely affected, no accidents will be affected.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The change does not create the possibility of a new or different kind of accident from any previously evaluated. There is no new type of accident or malfunction being created and the method and manner of plant operation remains the same. This change is based upon engineering calculations which show the net changes has [sic] a negligible affect on the plant.

(3) Involve a significant reduction in a margin of safety.

This change does not involve a significant reduction in a margin of safety. The margin of safety is unaffected since no design change is required and no accident has been affected.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 2300 N Street, N.W., Washington, DC 20037.

NRC Project Director: John N. Hannon

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: January 21, 1992

Description of amendment request: The proposed amendment revises the operability requirements for the source range monitors to provide flexibility for a complete core offload and to incorporate a more conservative signal to noise ratio as recommended by General Electric for this system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Supply System has evaluated these requested changes per 10 CFR 50.92 and determined that they do not represent a significant hazards consideration because they do not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated. These changes do not result in any hardware modifications. The SRM instrumentation is not assumed to be an initiator of any analyzed event. The SRM instrumentation, in OPERATIONAL CONDITION 5, provides monitoring of neutron flux levels to give the control room operator early indication of unexpected subcritical multiplication that could be indicative of an approach to criticality. As such, action could be taken on the indication to avert or minimize the consequences of the event. However, the SRM function is not relied upon in any design bases or transient analysis. Rod motion interlocks and other instrumentation are relied on in the accident analysis to avert the event. The change allows assemblies to be loaded such that an adequate count rate is obtained yet assures, by analysis, that shutdown margin requirements are met and criticality does not occur. The change in acceptable count rate and signal-to-noise ratio preserves the confidence level of the General Electric design. As a result, the consequences of any analyzed events are unaffected because the change does not alter any system or component design assumption or operation. Therefore, no significant increase in the probability or consequences of an accident previously evaluated will be involved.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because the proposed change allowing a core offload and subsequent reload has been analyzed to show that reloading the four fuel assemblies with the highest reactivity into a square array will not cause an inadvertent criticality yet will allow the SRMs to monitor criticality thereafter. Hence the offload and subsequent reload do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change in SRM count rate and S/N ratio values does not create the possibility of a new or different kind of accident from any previously evaluated because it does not change modes of plant operation or require physical modifications. It preserves the original General Electric design confidence level. No new or different kind of accident is therefore credible.

3) Involve a significant reduction in a margin of safety. No significant reduction in a margin of safety is involved because this change still provides assurance, by analysis, that shutdown margin is maintained and inadvertent criticality does not occur.

The change in SRM count rate and S/N ratio values does not affect a margin of safety because the values preserve the original General Electric design confidence level. Therefore, no margin of safety is impacted by either of these changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: January 23, 1991

Description of amendment request: The proposed amendment revises the technical specifications to allow either the Plant Operations Manager or the Assistant Operations Manager to hold a senior reactor operator license.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Supply System has evaluated this amendment per 10 CFR 50.92 and determined that it does not represent a significant hazard because it does not:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated since the change is administrative in nature. Additionally, the day-to-day conduct of operations will not be impacted. This change will enhance the operation of the plant because the potential for the Operations Manager's attention to be diverted by an intense effort to maintain an SRO qualification that has little significant contribution towards his overall responsibilities will be eliminated. He will be more able to devote his efforts toward the effective operation of the plant. As such, this change does not represent a significant increase in the probability or consequences of an accident previously evaluated.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because operation of the plant remains unaffected. This administrative change introduces no new modes of operation of any equipment. Nor does it require physical modification to the plant. No decrease in the attention to plant operations is represented by this change. To the contrary, the Plant Operations Manager will be more able to concentrate his attention on the operation of the plant. Therefore this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3) Involve a significant reduction in a margin of safety. This change is administrative in nature, therefore no reduction in a margin of safety is involved. Additionally, as discussed above, the Operations Manager will be able to concentrate his attention on the operation of the plant rather than being potentially distracted by the efforts of maintaining the SRO license. Compliance to technical specification section 6.3 and ANSI/ANS N18.1-1971 is still in effect. As a result no margin of safety is affected and the overall management of the unit staff is enhanced.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Attorney for licensee: Nicholas S. Reynolds, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, D.C. 20005-3502

NRC Project Director: Theodore R. Quay

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: December 27, 1991

Description of amendment request: This amendment would revise the Technical Specifications (TS) in Section 3.1.d, "Leakage of Reactor Coolant," and in Section 4.2.b, "Steam Generator Tubes." The proposed amendment would add alternative plugging criteria (APC) for steam generator tubes specifically for the tube support plate (TSP) intersection outside diameter stress corrosion cracking (ODSCC) occurring in the Kewaunee steam generators (SGs). These criteria involve a correlation between non-destructive test indications and tube integrity, and consider tube burst margins and the potential for tube leakage under postulated accident conditions. Administrative changes are also being proposed dealing with format and typographical inconsistencies and deletion of fixed-term specifications which have expired.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

(1). The proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated. The probability of an accident previously evaluated will not be significantly increased by this proposed TS change to incorporate an APC. The APC will be limited to ODSCC occurring within the thickness of the TSPs. A tube integrity assessment performed in accordance with the criteria of RG [Regulatory Guide] 1.121 demonstrated that the tubes in the Kewaunee SGs maintain a safety factor of three times normal operating pressure differential for crack indications with voltages up to 5.6 volts with no credit taken for potential constraint of the TSP under normal and postulated accident condition loadings. The potential for a tube rupture event has been shown to be negligible upon implementation of the APC.

The consequences of an accident previously evaluated will not be significantly increased by application of an APC. Although tubes are not expected to burst under accident conditions, it cannot be assured that the cracks will not leak during postulated accident condition loadings as discussed in the USAR [Updated Safety Analysis Report]. Of the accidents that are affected by primary-to-secondary leakage and steam release to the environment, SLB [steam line break] is most limiting relative to the potential for off-site doses. Upon implementation of the APC, it will be verified that the predicted leak rate from ODSCC at TSPs for the tubes left in service would be less than 260 gpm for the faulted loop during a postulated SLB event. This level of tube leakage results in radiological consequences that are within a small fraction of the 10 CFR 100 limit at the site boundary.

(2). The proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated. Implementation of an APC for ODSCC in the SG at the support plates is not expected to reduce the overall safety and functional requirements of the SG tube bundles. The SG tube bundles will continue to sustain, within the guidelines of RG 1.121, the loads during normal operation and the various postulated accident conditions without loss of safety function. There are no tubes that need to be excluded from

application of the APC for reasons of tube collapse and deformation resulting from combined LOCA [loss of coolant accident] and SSE [safe shutdown earthquake] loadings. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

(3). The proposed change will not involve a significant reduction in the margin of safety. Application of the APC for the Kewaunee SGs has been demonstrated to maintain tube integrity commensurate with the RG 1.121 criteria and hence, meets GDCs [General Design Criteria] 14, 15, 31 and 32. Also, GDC 2 is met in that the SGs will continue to perform their intended safety function upon implementation of the APC. Even under the worst case conditions, the occurrence of ODSCC at the TSPs is not expected to lead to a SG tube rupture event during normal or faulted plant conditions. The most limiting effect would be a possible increase in leakage during a SLB event. Excessive leakage during a SLB event is precluded by verifying that the expected distribution of crack indications would result in less than 260 gpm primary-to-secondary leakage. With this level of leakage, the radiological consequences from tubes remaining in service is a small fraction of the 10 CFR 100 limits.

In conjunction with the APC, requirements will be incorporated into the TSs to limit operating leakage to 150 gpd per SG and to perform a predicted SLB leak rate due to ODSCC at TSPs for the tubes left in service. The operating leakage limit of 150 gpd per SG will be established to provide for detection of a rogue crack which could leak at much higher SLB leak rates than used in the criteria limits. The requirement to perform a predicted SLB leakage assessment is to ensure that the tubes left in service result in combined leakage less than 260 gpm for each SG including considerations for uncertainties and ODSCC growth rates over an operating cycle. If it is found that the potential SLB leakage for degraded intersections planned to be left in service exceeds 260 gpm, then additional tubes will be plugged to reduce SLB leakage potential to below 260 gpm.

Additionally, the combined effects of the LOCA and SSE loadings on the SG components was assessed. Based on this analysis, no tubes need to be excluded from the APC for reasons of deformation resulting from the combined LOCA and SSE loadings.

Therefore, the proposed change will not result in a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: David Baker, Esq., Foley and Lardner, P. O. Box 2193 Orlando, Florida 31082.

NRC Project Director: John N. Hannon.

Previously Published Notices of Consideration of Issuance of Amendments to Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 11, 1991, as supplemented January 23, 1992

Description of amendment request: The amendments would change surveillance requirements in Technical Specifications 3/4.7.6, 3/4.7.7, 3/4.9.12, and associated TS Bases, to revise the minimum heater capacity, and the relative humidity testing requirements for the control room emergency filtration system (CREFS), the piping penetration area filtration and exhaust systems (PPAFES), and the fuel handling building post accident filter system (FHBPAFS).

Date of publication of individual notice in **Federal Register:** February 11, 1992 (57 FR 5026)

Expiration date of individual notice: March 12, 1992

Local Public Document Room location: Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830

Virginia Electric and Power Company, Docket No. 50-338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: January 28, 1992

Brief description of amendment request: The amendment would limit maximum reactor power to 95% of rated thermal power for the interim period of operation until steam generator replacement. In addition, the amendment would impose more restrictive equipment operability requirements for the emergency core cooling system.

Date of individual notice: February 5, 1992 (57 FR 4503)

Expiration date of individual notice: March 6, 1992

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of amendment request: January 21, 1992

Brief description of amendment request: The proposed amendment would revise the technical specifications to more accurately define the acceptance criteria for the capacity of the blowers in the main steam isolation valve leakage control system.

Date of individual notice in **Federal Register:** February 11, 1992 (57 FR 5028)

Expiration date of individual notice: March 12, 1992

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington, 99352

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance

with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: November 27, 1991

Brief description of amendments: The amendments reduce the combined allowable leakage rate limit for Type B and C local leak rate tests (LLRT). The new combined allowable leakage rate is 0.50 L_a. The surveillance interval for performing the Type B and C LLRT on containment penetrations and isolation valves, respectively, has been increased to maximum intervals of 30 months. This increase takes into account the current 24-month operating cycles at the Calvert Cliffs facility. Administrative changes have been made which delete outdated footnotes and change action statement wording to be consistent with current NRC guidance.

Date of issuance: February 19, 1992

Effective date: February 19, 1992

Amendment Nos.: 168 and 147

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1991 (56 FR 66917) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated February 19, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Commonwealth Edison Company, Docket No. STN 50-455, Byron Station, Unit No. 2, Ogle County, Illinois, Docket No. STN 50-457, Braidwood Station, Unit No. 2, Will County, Illinois

Date of application for amendments: June 28, 1991.

Brief description of amendments: The proposed amendment would revise Technical Specification Tables 2.2-1 and 3.3-4 for Model D-5 steam generator (SG) low-low and high-high level instrumentation trip setpoints. The changes are in accordance with a plant modification to be performed during the next refueling outage for each unit. The modification relocates the lower SG level instrument tap from 438 inches to 333 inches as measured from the top of the SG tube sheet.

Date of issuance: February 12, 1992

Effective date: for Byron, February 12, 1992 to be implemented by April 20, 1992; for Braidwood, February 12, 1992

Amendment Nos.: 45 and 34

Facility Operating License Nos. NPF-66. and NPF-77: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 13, 1991 (56 FR 57692) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 12, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: For Byron, the Byron Public Library, 109 N. Franklin, P. O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: October 11, 1991, supplemented December 13, 1991. The December 13, 1991 letter withdrew the request to revise a position title and revise approval authority (57 FR 2795).

Brief description of amendments: Revision of Technical Specification to add two new sections: Radiation Protection Program and High Radiation Area.

Date of issuance: February 14, 1992

Effective date: February 14, 1992

Amendment Nos.: 134 and 129

Facility Operating License Nos. DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 13, 1991 (56 FR 57693) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 14, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: February 20, 1991, as supplemented October 11, 1991.

Brief description of amendment: The amendment to the Arkansas Nuclear One, Unit 2 Technical Specification (TS) revised Tables 3.3-6 and 4.3-3 to require the process monitors for gaseous activity for purge and exhaust isolation to be operable when the monitors are actually in use rather than during all modes. The amendment also required that the purge system be secured during fuel movement and containment purge operations and provided actions for continuous ventilation with an inoperable process monitor.

Date of issuance: February 11, 1992

Effective date: 30 days from date of issuance.

Amendment No.: 130

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 8, 1992 (57 FR 709) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 11, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Mississippi Power & Light Company, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: September 25, 1991

Brief description of amendment: The amendment revised the Grand Gulf Nuclear Station Technical Specifications to allow use of a new main hoist grapple on the refueling platform.

Date of issuance: January 30, 1992

Effective date: January 30, 1992

Amendment No: 88

Facility Operating License No. NPF-29. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** October 30, 1991 (56 FR 55946) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 30, 1992

No significant hazards consideration comments received: No

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Local Public Document Room location: Judge George W. Armstrong Library, Post Office Box 1406, S. Commerce at Washington, Natchez, Mississippi 39120.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: August 15, 1991

Brief description of amendment: This amendment relocates the negative moderator temperature coefficient limit from the Technical Specifications to the Core Operating Limits Report (COLR).

Date of issuance: February 12, 1992

Effective date: February 12, 1992

Amendment No.: 139

Facility Operating License No. DPR-72. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 2, 1991 (56 FR 49917) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 12, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Date of application for amendments: September 17, 1991

Brief description of amendments: These amendments make line-item improvements to the Turkey Point, Unit 3 and Unit 4 Technical Specifications in accordance with Generic Letter 90-09, "Alternative Requirements for Snubber Visual Inspection Intervals and Corrective Actions." In accordance with Note 1 of Table 4.7-1, the results from the previous inspection performed under the old Technical Specification can be used to determine the next inspection interval.

Date of issuance: February 7, 1992

Effective date: February 7, 1992

Amendment Nos. 151 & 146

Facility Operating Licenses Nos. DPR-31 and DPR-41: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 30, 1991 (56 FR 55947) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 7, 1992.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: January 8, 1991, as supplemented by letters dated October 3, 1991, and January 24, 1992.

Brief description of amendments: The amendments removed certain outdated references regarding the requirements for licensee's retraining and replacement training program. The requirements were superseded by NRC Generic Letter 87-07 and the April 1987 revision to 10 CFR Part 55.

Date of issuance: February 13, 1992

Effective date: February 13, 1992, to be implemented within 7 days of issuance.

Amendment Nos.: Amendment Nos. 32 and 23

Facility Operating License Nos. NPF-76 and NPF-80. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 17, 1991 (56 FR 15642) The October 3, 1991, letter provided additional clarifying information and did not change the initial no significant hazards determination. The January 24, 1992, letter provided an implementation date. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 13, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: October 17, 1989

Brief description of amendments: The Technical Specifications relating to reactor coolant pump seal injection flow controlled leakage were revised to ensure conformance with accident analysis conditions. The operational modes affected by the Technical Specifications were revised to permit entry into modes 3 and 4 before completion of the associated surveillance test. Also, a cross reference to a previously removed reporting requirement superceeded by the LER Rule was deleted.

Date of issuance: February 13, 1992

Effective date: February 13, 1992

Amendment Nos.: 162 and 146

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 18, 1990 (55 FR 14509). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 13, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station Unit No. 1, Oswego County, New York

Date of application for amendment: May 13, 1991, as supplemented August 30, 1991 and September 27, 1991.

Brief description of amendment: The amendment revises the reactor vessel pressure/temperature limits specified in Technical Specifications 3.2.2/4.2.2 and the withdrawal schedule of reactor vessel material surveillance capsules specified in TS 4.2.2.b. The revised pressure/temperature limits are valid for operation of NMP-1 through 18 EFPY. The revised limits also satisfy NRC Generic Letter 88-11 since the revised limits were calculated using the method in NRC Regulatory Guide 1.99, Revision 2. The revised capsule withdrawal schedule specifies withdrawal of capsules in terms of EFPY rather than in terms of service life.

Date of issuance: February 10, 1992

Effective date: February 10, 1992

Amendment No.: 127

Facility Operating License No. DPR-63: Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** January 8, 1992 (57 FR 711) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 10, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Northeast Nuclear Energy Company, et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: October 9, 1991, as supplemented November 26, 1991.

Brief description of amendment: The amendment changes the Index of the Technical Specifications and the Technical Specifications Sections 3.1.3.6, 3.9.18, 3.9.20 and the Bases Sections 3/4.9.17, 3/4.9.18, 3/4.9.19, and 3/4.9.20 to correct miscellaneous editorial and typographical errors. Also the bases for the Thermal Margin/Low Pressure trip limiting safety system setting (Bases page B 2-7) is revised to account for the reevaluation of the pressurizer pressure instrument uncertainty.

Date of issuance: February 14, 1992

Effective date: February 14, 1992

Amendment No.: 153

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 8, 1992 (57 FR 712) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 14, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Thames Valley State Technical College, 574 New London Turnpike, Norwich, Connecticut 06360.

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: August 7, 1991 (Reference LAR 91-07), as supplemented by letter dated November 22, 1991.

Brief description of amendments: The amendments revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 to change Section 6.0 regarding the offsite review committee. The amendment includes changing the committee name from General Office Nuclear Plant Review and Audit Committee (GONPRAC) to Nuclear Safety Oversight Committee (NSOC), changing the committee composition, and eliminating the use of alternates on the committee.

Date of issuance: February 6, 1992

Effective date: February 6, 1992

Amendment Nos.: 68 and 67

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 16, 1991 (56 FR 51927) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 6, 1992. The November 22, 1991, letter provided additional requirements regarding the experience of the NSOC members and chairman. The additional requirement to the TS did not change the initial proposed no significant hazards consideration determination.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of application for amendment: June 28, 1991

Brief description of amendment: The amendment revises the Trojan Technical Specifications for the Reactor Coolant System (RCS) safety and relief valves, Overpressure Protection System, Emergency Core Cooling Subsystems (T_{avg} less than 350° F) and associated Technical Specifications to incorporate the changes committed to in Portland General Electric Company's response to Generic Letter 90-06, "Resolution of Generic Issue 70, 'Power-Operated Relief Valve and Block Valve Reliability', and Generic Issue 94, 'Additional Low-Temperature Overpressure Protection for Light-Water Reactors', Pursuant to 10 CFR 50.54(f)".

Date of issuance: February 13, 1992

Effective date: February 13, 1992

Amendment No.: 179

Facility Operating License No. NPF-1: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 26, 1991 (56 FR 66924) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 13, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: December 19, 1991

Brief description of amendment: The amendment provides a one-time extension to the fire barrier penetration surveillance interval required by Technical Specification (TS) 4.12.F.1. Specifically, TS 4.12.F.1 requires that fire barrier penetration seals be visually inspected once every 18 months. This amendment provides a one-time extension of 3 months until May 15, 1992, to complete these fire barrier penetration seal visual inspections.

Date of issuance: February 10, 1992

Effective date: February 10, 1992

Amendment No.: 177

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in **Federal Register:** January 8, 1992 (57 FR 715) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 10, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of Oswego, Oswego, New York 13126.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of application for amendment: September 4, 1991

Brief description of amendment: The proposed amendment revises the technical specifications (TS) by relocating several cycle-specific core operating limits from the TS to the Core Operating Limits Report (COLR). This implements the guidance of Generic Letter 88-16, "Removal of Cycle-Specific Parameter Limits from Technical Specifications."

Date of issuance: February 18, 1992

Effective date: February 18, 1992

Amendment No.: 9

Facility Operating License No. NPF-86: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 13, 1991 (56 FR 57701) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 18, 1992

No significant hazards consideration comments received: No

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

TU Electric Company, Docket No. 50-445, Comanche Peak Steam Electric Station, Unit 1, Somervell County, Texas

Date of amendment request: March 27, 1991

Brief description of amendment: The amendment proposes the addition of Technical Specification 3/4.7.12 and Bases 3/4.7.12. This provides a limiting condition of operation (LCO) and surveillance requirements for the safety chilled water system.

Date of Issuance: February 11, 1992

Effective date: February 11, 1992, to be implemented within 7 days of issuance.

Amendment No.: Amendment No. 8

Facility Operating License No. NPF-87. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 15, 1991 (56 FR 22478) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 11, 1992.

No significant hazards consideration comments received: No.

Local Public Document Room Location: University of Texas at Arlington Library, Government Publications/Maps, 701 South Cooper, P. O. Box 19497, Arlington, Texas 76019.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia.

Date of application for amendments: December 19, 1991

Brief description of amendments: These amendments delete the operability requirements for the station records vault Halon fire suppression system. In addition, operability requirements for the Halon fire suppression system for the emergency switchgear rooms are added.

Date of issuance: February 7, 1992

Effective date: February 7, 1992

Amendment Nos. 166 & 165

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 8, 1992 (57 FR 716) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated February 7, 1992.

No significant hazards consideration comments received: No

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185

Dated at Rockville, Maryland, this 26th day of February 1992.

For the Nuclear Regulatory Commission

Steven A. Varga,

Director, Division of Reactor Projects - I/II, Office of Nuclear Reoctor Regulation

[FR Doc. 92-4884 Filed 3-3-92; 8:45 am]

BILLING CODE 7590-01-D

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Sherry Turpenoff, (202) 606-0950.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on February 7, 1992 (56 FR 4779). Individual authorities established or revoked under Schedules A and B and established under Schedule C between January 1 and January 31, 1992, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30, 1991.

Schedule A

The following exception was established:

Securities and Exchange Commission

Not to exceed four positions of accountant, GS-14/15, when filled by persons selected as SEC Accounting Fellows for the Capital Markets Risk Assessment Program. Employment under this authority may not exceed 2 years. Effective January 28, 1992.

Schedule B

No Schedule B authorities were established or revoked during January.

Schedule C

Department of Agriculture

One Assistant Deputy Administrator for Program Operations to the Deputy Administrator, Farmers Home Administration. Effective January 2, 1992.

One Confidential Assistant to the Administrator, Food and Nutrition Service. Effective January 3, 1992.

Agency for International Development

One Public Affairs Specialist to the Deputy Director, Office of External Affairs. Effective January 29, 1992.

Department of Commerce

One Congressional Liaison Specialist to the Director, Congressional Affairs Staff, Bureau of Export Administration. Effective January 16, 1992.

Department of Defense

One Confidential Assistant to the Under Secretary of the Army. Effective January 27, 1992.

One Secretary (Typing) to the Assistant Secretary of the Army for Financial Management. Effective January 27, 1992.

Department of Education

One Confidential Assistant to the Chief of Staff. Effective January 9, 1992.

One Confidential Assistant to the Director of Scheduling and Briefing Staff, Office of the Secretary. Effective January 9, 1992.

One Confidential Assistant to the Special Advisor to the Secretary on America 2000. Effective January 9, 1992.

One Special Assistant to the Assistant Secretary for Legislation and Congressional Affairs. Effective January 9, 1992.

One Confidential Assistant to the Director, Scheduling and Briefing Staff. Effective January 15, 1992.

One Special Assistant to the Assistant Secretary for Human Resources and Administration. Effective January 24, 1992.

One Special Assistant to the Assistant Secretary for Legislation and Congressional Affairs. Effective January 29, 1992.

Department of Energy

One Special Assistant to the Assistant Secretary for Nuclear Energy. Effective January 2, 1992.

Environmental Protectian Agency

One Special Assistant to the Deputy Associate Administrator, Office of Regional Operations and State/Local Relations. Effective January 29, 1992.

Farm Credit Administration

One Special Assistant to a Member. Effective January 15, 1992.

General Services Administratian

One Confidential Assistant to the Commissioner, Information Resource

Management Service. Effective January 10, 1992.

One Special Assistant to the Commissioner, Public Buildings Service. Effective January 29, 1992.

Department of Health and Human Services

One Director, Office of Communications Technology, to the Associate Commissioner, Office of Public Affairs, Social Security Administration. Effective January 28, 1992.

Department of Housing and Urban Development

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective January 29, 1992.

International Trade Commission

One Staff Assistant to a Commissioner. Effective January 8, 1992.

One Executive Assistant to a Commissioner. Effective January 16, 1992.

Office of National Drug Control Policy

One Confidential Assistant to the Associate Director, Bureau of State and Local Affairs. Effective January 29, 1992.

Office of Science and Technology Policy

One Secretary (Typing) to the Director. Effective January 29, 1992.

Small Business Administration

One Special Assistant to the Director of International Trade. Effective January 29, 1992.

One Special Assistant to the Deputy to the Associate Deputy Administrator for Management and Administration. Effective January 29, 1992.

Securities and Exchange Commission

One Public Affairs Specialist to the Director of Public Affairs. Effective January 27, 1992.

One Confidential Assistant to the Director of Public Affairs. Effective January 29, 1992.

Department of State

One Staff Assistant to the Deputy Assistant Secretary for Policy Planning and Program Evaluation, Bureau of International Narcotics Matters. Effective January 8, 1992.

One Special Assistant to the Chief of Protocol. Effective January 17, 1992.

One Senior Advisor to the Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs. Effective January 24, 1992.

One Associate Coordinator to the Coordinator for Counter Terrorism (Ambassador). Effective January 24, 1992.

Department of the Treasury

One Director, Legislative Affairs, to the Executive Director, U.S. Savings Bond Division. Effective January 7, 1992.

One Deputy for Administration to the Assistant Secretary (Management). Effective January 9, 1992.

One Special Assistant to the Deputy Assistant Secretary for Departmental Finance and Management. Effective January 13, 1992.

One Special Assistant to the Deputy Assistant Secretary for Administration. Effective January 24, 1992.

United States Information Agency

One Senior Advisor to the Associate Director, Bureau of Programs. Effective January 15, 1992.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P. 218.

Office of Personnel Management

Constance Berry Newman,

Director.

[FR Doc. 92–4971 Filed 3–3–92; 8:45 am]

BILLING CODE 6325–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–85]

Section 304 Determinations: Intellectual Property and Market Access Acts, Policies and Practices of the Government of India

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of determinations under section 304 of the Trade Act of 1974, as amended (Trade Act).

SUMMARY: The United States Trade Representative (USTR) has determined pursuant to section 304(a)(1)(A)(ii) of the Trade Act that the Government of India's denial of adequate and effective protection of patents is unreasonable and burdens or restricts U.S. commerce. The USTR has further determined, pursuant to section 304(a)(1)(B) of the Trade Act that, while no responsive action is appropriate at this time, action may be necessary and has instructed the Trade Policy Staff Committee to develop appropriate options. Finally, the USTR has terminated the investigation initiated pursuant to section 302 of the Trade Act.

DATES: This investigation was terminated effective February 26, 1992.

FOR FURTHER INFORMATION CONTACT: Peter Collins, Director, Southeast Asian and Indian Affairs (202) 395–6813, or Catherine Field, Associate General Counsel (202) 395–3432, Office of the United States Trade Representative.

SUPPLEMENTARY INFORMATION: On May 26, 1991, the USTR initiated an investigation of the Government of India's acts, policies and practices concerning the protection and enforcement of intellectual property rights under section 302(b)(2)(A) of the Trade Act of 1974, as amended (19 U.S.C. 2412). The investigation covered the issues that are the basis for India's identification as a priority foreign country under Section 182(a) of the Trade Act (19 U.S.C. 2242): (1) Deficiencies in the Indian patent law, in particular the lack of product patent protection for pharmaceuticals and other technologies, an inadequate term of protection, and overly broad involuntary licensing provisions; (2) lack of protection for service marks and restrictions on use of foreign trademarks; (3) copyright law and enforcement deficiencies; and (4) severe restraints placed on market access for motion pictures.

USTR held several rounds of bilateral consultations with the Government of India, and India participated actively in the Uruguay Round negotiations on trade-related aspects of intellectual property rights (TRIPs). During the TRIPs negotiations, however, India has opposed U.S. objectives on key patent issues.

With respect to copyright and trademark protection, the Government of India has announced the results of an internal review of protection and enforcement of intellectual property rights and has decided to take several steps to improve the level of protection and enforcement of copyrights and trademarks. In the copyright area, these steps include the decision to submit legislation to (1) provide for rental rights for video cassettes, (2) explicitly include communication of works through satellite, cable or other means of simultaneous communication under the copyright law, (3) narrow the residential use exemption from public performance of sound recordings, (4) provide for collective administration of rights, and (5) limit judicial discretion with respect to the level of penalties imposed.

With respect to copyright enforcement, the Indian Government has formed a Copyright Advisory Council that will advise on and coordinate copyright policy and enforcement efforts between the Central and State Governments. The Indian Government has initiated a program to increase training and awareness of copyright issues among police officers,

prosecutors and others responsible for the enforcement of copyrights.

In the area of trademark protection, the Government of India will accord national treatment for the use of trademarks owned by foreigners. Moreover, the Government will introduce legislation to provide for protection of service marks, clarify that non-use of a mark for reasons arising from restrictions imposed by Indian laws and regulations will not result in cancellation of the mark, and amend the registered user provisions.

With respect to market access for motion pictures, on April 1, 1992, the Government of India will implement important changes in its policy on market access for motion pictures and videos. After an agreement expires on March 31, 1992, foreign motion picture companies or their trade associations will not be required to enter into an agreement with the National Film Development Corporation for import and distribution of their products in India. The Government of India will no longer subject imports of motion pictures and video cassettes to canalization fees. The Government will eliminate import quotas that have applied to these products, and the number of prints that may be imported will not be restricted. The prohibition against dubbing into local languages will be abolished and foreign motion picture companies will be permitted to establish offices in India for the purpose of importing and distributing motion pictures and video cassetts. While the ceiling on remittances will be increased to $6 million, the ceiling will be maintained on an interim basis for balance of payment reasons.

Section 304(a)(3)(A) of the Trade Act requires USTR to detemrine by February 26, 1992, whether the Government of India's acts, policies and practices under investigation are unreasonable and are a burden or restriction on U.S. commerce. If that determination is affirmative, USTR must determine, subject to the direction of the President, what action, if any, is appropriate in response to that unreasonable act, policy or practice.

Reasons for Determinations

(1) India's Acts, Policies and Practices

On the basis of the investigation pursuant to section 302 of the Trade Act, and consultations with the Government of India and affected U.S. industries, the USTR determined that the Government of India's denial of adequate and effective patent protection is unreasonable and is a burden or restriction on U.S. commerce. The Government of India has not agreed to address the numerous deficiencies that exist in its current patent law and that are part of the basis for identifying India as a priority foreign country under the special 301 provisions of the Trade Act. The serious deficiencies in the Indian patent law have adversely affected U.S. owners of patents and trade in products protected by patents.

(2) U.S. Action

The USTR has determined that immediate trade action under section 301 is not appropriate at this time, but has instructed an interagency group to prepare options for possible implementation. This determination is based on the U.S. Government's continued efforts to secure changes in the Indian position in bilateral and multilateral negotiations.

Jeanne E. Davidson,

Chairman, Section 301 Committee.

[FR Doc. 92-4944 Filed 3-3-92; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-30419; File No. SR-AMEX-92-07]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Debit Put Spread Pilot Program

February 26, 1992.

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 February 10, 1992, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the 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

On November 26, 1991, the Commission approved proposals submitted by the Chicago Board Options Exchange, Inc. ("CBOE") and the Amex which established one year pilot programs allowing approved public customers with qualified portfolios of stock to effect and maintain in cash accounts debit put spread transactions in broad-based index options with European-style exercise.[1] The Amex now proposes to clarify the definition of a qualified debit put spread by specifying that the strike price of the long leg of the spread must exceed the strick price of the short leg. The proposed amendment is identical to a CBOE amendment already approved by the Commission.[2] The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule. 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 Organizations's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

In November 1991, the Commission approved proposals submitted by the CBOE and Amex which established one year pilot programs allowing approved public customers with qualified portfolios of stock to effect and maintain in cash accounts debit put spread transactions in broad-based index options with European-style exercise.[3] The Debit Put Spread Approval Order defined a debit put spread as a long put position coupled with a short put position overlying the same broad-based index and having an equivalent underlying aggregate index value, where the short put(s) expires with the long put(s), and the strike price of the long put(s) equals or exceeds the strike price of the short put(s). The Amex now proposes to clarify the definition of a debit put spread under Amex rule 462, Commentary .07(F) to provide that the

[1] *See* Securities Exchange Act Release No. 29992 (November 26, 1991), 56 FR 63526 (order approving File Nos. SR-Amex-91-14 and SR-CBOE-91-17) ("Debit Put Spread Approval Order.")

[2] See Securities Exchange Act Release No. 30267 (January 21, 1992), 57 FR 3234 (order approving File No SR-CBOE-91-50).

[3] See Debit Put Spread Approval Order, *supra* note 1.

strike price of the long leg of the spread must exceed, not equal, the strike price of the short leg.

(2) Basis

The Amex believes that the proposal is consistent with section 6 of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice or interpretation with respect to the meaning of an existing Amex rule in that it clarifies the Amex's policy with respect to the eligibility to participate in the debit put spread pilot program. In addition, by clarifying the requirements applicable to eligible debit put spreads, the proposal will facilitate the orderly administration of the pilot program. Accordingly, the proposal has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act rule 19–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 reule 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 at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–5014 Filed 3–3–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30410; File No. SR–DTC–92–01]

Self-Regulatory Organizations; The Depository Trust Company; Filing of Proposed Rule Change Relating to DTC Eligibility of Commercial Paper

February 25, 1992.

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 February 10, 1992, The Depository Trust Company ("DTC") 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 being filed by DTC consists of the addition of commercial paper ("CP") to DTC's Same-Day Funds Settlement ("SDFS") service. The Commission has previously approved the proposed rule change on a temporary basis through April 30, 1992.[1] DTC requests approval of its CP Program on a permanent basis.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC 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

DTC's CP Program began on October 5, 1990 and has expanded subject to the limitations of implementation schedules agreed to by DTC and the Federal Reserve Bank of New York. The purpose of the proposed rule change is to obtain Commission approval of the CP Program on a permanent basis. DTC believes the proposed rule change is consistent with section 17A of the Act, and 17A(b)(3)(F) of the Act in particular,[2] because the proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions.

B. Self-Regulatory Organizations' Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change, Received from Members, Participants, or Others

The depository included the subject of CP in its Program Agenda proposals sent to users for comment in May 1988 and released detailed proposals on this subject in October 1988 and July 1989. Copies of these documents and the written comments from Participants, industry associations, and others were attached as an exhibit to DTC's filing (File No. SR–DTC–90–08).

The Money Market Committee of the Public Securities Association had formed a CP Task Force, consisting of representatives of CP broker-dealers, New York Clearing House banks, banks

[1] Securities Exchange Act Release No. 28518 (October 5, 1990), 55 FR 42114.

[2] 15 U.S.C. 78q–1(b)(3)(F).

headquartered outside New York, and CP issuers, to work with DTC in developing the CP Program. The CP Task Force has continued to meet regularly with DTC to discuss how the CP Program is operating. The CP Task Force strongly supports permanent approval.

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 which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 DTC. All submissions should refer to File No. SR–DTC–92–01 and should be submitted by March 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4951 Filed 3–3–92; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–30411; File No. SR–MSE–92–02]

Self-Regulatory Organization; Filing and Order Granting Accelerated Approval to Proposed Rule Change by Midwest Stock Exchange, Inc., Relating to New Listing Guidelines—Article XXVIII, Rule 10

February 25, 1992.

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 February 5, 1992, the Midwest Stock Exchange, Inc. ("MSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization.[1] 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 proposes to amend Article XXVIII of its Rules (Listed Securities) by adding a new rule (proposed Rule 10) to accommodate the trading securities, pursuant to listing or unlisted trading privileges ("UTP"), not otherwise covered under the Exchange's existing listing rules.

II Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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

(1) Purpose

(a) *Listing guidelines.* The MSE has undertaken from time to time to revise its listing criteria to accommodate securities that could not be readily categorized under the Exchange's traditional listing criteria. For example, the Exchange has most recently set out rules for the listing of Index Warrants and Contingent Value Rights ("CVRs").[2] In keeping with this initiative, the Exchange recently has promulgated a new rule applicable to securities that are not otherwise covered by its current listing criteria.

Issuers and underwriters are currently seeking to list new types of securities. These securities often contain features borrowed from more than one category of currently listed securities (for example, fixed face amount debt securities incorporating an opportunity for equity appreciation and fixed payment certificates based upon the price level of the issuer's equity securities). Such securities are often designed to achieve more than one objective in conjunction with a specific corporate transaction and occasionally have involved assets or categories of assets that traditionally may not have been segregated or used as collateral for a particular issue. As a consequence, such securities may take a variety of forms depending upon the particular objectives being sought, as well as general market conditions.

The Exchange believes it necessary to provide added flexibility in its listing rules to accommodate such issues without having to continually add new provisions to its listing criteria. The proposed Rule 10 in Article XXVIII is intended to allow the MSE added flexibility to consider the listing of, and ability to trade pursuant to unlisted trading privileges, new securities on a case-by-case basis, in light of the suitability of the issue for auction market trading. Notwithstanding this fact, the purposed new Rule 10 criteria are not intended to accommodate the listing of securities that raise significant new regulatory issues (*e.g.*, unit investment trusts) [3] which may require a separate filing with the Commission pursuant to Rule 19b–4 of the Act.[4]

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[1] The MSE has requested that the Commission approve this proposed rule change on an accelerated basis (*see* File No. SR–MSE–92–02).

[2] See Securities Exchange Act Release No. 28143 (June 25, 1990), 55 FR 27317 (order granting accelerated approval to the MSE's proposal to list CVRs).

[3] See File Nos. SR–Amex–90–06 and SR–CBOE–90–13.

[4] The Commission notes that additional securities that have raised significant new regulatory issues in the past include currency warrants [*see* Securities Exchange Act Release No. 24555 (June 5, 1987), 52 FR 22570 (June 12, 1987) (File No SR–Amex–87–15) (proposal to list warrants on foreign currencies)]; index warrants [*see* Securities Exchange Act Release No. 26152 (October 3, 1988), 53 FR 39832 (October 12, 1988) (order approving File No. SR–Amex–87–27) (listing guidelines for foreign currency and index warrants) and Securities Exchange Act Release No. 27565 (December 22, 1989), 55 FR 376

Continued

The listing criteria in proposed Rule 10 are intended to accommodate major issuers with assets of $100 million and stockholders' equity of $10 million. The requirements of proposed Rule 10 substantially exceed the MSE's Article XXVIII, Rule 7 standard listing criteria.[5] Such issuers will be expected to meet the earnings criteria set forth in Rule 7(G).[6] Issuers not meeting these criteria will be required to have assets in excess of $200 million and stockholders' equity of $10 million, or, alternatively, assets in excess of $100 million and stockholders' equity of $20 million.

The distribution criteria for equity securities, as set forth in proposed Rule 10, will be somewhat comparable to those currently existing in Rule 7 (C) and (D) [7] for equity issues except that when trading is expected to occur in larger than average trading units (*e.g.*, a $1,000 principal amount), a minimum of 100 holders will be expected. The aggregate market value of issues listed under proposed Rule 10 will be expected to be at least $20 million.

Where such an instrument contains cash settlement provisions, settlement will be required to be made in U.S. dollars. And, where the instrument contains mandatory redemption provisions, the redemption price must be at least $3 per unit.

In addition, the Exchange will apply the guidelines for continued listing contained in Article XXVIII as appropriate in light of the specific nature of the securities (*e.g.*, debt/equity characeristics).

(b) *Membership circular.* Securities listed for trading under proposed Rule 10 are likely to possess characteristics common to both debt, equity, and derivative instruments. For this reason, prior to trading an issue which qualifies under proposed Rule 10, the Exchange will evaluate the nature and complexity of the issue and, if appropriate, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities particular to handling transactions in such securities. In determining whether such a membership circular is necessary, the Exchange will consider such characteristics of the issue as: unit size and term; cash-settlement; exercise or call provisions; characteristics that may affect payment of dividends and/or appreciation potential; whether the securities are primarily of retail or institutional interest; and such other features of the issue that might entail special risks not normally associated with securities currently listed on the Exchange.

(2) Statutory Basis

The proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issues, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. 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 at 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 MSE. All submissions should refer to File No. SR-MSE-92-02 and should be submitted by March 25, 1992.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the MSE's proposal to amend Article XXVIII, in order to provide listing guidelines to accommodate certain new types of securities which cannot be readily categorized under the MSE's existing listing guidelines, is consistent with the requirements of the Act and the rules and regulataions thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5) of the Act.[8] Specifically, the Commission believes the proposal is consistent with the section 6(b)(5) requirement that the rules of an exchange be designed to promote just and equitable principles of trade and not to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposed guidelines applicable to the listing of new, innovative securities will provide the flexibility desired by the MSE, while helping to ensure that only the more financially substantial companies are eligible to have their new products listed on the Exchange. Proposed Rule 10, therefore, should provide a more efficient and expedient process for listing new securities, and should protect investors and the public interest by ensuring that the financial products listed (or traded via UTP) on the Exchange have met predetermined financial criteria set forth by the Exchange,[9] an important consideration due to the additional or contingent financial obligations created by these instruments.

In addition, the Commission believes that the portion of proposed rule 10 relating to the membership circular addresses the additional regulatory concerns raised by these products. These novel products, by combining

(January 4, 1990) (File No. SR-Amex-89-22) (proposal to list index warrants based on the Nikkei Stock Average)]; and unbundled stock units ("USUs") [*see* File Nos. SR-NYSE-88-39 and 88-40 (proposals to list USUs and constituent securities, subsequently withdrawn by the NYSE)].

[5] In general, the standard listing criteria contained in MSE Rule 7 require a minimum of $2 million in net tangible assets, and that the issuer be actively engaged in business and have been so operating for at least three consecutive years.

[6] Rule 7(G) states that in order for an application to be considered for listing, the Exchange must be satisfied (a) as to the adequacy of the company's working capital; (b) that the management enjoys a reputation of good character, competence and integrity; (c) as to its ability to show net earnings of at least $100,000 annually; and (d) that the company has agreed to publish periodic reports.

[7] Rule 7(C) states that the company shall have outstanding 250,000 or more shares of the security to be listed, exclusive of the holdings of officers, directors, controlling stockholders, and other concentrated or family holdings. Furhter, Rule 7(D) sells at less than $15 per share, the outstanding shares should be held by approximately 1,000 shareholders; (2) if the stock price ranges from $15 to $50 per share, there should exist approximately 1,500 holders; and (3) if the stock price exceeds $100 per share, there should exist a minimum of 3,000 shareholders. These amounts will be weighed by the Exchange in light of the type of issue, current acitvity over-the-counter, and in consideration of near future secondary distributions, stock splits and/or new underwritings.

[8] 15 U.S.C. 78f (1988).

[9] This standard, however, would not preclude the MSE from submitting specific standards for other companies to have similar securities traded on the Exchange.

features of debt, equity, and securities derivative products, may be more risky and complex than straight stock, bond, or equity warrants. The Commission believes, therefore, that the portion of the proposed rule change requiring the Exchange to evaluate the nature and complexity of each issue in order to determine whether to distribute a membership circular indicating member firm compliance responsibilities will provide the MSE with the ability to address, in a flexible manner, any potential sales practice problems and questions that may arise in connection with these new issues. Moreover, the Commission believes that the distribution of this circular should help to ensure that only customers with an understanding of the specific risks attendant to the trading of particular securities products trade these products on their brokers' recommendations. As a result, the membership circular requirement will help to ensure that investors and the public interest are protected when the new products are traded on the Exchange.

Finally, the Commission believes that the proposed rule change is consistent with the requirements of section 6(b)(5) of the Act because it relates only to those securities which are similar to products currently listed for trading on the Exchange. If a new product raises novel or significant regulatory issues, the MSE must file a proposed rule change so that the Commission would have an opportunity to review the regulatory structure for the product.[10]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The Commission has approved substantially similar proposed rule changes submitted by the American Stock Exchange, Inc. ("Amex"), the New York Stock Exchange, Inc. ("NYSE"), the Cincinnati Stock Exchange, Inc. ("CSE"), the Chicago Board Options Exchange, Inc. ("CBOE"), the Pacific Stock Exchange, Inc. ("PSE") and the Boston Stock Exchange, Inc. ("BSE"), all of which adopted listing criteria for hybrid securities.[11] In addition, the Commission recently approved proposals submitted by the PSE, the NYSE, and the MSE to adopt listing criteria to trade CVRs, which are akin to the type of hybrid products the MSE proposal herein would include.[12] The Commission did not receive any comments on those proposals, or on the Amex, NYSE, CSE, PSE, BSE or CBOE hybrid products filings. In light of the lack of new regulatory issues raised by the MSE proposal, the Commission believes it is in the public interest to approve it on an accelerated basis so that the MSE will be able to compete with the other exchanges for hybrid securities.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act [13] that the proposed rule change is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4952 Filed 3-3-92; 8:45 am]

BILLING CODE 8010-01-M

[10] See note 4, *supra.*

[11] See Securities Exchange Act Release Nos. 27753 (March 1, 1990), 55 FR 8624 (March 8, 1990) (order approving File No. SR-Amex-89-29); 28217 (July 18, 1990), 55 FR 30056 (order granting accelerated approval to File No. SR-NYSE-90-30); 28528 (October 11, 1990), 55 FR 42112 (order approving File No. SR-CSE-90-11); 28662 (November 30, 1990), 55 FR 50428 (order approving File No. SR-CBOE-90-29); 30087 (December 17, 1991), 56 FR 66465 (order granting accelerated approval to File No. SR-PSE-91-48); and 30294 (January 27, 1992), 57 FR 4224 (order granting accelerated approval to File No. SR-BSE-91-07).

[12] See note 2, *supra,* and Securities Exchange Act Release Nos. 28558 (October 22, 1990), 55 FR 43238 (order approving File No. SR-PSE-90-34); and 28072 (May 30, 1990), 55 FR 23166 (order approving the NYSE proposal to list CVRs on the Exchange).

[13] 15 U.S.C. 78s(b)(2) (1988).

[14] 17 CFR 200.30-3(a)(12) (1991).

[Release No. 34-30415; File No. SR-NASD-92-5]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Addition of non-Nasdaq Securities, Internalized Trades and Qualified Special Representative Trades to the Automated Confirmation Transaction Service

February 26, 1992.

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 February 4, 1992, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing amendments to the Rules of Practice and Procedure for the Automated Confirmation Transaction Service ("ACT Rules") adding non-Nasdaq securities, internalized trades [1] and qualified special representative trades for ACT processing for trade reporting and/or comparison function.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in 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 ACT service is designed to facilitate comparison and clearing of inter-dealer negotiated trades by requiring input of trade reports within specific time frames, comparing that trade data, and submitting matched "locked-in" trades to clearing. ACT began operations in September 1989, when the Commission approved the service for self-clearing firms,[2] and in 1990 the NASD began phasing in clearing firms and their correspondents following SEC approval of rules for ACT risk management functions.[3] The NASD also added Consolidated Quotation Service ("CQS" or "Listed") issues to those eligible for ACT processing in December 1990,[4] and now proposes to implement the next stage of ACT which will add non-Nasdaq securities that are eligible for clearing to the securities eligible for ACT processing. Additionally, because the ACT service also accommodates all trade reporting functions for the Nasdaq market, the NASD will require the submission of members' internalized transactions and transactions occurring in members'

[1] Internalized trades are trades between a dealer, acting as principal, and its customers.

[2] See Release No. 34-27229 (September 7, 1989).

[3] See Release No. 34-28583 (October 26, 1990).

[4] See Release No. 34-28702 (December 19, 1990).

proprietary execution systems that are transmitted as locked-in trades directly to clearing (so called Qualified Special Representative or "QSR" trades) into ACT for trade reporting purposes.

In its approval order for the ACT service, the Commission requested that the NASD submit rule proposals, such as this filing, when additional phases for ACT-eligible securities were to be undertaken.[5] NASD members will be expected to begin submitting trade reports in non-Nasdaq securities (such as those quoted in the NASD's OTC Bulletin Board service) and for internalized and QSR transactions as operational considerations warrant, commencing in late February 1992, following appropriate publication to members. Consistent with the SEC's Automation Review Policy, the NASD will submit for Commission review the results of system tests prior to the implementation of the enhancements to the Act service.

The NASD believes the proposed rule change is consistent with section 15A(b)(6) of the Act. Section 15A(b)(6) requires that the rules of a national securities association be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market." The ACT service is designed to facilitate trade reporting, comparison, and risk management for transactions in negotiated trades in Nasdaq, exchange-listed, and non-Nasdaq securities in the Nasdaq market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 thereunder because the proposal is "a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule." At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by March 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4953 Filed 3–3–92; 8:45 am]

BILLING CODE 8010–01–M

[5] See Release No. 34–28583, note 7.

[Release No. 34–30413; File No. SR–OCC–91–09]

Self-Regulatory Organization; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Establishing a Cross-Margining Program With the Kansas City Board of Trade Clearing Corporation

February 26, 1992.

On May 20, 1991, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR–CC–91–09) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] to establish procedures for cross-margining certain options issued and cleared by OCC with certain futures cleared by the Kansas City Board of Trade Clearing Corporation ("KCC").[2] On October 23, and December 10, 1991, OCC amended the proposal.[3] On December 18, 1991, the Commission published the proposal in the **Federal Register** to solicit comments.[4] None were received. On February 24, 1992, subsequent to the publication of the proposal in the **Federal Register**, OCC again amended the proposal.[5] This order approves OCC's proposed rule change, as amended, permitting proprietary cross-margining of specific futures and options contracts.

I. Description

OCC's proposal would allow cross-margining of positions in eligible products that qualify as "proprietary" positions under the rules of the CFTC [6] and as "non-customer" positions under the Act.[7] The proposal is modelled after the proprietary cross-margining program that OCC established with the Chicago Mercantile Exchange ("CME").[8] Because

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Eligible options include OCC-cleared put and call options on the Value Line Index. Eligible futures contracts include KCC-cleared futures on the Value Line Index. Any change to this list would require submission of a proposed rule change by OCC in accordance with section 19(b)(1) of the Act.

[3] In Amendment No. 1, filed October 23, 1991, OCC requested that the Commission defer consideration of the portion of the original filing pertaining to non-proprietary cross-margining until regulatory approval is obtained from the Commission and the Commodity Futures Trading Commission ("CFTC"). Letter from Jean M. Cawley, Staff Counsel, OCC, to Jerry W. Carpenter, Branch Chief, Division of Market Regulation ("Division"), Commission (October 22, 1991).

In Amendment No. 2, filed December 10, 1991, OCC stated that because OCC and KCC had agreed to implement the portions of the original filing pertaining to non-proprietary cross-margining, OCC requested that the Commission review all portions of the proposed rule change. Letter from Jean M. Cawley, Staff Counsel, OCC to Jerry W. Carpenter, Branch Chief, Division, Commission (December 9, 1991).

[4] Securities Exchange Act Release No. 30064 (December 11, 1991), 56 FR 65769.

[5] In Amendment No. 3, filed February 24, 1992, OCC requested that the Commission defer consideration of the portion of the amended filing pertaining to non-proprietary cross-margining until regulatory approval is obtained from the Commission and CFTC. Letter from James C. Yong, Deputy General Counsel, OCC, to Jerry W. Carpenter, Branch Chief, Division, Commission, (February 21, 1992).

[6] 17 CFR 1.3(y) (1991).

[7] 17 CFR 240.15c3–3 (1991).

[8] For a detailed discussion of the various legal, regulatory, and operational issues involved in the OCC–CME proprietary cross-margining program and of the OCC–CME Cross-Margining Agreement ("OCC–CME Agreement"), which is the contractual basis for such program, refer to Securities Exchange Act Release No. 27296 (September 26 1989), 54 FR

Continued

the proposed OCC–KCC cross-margining program is patterned after the OCC–CME proprietary cross-margining program, this order will describe briefly the proposed OCC–KCC cross-margining program and will focus only on those areas where there are major differences between the OCC–CME and the proposed OCC–KCC proprietary cross-margining programs.

To implement the proposal, OCC and KCC have entered into a Cross-Margining Agreement ("OCC–KCC Agreement"). Under the OCC–KCC Agreement, the firms eligible for cross-margining include: (1) A firm that is a clearing member of both OCC and KCC ("Joint Clearing Member") and (2) an OCC clearing member and a KCC clearing member that are non-customers of one another ("Affiliated Clearing Members"). In order to participate in cross-margining, each eligible Joint OCC–KCC clearing member and each pair of Affiliated Clearing Members must establish a proprietary cross-margining account ("x-m account") at each clearing organization. Each Joint Clearing Member and each pair of Affiliated Clearing Members must designated either OCC or KCC as its Designated Clearing Organization ("DCO"). Pursuant to the OCC–KCC Agreement, OCC and KCC may jointly determine the margin requirements for each pair of x-m accounts or may use the margin calculation produced by the other.[9] The margin requirements for x-m accounts will be calculated on a daily basis. OCC and KCC will use similar procedures to determine the tentative margin requirements. OCC will use its Non-Equity Options ("NEO") margin system to calculate the premium and additional margin requirement for x-m account positions.[10] OCC and KCC also will collect "super-margin" if the risk margin portion of the total margin requirement of a pair of x-m accounts exceed certain levels.[11] OCC and KCC will retain authority to make intraday margin calls for additional margin when necessary. Settlement will occur on a daily basis through a joint OCC–KCC settlement account.[12]

In the event of a clearing member default, OCC and KCC will work together to resolve the situation and, as discussed below, have established procedures in the OCC–KCC Agreement to provide a framework for taking the appropriate actions.[13] The primary protection against losses arising from defaults in x-m accounts is OCC's and KCC's liens on and security interests in all positions in the x-m accounts, all funds and securities deposited to satisfy cross-margin margin requirements, and all proceeds resulting from the liquidations of such positions or property held as cross-margin margin.

The OCC–KCC Agreement provides that either OCC or KCC may suspend a member in accordance with their respective rules (*e.g.*, OCC may suspend an OCC member who defaults on a cross-margining settlement obligation or margin payment obligation). Should OCC or KCC suspend a member, the clearing organization initiating the suspension will notify the other clearing organization of the suspension. Both OCC and KCC will liquidate the contracts in the suspended member's x-m accounts unless both clearing organizations agree to delay liquidation of some or all of those contracts. OCC and KCC will coordinate the liquidation of the contracts so that both sides of spread or hedged positions can be closed out simultaneously to the fullest extent possible. Both OCC and KCC may use the proceeds from the liquidation of the contracts to offset liquidation expenses, and any remaining funds will be deposited in a cross-margining liquidating account that is to be established at a bank jointly in both OCC's and KCC's names. The two clearing organizations also will convert to cash all non-cash margin deposits supporting positions in the x-m accounts and will deposit the funds in the liquidating account.[14]

Consistent with the requirements of the CFTC, the OCC–KCC Agreement does not allow clearing members to designate their paired cross-margin accounts as cross-margin pledge accounts as contemplated by Section 3 of the OCC–CME Amended agreement.[15] Section 3 of the OCC–KCC Agreement, therefore, is intentionally left blank, and other references to cross-margin pledge accounts are omitted from the OCC–KCC Agreement.

OCC and KCC have agreed to provide each other with information concerning their members participating in crossmargining. The information sharing provisions of the OCC–KCC Agreement mirror the counterpart provisions of the OCC–CME Amended Agreement except that the OCC–KCC Agreement requires each organization to notify the other upon receipt of information causing it significant concerns about the financial or operational capabilities of a clearing member. In contrast, the OCC–CME

41195 [File No. SR–OCC–89–01] (order approving OCC–CME Cross-Margining Program limited to proprietary positions). The OCC–CME Cross-Margining Program was recently expanded to include certain options, futures, and options on futures of market professionals (non-proprietary cross-margining program). In accordance with this expansion, the original OCC–CME Agreement was amended ("OCC–CME Amended Agreement"). Securities Exchange Act Release No. 29991 (November 26, 1991), 56 FR 61404.

[9] OCC and KCC have determined that initially OCC will serve as the DCO for each Joint Clearing Member and each pair of Affiliated Clearing Members and that initially both OCC and KCC will use OCC's margin system to determine the margin requirements for the x-m accounts. Telephone conversation between James C. Yong, Deputy General Counsel, OCC, and Jerry W. Carpenter, Branch Chief, Division, Commission (February 12, 1992).

[10] For a detailed description of how OCC computes NEO margin, refer to Securities Exchange Act Release No. 23187 (April 22, 1986), 51 FR 16127 [Filed No. SR–OCC–85–21] (order approving OCC's NEO margin system).

[11] The super margin requirement is based on the amount of a Joint Clearing Member's or a pair of Affiliated Clearing Members' additional, or risk, margin requirement. If the additional, or risk, margin requirement exceeds certain levels, then a super margin requirement amount will be calculated by multiplying the incremental factor for that level of risk margin requirement by the risk margin requirement. OCC originally developed the super margin requirement to discourage clearing members from maintaining positions in their x-m accounts that would generate large margin requirements (*i.e.*, maintaining large unhedged positions). As the amount of risk margin required for such positions increases above a threshold level, the super margin requirement increases.

[12] For a detailed account of how settlement will occur, refer to Securities Exchange Act Release Nos. 27296 and 29991, *supra* note 8.

[13] In the event of a default by a Joint Clearing Member or a pair of Affiliated Clearing Members that participates in multiple cross-margining programs with OCC (such as OCC–CME cross-margining and OCC–KCC cross-margining), the liquidation of the OCC–CME x-m accounts and OCC–KCC x-m accounts would be conducted separately, and the proceeds or the shortfall would be allocated in accordance with the applicable agreement. For example, if after liquidating the Clearing Member's x-m accounts, there is a shortfall, OCC would share in the loss with the appropriate cross-margining partner as agreed to in its agreement with the clearing organization (in KCC's case, on an equal basis as contained in Section 8(e) of the OCC–KCC Agreement). OCC's losses from both x-m accounts would be a charge against OCC's clearing fund in accordance with OCC rules to the extent necessary to satisfy those losses. Similarly, if there was a surplus in any of the relevant x-m accounts, OCC would share that surplus with the appropriate cross-margining partner as agreed to in its agreement with that clearing organization (in KCC's case, under Section 8(d) of the OCC–KCC Agreement). In the event of a surplus in the OCC–KCC x-m accounts of a suspended Clearing Member, OCC would be entitled to apply 50% of the surplus to a deficit in that Clearing Member's other OCC accounts. If KCC suffered no net loss from the suspended Clearing Member's defaults on other obligations, OCC may be entitled to as much as 100% of the surplus in the OCC–KCC x-m accounts to offset deficits in other obligations of the suspended Clearing Member.

[14] For a detailed description of the actions to be taken and the method of account proceeds distribution upon a Clearing Member default, refer to Securities Exchange Act Release Nos. 27296 and 29991, *supra* note 8.

[15] *See* also letter from Don L. Horwitz, General Counsel, OCC, to Jonathan Kallman, Assistant Director, Division, Commission, (September 5, 1989) respecting the proprietary cross-margining program between OCC and CME (File No. SR–OCC–89–01).

Amended Agreement requires that notification be given if either OCC or CME applies certain special surveillance procedures to a clearing member.[16] CME must notify OCC if CME places one of its participating clearing members on its "high risk" list.[17] KCC does not have an equivalent listing.

Section 9 of the OCC–KCC Agreement generally requires each clearing organization to maintain the confidentiality of all information obtained in connection with the OCC–KCC Agreement and cross-margining program.[18] The OCC–KCC Agreement provides that both clearing organizations have the obligation to promptly notify the other if required by subpoena, court order, law, or regulation to disclose confidential information. The OCC–CME Amended Agreement provides that in the event one clearing organization is required to disclose confidential information and the other determines to seek a protective order against disclosure, the clearing organization subject to the disclosure requirement is obligated to cooperate to a reasonable extent with the other. The OCC–KCC Agreement does not contain this obligation.

Section 16 of the OCC–KCC Agreement concerns the arbitration of disputes arising from the OCC–KCC Agreement. In contrast to the OCC–CME Amended Agreement, which sets Chicago as the sole location for arbitration proceedings, the location of arbitration proceedings between OCC and KCC will alternate between Chicago and Kansas City.

II. Discussion

The Commission believes that the proposal is consistent with section 17A of the Act.[19] The Commission believes that the OCC–KCC cross-margining system will enhance the safe and efficient operation of the national system for the clearance and settlement of securities transactions.[20]

The Commission believes that the proposal will improve clearing member and systemic liquidity during normal market conditions and, particularly, during periods of market stress. In normal market conditions, lower initial margin deposits will benefit clearing members by increasing the amount of available cash to be used for other purposes. During times of market stress or price volatility, the lower initial margin deposits could be important for maintaining clearing member liquidity. For example, during the market volatility experienced on October 13 and 16, 1989, the two firms participating in the OCC–CME proprietary cross-margining program paid $164 million less initial margin for their cross-margined positions than they would have been required to pay otherwise.[21] The Commission expects that the proposed OCC–KCC proprietary cross-margin program will have similar results. Furthermore, the Commission believes OCC's proposal possibly could enhance the safety of the clearance and settlement system by decreasing the potential for loss by the clearing organizations in the event of clearing member default. For many years, commodity clearing organizations have reduced clearing member margin requirments on the basis of options positions at OCC even though those clearing organizations had no rights (*i.e.*, liens or perfected security interests) in the options positions and would not realize any benefit from the options positions in the event of a clearing member default. In many respects, the OCC–KCC cross-margining program should provide greater safety for commodity clearing organizations' existing margin policies and practices because it will provide KCC with perfected security interests in clearing member's OCC options held in x-m accounts.

III. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[22] that the proposed rule change, as amended, (File No. SR–OCC–91–09) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4954 Filed 3–3–92; 8:45 am]

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[16] The OCC–KCC Agreement also requires that OCC provide notice if it applies certain special surveillance procedures to a participating clearing member.

[17] For a detailed account of the information sharing and notification obligations of the clearing organizations, refer to Securities Exchange Act Release Nos. 27296 and 29991, *supra* note 8.

[18] The OCC–KCC Agreement specifically provides that it does not prohibit either OCC or KCC from furnishing confidential information to the Commission, CFTC, and self-regulatory organization, or any foreign government or regulatory body pursuant to any surveillance agreement to which OCC or KCC is a party.

[19] 15 U.S.C. 78q–1.

[20] For a general discussion of the benefits of cross-margining, refer to Securities Exchange Act Release Nos. 27296 and 29991, *supra* note 8.

[21] Division of Market Regulation, U.S. Securities and Exchange Commission, *Market Analysis of October 13 and 16, 1989*, at 146 (December 1990).

[22] 15 U.S.C. 78s(B)(2).

[23] 17 CFR 200.30–3(a)(12).

[Release No. 34–30418; File No. SR–PSE–92–11]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Notice of Filing of and Order Granting Accelerated Approval to Proposed Rule Change Extending Effectiveness of the PSE's Ten-Up Pilot Program

February 26, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and rule 19b–4 thereunder,[2] the Pacific Stock Exchange, Inc. ("PSE" or "Exchange"), on February 18, 1992, filed with the Securities and Exchange Commission ("Commission" or "SEC") a 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 PSE proposes to extend the Exchange's Trading Crowd Firm Disseminated Market Quote ("ten-up Rule") pilot program through May 14, 1992.[3] The text of the proposed rule change is available at the Compliance Department of the PSE, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries,

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1991).

[3] The Exchange's ten-up Rule requires PSE trading crowds to provide a depth of ten contracts for all non-broker/dealer customers orders, at the disseminated market quote at the time such orders are announced or displayed at a trading post. See Securities Exchange Act Release No. 28021 (May 16, 1990), 55 FR 21131 (Ten-up Approval Order).

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

In May 1990, the Commission approved the Exchange's ten-up Rule on a one-year basis.[4] The Exchange has subsequently obtained Commission aproval to extend the ten-up pilot program through February 14, 1992.[5] The PSE is now requesting a three-month extension of the current program through May 14, 1992, in order to complete its evaluation of the effectiveness of the program. In particular, the PSE states that the extension of the ten-up pilot program will enable the Exchange: (1) To complete its evaluation of the program and its effect on the public and member organizations and (2) to continue the benefits to the public resulting from the implementation of the ten-up rule during the evaluation process. Upon completion of its evaluation, the PSE will submit a proposal requesting permanent approval of the Rule.

The PSE believes the proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it promotes just and equitable principles of trade and protects the investing public.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change imposes a burden on competiton.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated approval pursuant to section 19(b)(2) of the Act. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirements of section 6, 11(b), and 11A thereunder, in that it will result in improved quality of PSE options markets and better market maker performances. The ten-up Rule provides public customers with the assurance of order execution to a minimum depth of ten contracts at the best disseminated bid or offer. This results in better executions of small customer orders by ensuring greater depth to the PSE options markets.[6]

The Commisssion notes, as it has in prior orders extending the ten-up Rule, that the Exchange, before seeking permanent approval of the Rule, is expected to study the operation of the ten-up Rule and its effect, if any, on the PSE's options market. Specifically, the Exchange should study the effect of the ten-up Rule on the speed of execution of trades, its impact on average bid/ask spreads and any increase or decrease in market depth. The Commission also expects that the Exchange will provide a report to the Commission of its findings on these matters, along with any violations of the ten-up Rule and any complaints about its operations, prior to filing a proposal for the permanent approval of the ten-up Rule.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register** because of the importance that the Ten-Up pilot program continue uninterrupted. A three-month extension of the pilot also will provide the PSE with additional time to study the effectiveness of the ten-up Rule in improving the quality of PSE options markets and market maker performance. The PSE's study would be a significant factor in the Commission's analysis of any PSE filing proposing permanent approval of the ten-up Rule. The Commission believes, therefore, that granting accelerated approval of the proposed rule change is appropriate and consistent with section 6 of the Act.

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, Secruties and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent admendments, 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 PSE. All submissions should refer to File No. SR-PSE-92-11 and should be submitted by March 25, 1992.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR-PSE-92-11) is approved until May 14, 1992, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4955 Filed 3-3-92; 8:45 am]

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[Release No. 34-30412; File NO. SR-PHLX-92-02]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Cancellation Instructions and Replace Orders Under Options Floor Procedure Advice A-7

February 25, 1992.

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 January 21, 1992, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed fule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PHLX proposes to amend Options Floor Procedure Advice ("OFPA") A-7, entitled "Responsibility to Cancel Orders," to add paragraph (a), entitled "Cancellation Orders," modify paragraph (b), entitled "Cancel Replace Orders," and to provide a fine schedule applicable to infractions of paragraph

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[4] *Id.*

[5] See Securities Exchange Act Release Nos. 29325 (June 17, 1991), 56 FR 29300 (First Extension) and 29909 (November 6, 1991), 56 FR 57914 (Second Extension).

[6] See supra note 3.

[7] 15 U.S.C. 78s(b)(2) (1982).

(a). Specifically, proposed paragraph (a) requires specialists to respond promptly to cancellation instructions for orders on the specialist's limit order book.[1] For orders booked by a floor broker, the specialist must promptly advise the floor borker or his representative that the cancellation has been accpeted or indicate that the cancellation was too late, and, therefore, that the order was executed. For orders received through the Exchange's Automated Options Market ("AUTOM") system,[2] the specialist must promptly transmit an electonic message indicating that the cancellation was accepted or that the cancellation was too late, and, therefore, that the order was executed. Paragraph (b), as amended, would require all members to submit cancel and replacement orders to the specialist in order to make a change in the option series or the price or volume of an order placed on the specialist's limit order book. Finally, the proposal includes a fine schedule for infractions of paragraph (a) that provides for a fine of $100.00 for the first infraction, $250.00 for the second infraction, and a fine discretionary with the Exchange's Business Conduct Committee ("BCC") for the third and subsequent infractions. The text of the proposed rule change is available at the Office of the Secretary, PHLX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis of 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 to amend OFPA A–7 to add paragraph (a), entitled "Cancellation Orders," modify paragraph (b), entitled "Cancel Replace Orders," and to provide a fine schedule applicable to violations of paragraph (a). Specifically, proposed paragraph (a) makes explicit the specialists' responsibility to respond promptly to cancellation instructions for orders on the specialist's limit order book. For orders booked by a floor broker, the specialist must promptly advise the floor broker or his representative that the cancellation has been accepted or indicate that the cancellation was too late, and, therefore, that the order was executed. For orders received through AUTOM, the specialist must promptly transmit an electonic message indicating that the cancellation was accepted or that the cancellation was too late. If the specialist is unable to transmit a response to the cancellation instruction electronically, the specialist or his representative must promptly sign the cancellation ticket and forward a report thereof to the Exchange's service desk for processing.

Paragraph (b), as amended, will require all members, in addition to Floor Brokers and Registered Options Traders, (i) to submit separate cancel and replacement orders to the specialist in order to make a change in the option series of an order placed on the specialist's limit order book, and (ii) to submit either single or separate cancel and replacement tickets to the specialist in order to change the price or volume of an order placed on the specialist's limit order book.

Finally, the proposal includes a fine schedule for infractions of paragraph (a) that provides for a fine of $100.00 for the first infraction, $250.00 for the second infraction, and a fine discretionary with the BCC for the third and subsequent infractions.

The PHLX believes that the proposed rule change is consistent with the Act, and, in particular, with section 6(b)(5), in that it is designed to promote just and equitable principles of trade.

(B) Self-Regulatory Organizaiton's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate 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 reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC.

Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizaiton. All submissions should refer to the file number in the caption above and should be submitted by March 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4956 Filed 3–3–92; 8:45 am]

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[1] On Feburary 21, 1992, the PHLX amended its proposal to clarify that the a Specialist must give prompt notification that the cancellation was executed or that the order had been executed and therefore was too late to cancel. See letter from Theresa McCloskey, Assistant Vice President, Market Surveillance, PHLX, to Yvonne Fraticelli, Staff Attorney, SEC, dated February 20, 1992.

[2] AUTOM is an electornic system that allows delivery of small options orders form member firms directly to the PHLX trading floor and also automatically executes certain small public customer options orders.

[Release No. 34-30417; File No. SR-PHLX-91-41]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Agent/Principal Restrictions During Foreign Currency Option Trading Sessions

February 26, 1992.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 16, 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 PHLX, pursuant to rule 19b-4, submits as a proposed rule change a proposal to amend PHLX rule 1014, Commentary .16, which deals with the application of the prohibition contained in paragraph (e) of rule 1014 regarding agent/principal restrictions during the daytime and evening foreign currency options trading sessions. Specifically, the proposal deletes reference to the specific time periods that constitute foreign currency options trading sessions and provides that the trading sessions established by the PHLX's Board of Governors shall be considered separate and distinct from each other for purposes of the prohibition contained in PHLX rule 1014(e).

The text of the proposed rule change is available at the Office of the Secretary, PHLX, and the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory 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 purpose of the proposal is to amend PHLX Rule 1014, Commentary .16, to address the expansion of foreign currency options trading corresponding to a late night/early morning session and the application of the prohibition contained in paragraph (e) of rule 1014 respecting agent/principal restrictions during such trading session. The prohibition in rule 1014(e)(i) states that a Registered Options Trader ("ROT") may not initiate an Exchange options transaction while on the PHLX trading floor for any account in which he has an interest and execute as a floor broker an off-floor order in options on the same underlying interest during the same trading session.

Pursuant to PHLX rule 101 ("Hours of Business"), the Board of Governors extended the Exchange's trading day in foreign currency options to 18 hours on September 16, 1990. In particular, the PHLX foreign currency trading day is broken down into three sessions: (1) The late night/early morning session from 12:30 a.m. to 8 a.m. EDT; (2) the day session from 8 a.m. to 2:30 p.m. EDT; and (3) the night session from 6 p.m. to 10 p.m. EDT.[1]

The PHLX proposal clarifies that each trading session is to be considered separate and distinct from each other for purposes of the prohibitions contained in rule 1014(e). Therefore, a ROT could act as principal during the late night/early morning trading session and an agent during the day trading session, as long as he does not act as both principal and agent during the same single trading session.

The Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act which provides, in part, that the rules of the Exchange be designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the propsed rule change will impose any inappropriate burden on competition.

[1] Telephone conversation between Thomas R. Gira, Branch Chief, Division of Market Regulation, SEC, and Gerald D. O'Connell, Vice President, Market Surveillance, PHLX, on February 19, 1992.

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 self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitations 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. 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 this file number in the caption above and should be submitted by March 25, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4957 Filed 3-3-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-30416; File No. SR-PHLX-91-06]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to Floor Access of Membership Applicants

February 26, 1992.

On March 25, 1991, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] and rule 19b-4 thereunder,[2] filed with the Securities and Exchange Commission ("Commission") a proposed rule change to create an "applicant" status for certain prospective Exchange members which would grant such prospective members unescorted access to the Exchange trading floor. The proposed rule change was noticed for comment in Securities Exchange Act Release No. 29190 (May 13, 1991), 55 FR 23606. No comments were received on the proposed rule change.[3]

The PHLX proposes to amend Regulation 5—Guests, enacted as a rule of order and decorum under PHLX rule 60. The proposal would award "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 application process will not be completed until a subsequent three week posting period has been completed.

Under the proposal, a prospective member would file an application for membership with the Office of the Secretary of the PHLX, which would trigger certain clearance procedures conducted by both the Exchange's Office of the Secretary as well as the PHLX's Examinations Department to verify the personal data and financial viability of the applicant. While clearance procedures are being conducted, which normally take about ten business days to complete, the prospective member would remain in a "visitor" status, requiring the signature of a member for entry on the PHLX trading floor and constant accompaniment by a member while on the floor pursuant to Regulation 5. Once the clearance procedures are completed, however, the applicant would submit an Applicant Access Card/Floor Badge application.

Upon issuance of the Applicant Access Card and Floor Badge, the applicant would have unescorted access to the floor and not have to be signed in by a member. The applicant, however, would not be able to conduct trading on the floor during this time. Unaccompanied access would continue for twenty-one days, at which time the Applicant Access Card would automatically expire and access would be denied, returning the prospective member to a "visitor" status. The twenty-one day period corresponds to the time period normally required for the posting process for membership. If this process is not completed within twenty-one days, the applicant would be able to reapply for access to the Chairman of the Admissions Committee, resulting in the reactivation of the Applicant Access Card and re-issuance of the Applicant Badge for an additional twenty-one days. The PHLX would charge a fee of $25.00 each for the Applicant Access Card and the Applicant Badge. The PHLX believes that prospective members will favor seeking applicant status in order to gain floor access without having to arrange for a signature and escort from a member/associated person or Exchange official.

The Exchange believes the proposal is consistent with the Act, and, in particular, with section 6(b)(5), in that it is designed to promote the mechanism of a free and open market and to protect investors and the public interest. The Exchange believes that the proposal will fortify Exchange security by reducing the amoung of time that prospective members spend on the floor as "visitors." In addition, the PHLX believes that the accountability of those with access to the floor will be increased because an application and preliminary clearance will be required for "Applicants."

The Exchange also states that members on the floor and members of the Admissions Committee will be able to identify applicants by their badge and observe them during the twenty-one day observation period in order to ensure that applicants are familiar with trading floor logistics, rules, procedures and practices. In addition, by virture, of the "applicant status" program, the Exchange believes that in the infrequent instances where applicants are approved for floor membership status but are temporarily unable to purchase a seat on the Exchange, the PHLX Admissions Committee will, upon expiration of the applicant access card be better able to track the status of such persons until they are able to secure an Exchange seat.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5). The Commission believes that the proposal will increase the level of security on the Exchange floor by reducing the number of people on the Exchange floor without at least preliminary clearance. In addition, the issuance of an access card and an applicant floor badge will reduce the number of Exchange members and personnel who must escort prospective members while at the same time not compromising Exchange floor security. Finally, the proposal will result in increased monitoring of the prospective members by the Admissions Committee because the proposal will encourage prospective members to file a membership application more quickly (so they can gain unescorted access to the Exchange floor, assuming their background check does not reveal any problems) and because the Admissions Committee must normally act on the applicant's membership application within twenty-one days after the Exchange's initial background check has been completed (*i.e.* the time when the applicant badge is issued).

In addition, the Commission believes that the applicant status program will provide prospective Exchange members with more familiarity with the content and operation of PHLX and Commission rules and regulations and serve as a useful training vehicle. This enhanced knowledge of applicable rules and regulations, in turn, should serve to protect investors and preserve the integrity of the PHLX securities markets once applicants eventually become members of the Exchange.

Moreover, the Commission believes that allowing applicants unescorted acess to the Exchange's trading floor will not jeopardize the integrity of the PHLX's market. Applicants will be strictly limited to observing trading while on the floor; they will not have trading privileges or access to Exchange

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] The PHLX filed an amendment to the proposal on July 8, 1991. The amendment adds language to the proposal to clarify the procedures by which the PHLX will verify the personal data and financial viability of prospective members prior to granting them applicant status. *See* Letter from Sharon Metzker Richmond, Law Clerk, PHLX, to Thomas Gira, Branch Chief, Division of Market Regulation, Commission, dated July 3, 1991. *See also* letter from Murray L. Ross, Secretary, PHLX, to Joseph B. McDonald, Jr., Staff Attorney, SEC, dated June 13, 1991. On July 17, 1991, the PHLX further amended its filing to provide that one's "applicant" status would be revoked if information gathered through the Exchange's background check revealed that information disclosed on a membership application was materially incorrect. *See* letter from Murray L. Ross, Secretary, PHLX, to Thomas Gira, Branch Chief, SEC, dated July 17, 1991 ("PHLX Letter").

automated systems. In addition, they will be required to wear applicant badges at all times, thereby allowing Exchange staff and the trading floor to monitor easily their activities. In this regard, the PHLX represents that it has not experienced any problems in the past with prospective members observing trading.[4]

The Commission also believes that the proposal is consistent with section 6(b)(7) of the Act in that the rules of the Exchange provide a fair procedure for the denial or limitation of access to any person seeking applicant status. The proposal provides for certain clearance procedures to verify the personal data and financial viability of applicants prior to the issuance of Applicant Access Cards and Badges. These clearance procedures are to be conducted to prevent non-viable prospective membership candidates or membership candidates thay may present a threat to the safety and integrity of the floor from having unrestricted access to the floor.[5]

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change (SR-PHLX-91-06) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-5015 Filed 3-3-92; 8:45 am]

BILLING CODE 8010-01-M

Atratech, Inc., 500-1; Order of Suspension of Trading

February 27, 1992.

It appears to the Securities and Exchange Commission that there is a lack of current and accurate information concerning the securities of Atratech, Inc. because of (1) questions regarding the identity of persons having undisclosed control of the company, (2) questions concerning certain undisclosed related party transactions, and (3) questions concerning the validity of certain contracts with the City of New York which were obtained by persons and entities that had been barred from obtaining such contracts, and the resulting potential impact on the market for Atratech, Inc.'s securities.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the above listed company is suspended for the period from 11:30 a.m. EST, February 27, 1992 through 11:59 p.m. EST, on March 11, 1992.

By the Commission.

Jonathan G. Katz

Secretary.

[FR Doc. 92-4958 Filed 3-3-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-18568; 811-1565]

ISI Growth Fund, Inc.; Application

February 25, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: ISI Growth Fund, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on November 29, 1991, and amended on February 21, 1992.

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 the 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 March 23, 1992 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, Christiana Executive Campus, 220 Continental Drive, Newark, DE 19713.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272-3035, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (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 at the SEC's Public Reference Branch.

APPLICANT'S REPRESENTATIONS:

1. Applicant is an open-end, diversified management investment company that was organized as a corporation under California law. On November 24, 1967, applicant registered under the Act, and registered 10,000,000 of its common shares under the Securities Act of 1933. The registration statement was declared effective on March 29, 1968, and applicant began the initial public offering of its shares on April 16, 1968.

2. On November 14, 1989, applicant's Board of Directors approved an Agreement and Plan of Reorganization (the "Plan") which provided that: (a) ProvidentMutual Growth Fund, Inc. ("Growth Fund"), a diversified, open-end management investment company, would acquire substantially all of applicant's assets in exchange for Growth Fund common shares; (b) such shares would be distributed to applicant's shareholders *pro rata* in accordance with their respective interests in applicant; and (c) applicant would be liquidated, dissolved, and deregistered under the Act after provision for expenses of $19,491. Applicant's Board of Directors also declared a distribution from net long-term capital gains of $205,652.

3. On May 29, 1990, applicant filed the definitive form of proxy materials with the Commission, and began distributing those proxies to applicant's shareholders. At a special meeting of the shareholders held on June 13, 1990, 700,717 out of the 1,383,422 shares outstanding on the record date voted in favor of the Plan.

4. On June 27, 1990, substantially all of applicant's assets were acquired by the Growth Fund solely for Growth Fund shares at the respective net asset values per share. As of the close of business on June 27, 1990, the day the Plan was implemented, applicant had 1,388,150 outstanding shares, having an aggregate net asset value of $10,660,977, and a per share net asset value of $7.68.

5. The expenses incurred in connection with the liquidation and dissolution of applicant were borne by ProvidentMutual Management Co., Inc., applicant's investment adviser, or the

[4] *See* PHLX Letter, *supra* note 3.

[5] In addition, the Exchange has represented that it will withdraw one's applicant status/trading floor access should clearance procedures to verify personal data and financial viability disclose any material difference from the information furnished by the applicant which in the judgement of the Exchange staff, based upon the Exchange Rules and By-Laws, would preclude a recommendation for election to membership of the applicant. *See* PHLX Letter, *supra* note 3.

[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30-3(a)(12) (1989).

adviser's parent company, Sigma American Corporation.

6. Pursuant to a Certificate of Election to Wind Up and Dissolve and a Certificate of Dissolution filed with the California Secretary of State on October 18, 1991, applicant was dissolved under California law.

7. Applicant has no assets, debts, or liabilities, nor any securityholders. There are no securityholders of applicant to whom a distribution in complete liquidation of their interests has not been made.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of applicant.

9. Applicant is not a party to any litigation or administrative proceeding.

10. Applicant is not now engaged, and does not propose to engage, in any business activity other than that needed to wind-up its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4959 Filed 3-3-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-18574; 811-87]

ISI Trust Fund; Application

February 26, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: ISI Trust Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on November 22, 1991, and amended on February 25, 1992.

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 the 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 March 23, 1992 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, Christiana Executive Campus, 220 Continental Drive, Newark, DE 19713.

FOR FURTHER INFORMATION CONTACT: C. Christopher Sprague, Senior Staff Attorney, at (202) 272-3035, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (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 at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company that was organized as a California common law trust. On March 10, 1970, applicant registered under the Act and registered 10,000,000 of its trust fund shares under the Securities Act of 1933. The registration statement was delared effective on August 5, 1970, and applicant began the initial public offering of its shares immediately thereafter.

2. On November 14, 1989, applicant's Board of Trustees approved an Agreement and Plan of Reorganization (the "Plan") which provided that: (a) ProvidentMutual Investment Shares, Inc. ("ProvidentMutual"), a diversified, open-end management investment company, would acquire substantially all of applicant's assets in exchange for ProvidentMutual common shares; (b) such shares would be distributed to applicant's shareholders *pro rata* in accordance with their respective interests in applicant; and (c) applicant would be liquidated, dissolved, and deregistered under the Act after provision for expenses of $56,494. The Board of Trustees also declared a dividend in the amount of $1,483,866.88, representing all undistributed investment income.

3. Applicant filed the definitive form of proxy materials with the Commission on April 23, 1990, and distributed those proxies to its shareholders. At a special meeting of shareholders held on May 17, 1990, 4,952,111 out of the 9,114,975 shares outstanding on the record date voted in favor of the Plan.

4. On May 18, 1990, ProvidentMutual acquired substantially all of applicant's assets solely for ProvidentMutual shares at the respective net asset values per share. As of the close of business on May 17, 1990, the day before the Plan was implemented, applicant had 9,710,351 outstanding shares, having an aggregate net asset value of $107,834,575, and a per share net asset value of approximately $11.11.

5. The expenses incurred in connection with the liquidation and dissolution of applicant were borne by ProvidentMutual Management Co., Inc., applicant's investment adviser, or by Sigma American Corporation, the adviser's parent.

6. By unanimous written consent dated June 26, 1991, the Board of Trustees authorized applicant's officers to terminate the trust agreement pursuant to which applicant was created, and thereafter applicant's existence as a trust was terminated. Applicant represents that California law imposes no requirement as to terminating the trust agreement.

7. Applicant has no assets, debts, or liabilities, nor any securityholders. There are no securityholders of applicant to whom a distribution in complete liquidation of their interests has not been made.

8. Applicant has not, within the last 18 months, transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of applicant.

9. Applicant is not a party to any litigation or administrative proceeding.

10. Applicant is not now engaged, and does not propose to engage, in any business activity other than that needed to wind-up its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-4960 Filed 3-3-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18572; 811-4361]

Lazard Special Equity Fund, Inc.; Notice of Application

February 26, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Lazard Special Equity Fund, Inc.

RELEVANT ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on January 22, 1992.

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 March 23, 1992, and should be accompanied by proof of service on applicant in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC'c Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, One Rockefeller Plaza, New York, New York 10020.

FURTHER INFORMATION CONTACT: James M. Curtis, Staff Attorney, at (202) 504–2406, or Nancy M. Rappa, Branch Chief, at (202) 272–3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company that is organized as a corporation under the laws of Maryland. On July 24, 1985, applicant registered under the Act and filed a registration statement pursuant to section 8(b) of the Act. Applicant also filed a registration statement under the Securities Act of 1933 to register an indefinite number of shares of applicant's common stock. Applicant's registration statement was declared effective on January 8, 1986, and applicant commenced its initial public offering on January 16, 1986.

2. On August 19, 1991, applicant's board of directors approved an Agreement and Plan of Reorganization among applicant, The Lazard Funds, Inc., and Lazard Freres & Co. (the "Agreement"). Applicant mailed to its shareholders proxy materials dated November 11, 1991 relating to the proposed reorganization. At a special meeting of shareholders held on December 17, 1991, applicant's shareholders approved the Agreement.

3. On January 1, 1992, pursuant to the Agreement, applicant transferred all its assets and liabilities to The Lazard Funds, Inc., an open-end diversified management investment company, for the account of its newly-created series, the Special Equity Portfolio. Each full and fractional share of common stock issued and outstanding on December 31, 1992 was exchanged for an equal number of full and fractional shares of the common stock of the Special Equity Portfolio. The exchange of applicant's assets for the equivalent interest in the Special Equity Portfolio constituted an exchange at fair market value. No brokerage fees were paid in connection with the reorganization.

4. All expenses in connection with the reorganization, including the costs of preparing, printing, and mailing the related proxy material to applicant's shareholders, related legal fees, and governmental filing fees, will be paid by Lazard Freres & Co., applicant's former investment adviser and the investment adviser to the Special Equity Portfolio. Such expenses total approximately $160,000.

5. As of December 31, 1991, applicant had 7,357,773 shares of common stock outstanding with a net asset value of $15.14 per share and an aggregate net asset value of $111,395,334.

6. Applicant retains no security holders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it intend to engage, in business activities other than those necessary for the winding up of its affairs.

7. Applicant filed Articles of Transfer with the Maryland State Department of Assessments and Taxation (the "Department") on December 23, 1991, and such Articles of Transfer became effectiver on January 1, 1992. Applicant plans to file Articles of Dissolution with the Department.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–4961 Filed 3–3–92; 8:45am]

BILLING CODE 8010–01–M

[File No. 22–21691]

Application and Opportunity for Hearing; Public Service Electric and Gas Company

February 28, 1992.

Notice is hereby given that Public Service Electric and Gas Company ("Company"), a New Jersey corporation, has filed an application pursuant to section 304(c)(1) of the Trust Indenture Act of 1939 ("Act") for the Securities and Exchange Commission ("Commission") to order an exemption from the provisions of section 316(a)(1) of the Act for certain First and Refunding Mortgage Bonds ("Bonds") under an indenture dated as of August 1, 1924, as amended by the Supplemental Indenture dated as of March 1, 1942 between the Company and Fidelity Union Trust Company (now First Fidelity Bank, National Association, New Jersey) as Trustee ("Indenture"), which will be supplemented by a separate supplemental indenture providing for each series of Bonds to be dated the first day of the month in which each such series of Bonds is issued.

Section 304(c)(1) of the Act provides in part that the Commission shall exempt from one or more provisions of the Act any security issued or proposed to be issued under an indenture under which securities (as defined in that section) are outstanding if and to the extent the Commission finds that compliance with such provisions, through the execution of a supplemental indenture or otherwise would require by reason of the provisions of such indenture or of any other indenture or agreement made prior to enactment of the Act, or the provisions of any applicable law, the consent of holders of securities outstanding under such indenture or agreement.

The Company alleges:

(1) One or more series of Bonds are proposed to be issued under the Indenture pursuant to a registration statement under the Securities Act of 1933 ("1933 Act"). The Bonds will be registered under the 1933 Act and the Indenture, as supplemented, will be qualified under the Act.

(2) The Indenture provides that upon an Event of Default (as defined therein) holders of 25 percent of the outstanding Bonds may require the Trustee to (a) accelerate the maturity of the Bonds, and (b) take other action for the protection of the holders. The Indenture also permits 10 percent of the holders of the outstanding Bonds to require the Trustee to investigate compliance by the Company with conditions precedent in connection with authentication of Bonds or withdrawal of cash, or in connection with the release of mortgaged property. The holders of Bonds have vested rights in these provisions under the Indenture, and such rights cannot be abrogated or changed without their consent.

(3) Pursuant to Rule 4c-4 under the Act, the Company has waived a hearing and requested that the Commission decide this application without a formal hearing on the basis of such application and other information and documents as the Commission shall designate as part of the record.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, File Number 22–21691, 450 Fifth Street, NW., Washington, District of Columbia 20549.

Notice is further given that any interested persons may, not later than March 24, 1992 request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, District of Columbia 20549. At any time after said date, the Commission may issue an order granting the application, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92–5017 Filed 3–3–92; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 1580]

Shipping Coordinating Committee Subcommittee on Safety of Life at Sea, Working Group on Carriage of Dangerous Goods; Meeting

The Working Group on Carriage of Dangerous Goods of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 9:30 a.m. on March 20, 1992, in room 2415, at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. The purpose of the meeting is to report the actions and decisions of the 43d Session of the Subcommittee on Carriage of Dangerous Goods (CDG) of the International Maritime Organization (IMO) which was held January 27–31, 1992, at IMO Headquarters in London and to begin planning for the 44th Session tentatively scheduled to be held October 19–23, 1992. The agenda items include:

a. Decisions of other IMO Bodies

b. Adoption of Amendments to the International Maritime Dangerous Goods (IMDG) Code

c. Amendments to section 13 of the General Introduction to the IMDG Code to cover transport in tanks of solid dangerous substances including molten substances in solidified form, and the transport of dangerous substances under heated conditions

d. Revision of section 21 of the General Introduction—Controlled Temperature Requirements

e. Development of criteria for stowage and segregation requirements

f. Development of criteria for the hermetic sealing of receptacles, packages and Intermediate Bulk Containers

g. Amendments to the Emergency Procedures for Ships Carrying Dangerous Goods and the Medical First Aid Guide for Use in Accidents involving Dangerous Goods

h. Implementation of Annex III of the Marine Pollution Convention (MARPOL 73/78), as amended, and amendments to the IMDG Code to cover pollution aspects (including immersion testing of packages for marine pollutants)

i. Carriage of dangerous goods on vehicle decks of passenger ships

j. Requirements for hazardous ships' stores

k. Transboundary movement of wastes by sea

l. Stowage and segregation in open-top container ships

m. Relations with other organizations

n. Requirements for carriage of irradiated nuclear fuel

o. Marking of explosives for detectability

p. Reports on incidents involving dangerous goods or marine pollutants in packaged form on board ships or in port areas

q. Dangerous goods in passengers baggage and cars

r. Carriage of dangerous goods documentation

s. Updating of the Recommendations on the Safe Transport, Handling and Storage of Dangerous Goods in Port Areas

t. Review of existing ships' safety standards

u. Review of the Hazardous and Noxious Substances (HNS) Working Group Reports—Draft HNS Convention

v. Night signals on ships carrying dangerous goods

w. Planning for the 44th Session of CDG

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Commander K. J. Eldridge, U.S. Coast Guard (G–MTH–1), 2100 Second Street, SW., Washington, DC 20593–0001 or by calling (202) 267–1577.

Dated: February 25, 1992.

Bruce Carter,

Acting Chairman, Shipping Coordinating Committee.

[FR Doc. 92–4977 Filed 3–3–92; 8:45 am]

BILLING CODE 4710–7–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent to Rule on Application to Impose a Passenger Facility Charge (PFC) at Charlottesville-Albemarle Airport, Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Charlottesville—Albermarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 3, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Washington Airports District Office, 101 West Broad Street, suite 300, Falls Church, Virginia 22046.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bryan O. Elliott, Director of Aviation, Charlottesville-Albermarle Airport Authority at the following address: 201 Bowen Loop, Charlottesville, Virginia 22901.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Charlottesville-Albermarle Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Robert B. Mendez, Manager, Washington Airports District Office, 101 West Broad Street, suite 300, Falls Church, Virginia 22046, (703) 285–2570. The application may be received in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Charlottesville-Albemarle Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990)

(Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 18, 1992, the FAA determined that the application to impose a PFC submitted by Charlottesville-Albermarle Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 11, 1992.

The following is a brief overview of the application. *Level of the proposed PFC:* $2.00. *Proposed charge effective date:* July 1, 1992. *Proposed charge expiration date:* April 30, 1994. *Total estimated PFC revenue:* 402,059.00. *Brief description of proposed project(s):* Reimburse Authority for its share of FY 1992 Master Plan Update.

Relocate Parallel Taxiway "A" (1450' × 50').

General Aviation South Taxiway/Ramp.

Airport Rescue and Firefighting (ARFF) Vehicle.

Snow Equipment Storage Building.

Snow Removal Equipment.

Aircraft Rescue and Firefighting Training Facility.

Land Acquisition.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800–31 and foreign air carriers.

Any person may inspect the application in person at the FAA office listed above under "**FOR FURTHER INFORMATION CONTACT**" and at the FAA Regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Charlottesville-Albermarle Airport Authority.

Louis P. DeRose,

Manager, Airports Division, Eastern Region.

[FR Doc. 92–4985 Filed 3–3–92; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 27, 1992.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer, listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171, Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

INTERNAL REVENUE SERVICE

OMB Number: 1545–0045.
Form Number: IRS Form 976.
Type of Review: Extension.
Title: Claim for Deficiency Dividends Deductions by a Personal Holding Company, Regulated Investment Company, or Real Estate Investment Trust.
Description: Form 976 is filed by corporation that wishes to claim a deficiency dividend deduction. The deduction allows the corporation to eliminate all or a portion of a tax deficiency. IRS uses Form 976 to determine if shareholders have included amounts in gross income.
Respondents: Businesses or other for-profit.
Estimated Number of Respondents/Recordkeepers: 500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 hours, 44 minutes.
Learning about the law or the form—47 minutes.
Copying, assembling, and sending the form to IRS—55 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 3,730 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. 92–4962 Filed 3–3–92; 8:45 am]

BILLING CODE 4830–01–M

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 9–92]

Treasury Notes, Series J–1997

Washington, February 27, 1992.

The Secretary announced on February 26, 1992, that the interest rate on the notes designated Series J–1997, described in Department Circular—Public Debt Series—No. 9–92 dated February 20, 1992, will be 6¾ percent. Interest on the notes will be payable at the rate of 6 3/4 percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 92–5039 Filed 3–3–92; 8:45 am]

BILLING CODE 4810–40–M

Treasury Notes, Series W–1994 [Supplement to Department Circular—Public Debt Series—No. 8–92]

Washington, February 26, 1992.

The Secretary announced on February 25, 1992, that the interest rate on the notes designated Series W–1994, described in Department Circular—Public Debt Series—No. 8–92 dated February 20, 1992, will be 5⅜ percent. Interest on the notes will be payable at the rate of 5⅜ percent per annum.

Marcus W. Page,

Acting Fiscal Assistant Secretary.

[FR Doc. 92–5038 Filed 3–3–92; 8:45 a.m.]

BILLING CODE: 4810–40–M

[Number: 27–07]

Organization and Functions of the Office of the Assistant Secretary (Domestic Finance)

Date: February 26, 1992.

1. *Purpose.* This directive describes the organization and functions of the Office of the Assistant Secretary (Domestic Finance).

2. *The Assistant Secretary (Domestic Finance)* reports through the Under Secretary for Finance and the Deputy Secretary to the Secretary. The incumbent is responsible for the following functions.

a. Advises and assist the Secretary and Deputy Secretary of the Treasury and the Under Secretary for Finance on debt management, Federal financing affairs, financing of non-Federal sectors of the economy, and general financing markets policy.

b. Exercises policy direction and control over Treasury's activities that relate to:

(1) The Federal Financing Bank;

(2) The development of legislative and administrative policies and principles for Federal credit programs;

(3) The determination of interest rates for various Federal borrowing, lending, and investment purposes under pertinent statutes;

(4) Treasury's role as prescribed by the Government Securities Act of 1986;

(5) Staff work on the substance of proposed legislation relating to the general activities and regulation of private financial intermediaries;

(6) The Secretary's direct responsibilities related to the Oversight Board of the Resolution Trust Corporation, the Office of Thrift Supervision, and the Office of Comptroller of the Currency; and

(7) Treasury activities relating to other Federal regulatory agencies.

c. Manages the Office of Synthetic Fuels Projects.

3. *Organization Structure.* The Assistant Secretary (Domestic Finance) supervises the Deputy Assistant Secretary (Federal Finance), the Deputy Assistant Secretary (Financial Institutions Policy), the Deputy Assistant Secretary (Corporate Finance), and the Director, Office of Synthetic Fuels Projects.

4. *The Deputy Assistant Secretary (Federal Finance)* supervises the following organizations: the Office of Government Financing, the Office of Market Finance, and the Office of Federal Finance Policy Analysis.

a. *The Office of Government Financing* is responsible for the following functions.

(1) Provides the Assistant Secretary (Domestic Finance) with technical assistance and background briefings on matters related to Government financing.

(2) Provides analyses of Federal credit program principles and standards and legislative and other proposals related to Government borrowing, lending, and investment activities to assure consistency with Treasury policies.

(3) Provides actuarial and mathematical analyses and computations as required for Treasury market financing, the Federal Financing Bank, the U.S. Savings Bonds program, and other Government agencies.

(4) Supports the data collection, processing, computer programming, and automated equipment requirements of this and the other offices under the Assistant Secretary (Domestic Finance).

(5) Develops policy for, and administers the operations of, the Federal Financing Bank.

b. *The Office of Market Finance* is responsible for the following functions.

(1) Provides the Assistant Secretary (Domestic Finance) with technical assistance and economic analyses on matters related to Treasury debt management policy, marketing of Treasury and Federally-related securities, and regulating the Government securities market.

(2) Analyzes current economic and securities market conditions and maintains data on allotments of Treasury securities in auctions and ownership of Treasury securities.

(3) Monitors the volume of funds raised and supplied in the credit markets and prepares flow-of-funds projections.

(4) Provides financial analysis and other technical assistance to support policy development in the area of Government-related entities, including Government-sponsored enterprises.

(5) Coordinates and approves market borrowing of Federal agencies and Government-sponsored agencies.

(6) Determines interest rates, including pricing of late payments or prepayments, to be used in Federal borrowing and lending programs.

C.The Office of Federal Finance Policy Analysis provides the Assistant Secretary (Domestic Finance) with analyses, evaluation, and technical assistance with respect to economic and financial developments, problems, and proposals in the areas of Treasury financing, public debt management, and related economic matters which include:

(1) regulatory issues involving the Government securities markets, futures markets, and related markets;

(2) alternative financing techniques;

(3) clearing and settlement issues;

(4) proposed changes in tax provisions that may affect the market for Treasury securities; and

(5) foreign investment in Treasury securities.

5. The Deputy Assistant Secretary (Financial Institutions Policy) supervises the Office of Financial Institutions Policy and the Office of Thrift Institutions Oversight and Policy.

a. *The Office of Financial Institutions Policy* is responsible for the following functions.

(1) Coordinates the Department's legislative efforts with regard to financial institutions, other than thrift institutions, and legislation affecting the agencies of the Federal Government that regulate financial institutions, other than thrift institutions.

(2) Reviews regulations, testimony, policy statements, and other issuances of the Office of the Comptroller of the Currency prior to their release.

(3) Provides staff support to carry out the Department's responsibilities regarding the Securities Investor Protection Corporation, Farm Credit Assistance Board, and the Pension Benefit Guarantee Corporation.

(4) Coordinates the Department's legislative and other efforts with regard to securities markets legislation and corporate financial activities.

b. *The Office of Thrift Institutions Oversight and Policy* is responsible for the following functions.

(1) Provides the Assistant Secretary (Domestic Finance) with assistance related to legislative initiatives regarding the thrift industry.

(2) Provides support to the Secretary in the role as Chairman of the Oversight Board for the Resolution Trust Corporation.

(3) Reviews regulations, testimony, policy statements, and other issuances of the Office of Thrift Supervision prior to their release.

(4) Manages special projects, such as congressionally mandated, interagency and Treasury studies related to thrift and other financial institutions.

6. *The Deputy Assistant Secretary (Corporate Finance)* supervises the Office of Corporate Finance, which is responsible for the following functions.

a. Coordinates the Department of the Treasury's legislative efforts with regard to corporate financial and economic activities, and securities and capital markets issues. Manages and coordinates interagency review of the insurance industry.

b. Monitors trends in the international market which impact the ability of U.S. business, financial institutions, and capital markets to compete effectively in the global economy, including:

(1) Coordinating the Department of the Treasury's response on legislation in these areas; and

(2) Providing the Assistant Secretary (Domestic Finance) with analyses and evaluations in the development of Department of the Treasury initiatives.

7. *The Office of Synthetic Fuels Projects* is responsible for the functions described in Treasury Directive (TD) 11–01, "Office of Synthetic Fuels Projects," dated August 6, 1986.

8. *Coordination of Legislative and Regulatory Matters.*

a. Nothing in this directive shall be interpreted to apply to the conduct of the congressional relations program as described in Treasury Directive (TD) 27–09.

b. The legislative and regulatory functions assigned in this directive shall be subject to the requirements of TD 28–01 and TD 28–02.

9. *Cancellation.* Treasury Directive 27–07, "Organization and Functions of the Office of the Assistant Secretary (Domestic Finance)," dated October 31, 1989, is superseded.

10. *References.*

a. TD 11–01, "Office of Synthetic Fuels Projects."

b. TD 13–01, "Delegation of Authority to Assistant Secretary (Domestic

Finance) to Implement the Government Securities Act of 1986."

c. TD 27–09, "Organization and Functions of the Office of the Assistant Secretary (Legislative Affairs)."

d. TD 28–01, "Preparation and Review of Regulations."

e. TD 28–02, "Legislative Procedures."

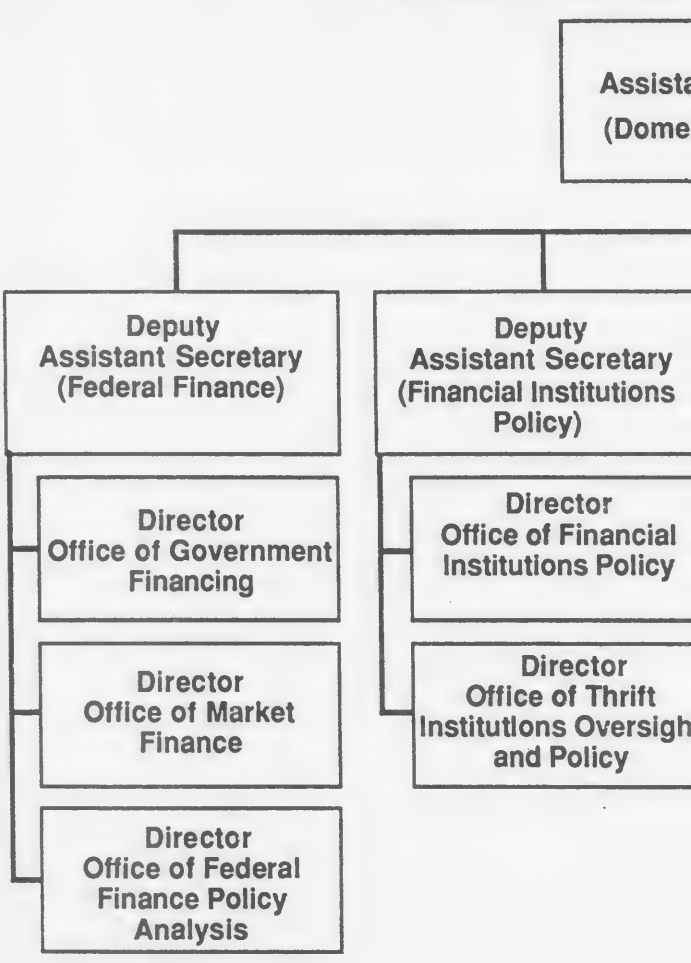
11. *Office of Primary Interest.* Office of the Assistant Secretary (Domestic Finance).

Jerome H. Powell,

Assistant Secretary (Domestic Finance).

BILLING CODE 4810-25-M

Office of Do

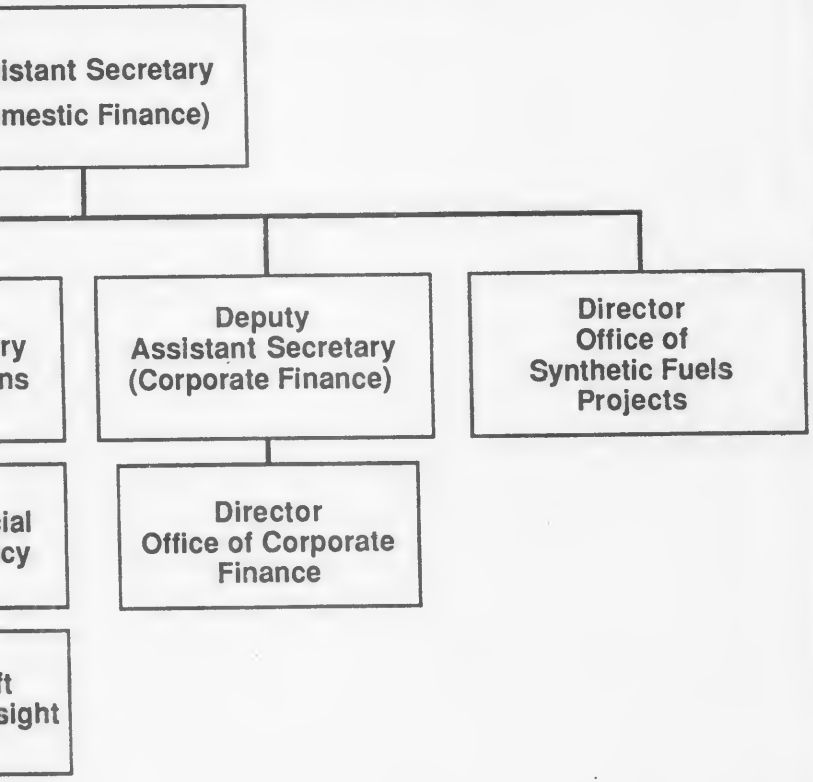


Department of the Treasury

[FR Doc. 92–4950 Filed 3–3–92; 8:45 am]

BILLING CODE 4810–25–C

omestic Finance



Jerome H. Powell

Assistant Secretary
(Domestic Finance)

2/26/92

Date

DEPARTMENT OF TREASURY

Internal Revenue Service

Acid Rain Program: Allowance System

AGENCY Internal Revenue Service, Treasury.

ACTION: Notice; solicitation for comments.

SUMMARY: This notice solicits public comments on the federal income tax consequences of the sulfur dioxide emission allowances program of title IV of the Clean Air Act of 1990.

DATES: Written comments must be received by April 3, 1992.

ADDRESSES: Written comments should be addressed to Internal Revenue Service, P,O. Box 7604, Benjamin Franklin Station, Attn: CC:CORP:T:R (IA–Branch 5), Room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Kathryn K. Nunzio, (202) 377–9589 (not a toll-free number).

SUPPLEMENTARY INFORMATION: Title IV of the Clean Air Act can be found at 42 U.S.C. section 7651 *et seq.* The Environmental Protection Agency's proposed regulations concerning this act can be found at 56 FR 63001, December 3, 1991.

The Service is currently studying the tax consequences of the emission allowances program of Title IV of the Clean Air Act of 1990.

The Service reqeusts comments on certain tax issues arising from the program which have been identified for study. The Service is particularly interested in the views of the utilities that will be affected by the program. The specific issues are:

(1) How are the costs of acquiring emission allowances treated for Federal tax purposes?

(2) What costs, if any, are included in the tax basis of an allowance?

(3) Is the cost of acquiring emission allowances an indirect cost of producing property under section 263A?

(4) Can allowances be depreciated under section 167?

(5) When and how would a taxpayer recover its basis in an emission allowance in each of the following circumstances:

(a) a utility uses an emission allowance during a year;

(b) a utility sells or exchanges an emission allowance;

(c) a purchaser of an emission allowance which is not a utility sells or exchanges the allowance; and

(d) an emission allowance becomes worthless?

(6) What is the character of any gain or loss realized in situations (b)-(d) set forth in paragraph 5 above?

(7) Is an exchange of emission allowances a taxable event? If so, are allowances issued in different years like kind property under section 1031?

(8) Is a penalty paid to the Environmental Protection Agency for emissions in excess of allowances deductible under section 162(a)?

(9) Will a secondary market be established for trading forward or futures contracts on emission allowances?

(10) What is the likely accounting treatment of emission allowances? For example, will separate accounts be established for allowances held for use in electricity production and for allowances held for investment?

(11) What are the tax consequences of participation in the Environmental Protection Agency's emission allowance program by taxpayers that are eligible to opt into the program pursuant to 42 U.S.C. section 7651i?

The Service invites interested parties to comment on any or all of these issues, and to identify other related issues that should be considered as part of this project. In order to provide timely guidane about these issues, the Service requests responses from interested parties within 30 days of the date of this notice.

Glenn R. Carrington,

Assistant Chief Counsel (Income Tax and Accounting).

[FR Doc. 92–4949 Filed 3–3–92; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 57, No. 43
Wednesday, March 4, 1992

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 3:15 p.m. on Friday, February 28, 1992, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director T. Timothy Ryan, Jr., Director (Office of Thrift Supervision), concurred in by Vice Chairman Andrew C. Hove, Jr., Mr. Stephen R. Steinbrink, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), and Chairman William Taylor, 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)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Dated: March 2, 1992.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 92-5163 Filed 3-2-92; 1:53 pm]

BILLING CODE 6714-0-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 6-92

Notice of Meetings

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Thurs., March 19, 1992 at 10:30 a.m.—Consideration of Proposed Decisions on claims against Iran

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., room 10000, Washington, DC 20579. Telephone: (202) 208-7727.

Dated at Washington, DC on March 2, 1992.

Judith H. Lock,

Administrative Officer.

[FR Doc. 92-5176 Filed 3-2-92; 2:11 pm]

BILLING CODE 4410-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Board of Directors' Meeting

ACTION: The Pennsylvania Avenue Development Corporation announces the date of their forthcoming meeting of the Board of Directors

DATE: The meeting will be held Wednesday, March 18, 1992, at 10:00 a.m.

ADDRESS: The meeting will be held at the Pennsylvania Avenue Development Corporation, Suite 1220N, 1331 Pennsylvania Avenue, NW., Washington, DC 20004-1703.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with 36 Code of Federal Regulations Part 901, and is open to the public.

Dated: February 27, 1992.

M.J. Brodie,

Executive Director.

[FR Doc. 92-5182 Filed 3-2-92; 8:45 am]

BILLING CODE 7630-01-M

Corrections

Federal Register
Vol. 57, No. 43
Wednesday, March 4, 1992

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 HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 82N-0166]

RIN 0905-AA06

Orally Administered Drug Products for Relief of Symptoms Associated With Overindulgence in Food and Drink for Over-the-Counter Human Use; Tentative Final Monograph

Correction

In proposed rule document 91-30427, beginning on page 66742, in the issue of Tuesday, December 24, 1991, make the following correction:

On page 66742, in the second column, in the third full paragraph, the last sentence was printed incorrectly and should read "Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for these drug products".

BILLING CODE 1505-01-D

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218-AB20

Process Safety Management of Highly Hazardous Chemicals; Explosives and Blasting Agents

Correction

In rule document 92-3917 beginning on page 6356 in the issue of February 24, 1992, make the following corrections:

1. On pages 6356 through 6417 the date at the top of each page should read "February 24, 1992".

2. On page 6403, in the second column, in the second paragraph from the bottom of the page, insert "3." before the amendatory instuction.

§ 1910.119 [Corrected]

3. On the same page, in the third column, in § 1910.119(b), in the last paragraph, in the fourth line, "spark-producing" was misspelled.

4. On page 6404, in the third column, in § 1910.119(e)(1)(i), in the first line, "50" should read "25".

5. On the same page, in the same column, in § 1910.119(e)(1)(iii), in the first line, "than" was misspelled.

6. On the same page, in the same column, in § 1910.119(e)(1)(v), in the fifth line, "The" should read "These".

7. On page 6405, in the first column, in § 1910.119(e)(3)(iii), in the first line, "Engineering" was misspelled; and in the third line, "interrelationships" was misspelled.

8. On the same page, in the same column, in § 1910.119(f)(1), in the fourth line, "safety" should read "safely".

Appendix A to § 1910.119 [Corrected]

9. On page 6407, in the second column, in the table, the entry for Carbonyl Fluoride was incomplete. Following the entry for Carbonyl Fluoride, insert "353-50-4" in the second column of the table; and insert "2500" in the third column of the table.

Appendix C to § 1910.119 [Corrected]

10. On page 6412, in the second column, in the second full paragraph, "operations." should read "operation."

11. On page 6416, in the 3d column, in the 2d full paragraph, in the 15th line, "affective" should read "affected".

BILLING CODE 1505-01-D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AE92

Reduction Because of Hospitalization

Correction

In rule document 91-30274 beginning on page 65848 in the issue of Thursday, December 19, 1991, make the following correction:

§ 3.454 [Corrected]

On page 65851, in the first column, in § 3.454(b)(3), in the fourth line, "§ 551(e)(1)" should read "§ 3.551(e)(1)".

BILLING CODE 1505-01-D